

Sec. 5. (p. 7): Enforcement/fining provision omits mandatory Texas Property Code § 209.006 certified mail notice, 30-day Board hearing request window, or HB 614 recorded fine schedule requirements.

Statutory / Legal Reference: **Tex. Prop. Code § 209.006, § 209.0061 & § 209.007**

Statutory Comparison: Under Tex. Prop. Code § 209.006 and § 209.007, an association may not levy a fine or suspend an owner's right to use a common area unless it first gives written notice by certified mail describing the violation, providing a reasonable period to cure (if curable and not a repeat violation within 6 months), and stating that the owner may request a hearing before the Board on or before the 30th day after the notice was mailed. Further, under § 209.0061 (HB 614), the association must maintain and provide a recorded enforcement policy specifying general categories of restrictive covenants and a schedule of fines for each category.

CURRENT WORDING IN DOCUMENT:

following: (1) fines; (2) damage assessments; (3) initiation of foreclosure actions; (4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety; (5) increases in assessments; (6)

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Before the Association levies a fine, suspends an Owner's right to use a common area, or files suit other than to collect regular or special assessments or foreclose a lien, the Association shall give written notice to the Owner by certified mail in compliance with Tex. Prop. Code § 209.006. The notice must describe the violation, include a copy of or link to the Association's recorded enforcement and fine schedule policy required by Tex. Prop. Code § 209.0061 (HB 614), specify a reasonable cure period (for curable violations), and inform the Owner that they have thirty (30) days from the date notice is mailed to submit a written request for a hearing before the Board pursuant to Tex. Prop. Code § 209.007.

the Directors elected to office by the Members of the Corporation, an "Alternate Director" may be appointed by the Board of Directors to fill the unexpired term of a Director who is unable to complete the term for which he was elected. In the event no "Alternative Director" is appointed, then the Board of Directors shall have the authority to appoint any other Member of the Corporation to fill a vacancy.

Section 3. Removal. Any Director elected by the Members may be removed from the Board, with or without cause, by a majority vote of those Members of the Corporation who were entitled to vote for the election of such Director, and in the event of such removal of a Director, a successor shall be elected to serve for the unexpired term of such removed director by a special election to be held by those Members who were entitled to vote for the election of the director so removed.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Corporation. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Board of Directors may take action outside of a meeting, including voting by electronic or telephonic means, without prior notice to Members, if each Director is given a reasonable opportunity to express the Director's opinion to all other board members and to vote. Any action taken without notice to Members must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special Board meeting. The Board may not, unless done in an open meeting for which prior notice was given to Owners, consider or vote on the following: (1) fines; (2) damage assessments; (3) initiation of foreclosure actions; (4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety; (5) increases in assessments; (6) levying of special assessments; (7) appeals from a denial of architectural control approval; (8) a suspension of a right of a particular owner before the owner has an opportunity to attend a