CHAPTER 672
H.B. No. 1781

AN ACT
relating to a limitation on sanctions imposed on school districts for the sale of foods of minimal nutritional value.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 12, Agriculture Code, is amended by adding Section 12.0028 to read as follows:

Sec. 12.0028. LIMITATION ON SANCTIONS IMPOSED ON SCHOOL DISTRICTS FOR SALE OF FOODS OF MINIMAL NUTRITIONAL VALUE. (a) In this section, "food of minimal nutritional value" has the meaning assigned by 7 C.F.R. Section 210.11(a)(2).

(b) The department may not impose on a school district a sanction, including disallowing meal reimbursement, based on the sale to students at a high school of food of minimal nutritional value, if the sale is approved in advance by the school and is made:

(1) outside of a school area designated for food service or food consumption or during a period other than a school meal service period; and

(2) for the purpose of raising money for a student organization or activity sponsored or sanctioned by the school or the school district in which the school is located.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Passed by the House on May 2, 2013: Yeas 147, Nays 0, 2 present, not voting; passed by the Senate on May 22, 2013: Yeas 31, Nays 0.

Approved June 14, 2013.
Effective June 14, 2013.

CHAPTER 673
H.B. No. 1824

AN ACT
relating to the operation of master mixed-use property owners' associations.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 215.003, Property Code, is amended to read as follows:

Sec. 215.003. APPLICABILITY OF CHAPTER 209. Chapter 209 does not apply to [Sections 209.007, 209.008, 209.011, and 209.012 apply only to single-family residential properties governed by] a property owners' association subject to this chapter.

SECTION 2. Section 215.008, Property Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding any provision of the certificate of formation, declaration, or bylaws to the contrary, the declaration and any supplementary declaration, including amendments, modifications, or corrections, may be amended by a simple majority of the eligible votes being cast in favor of the amendment.

SECTION 3. Chapter 215, Property Code, is amended by adding Section 215.0135 to read as follows:

Sec. 215.0135. ASSOCIATION RECORDS. (a) To the extent of any conflict or inconsistency, this section prevails over other provisions of law and the dedicatory instruments of a
property owners' association subject to this chapter. This section is the exclusive procedure for a property owner to inspect the books and records of the association.

(b) Except as provided by Subsection (c) or (j), a property owners' association shall, on written request as provided by this section, make the books and records of the association open to and reasonably available for examination by an owner or a person designated in a written instrument signed by the owner as the owner's agent, attorney, or certified public accountant. Except as provided by Subsection (c) or (j), an owner is entitled to obtain copies of the books and records from the association.

(c) An attorney's files and records relating to the property owners' association, excluding invoices, are not records of the association and are not subject to inspection by the owner or the owner's authorized representative or to production in a legal proceeding. This subsection does not require production of a document that is covered by the attorney-client privilege.

(d) An owner or the owner's authorized representative described by Subsection (b) must submit a written request by certified mail to the mailing address of the property owners' association or the association's authorized representative, as reflected on the most current management certificate filed under Section 215.013, for access to the books and records of the association. The request must describe, in sufficient detail, the association's books and records requested by the owner or the owner's representative and:

1. if an inspection is requested, the association shall, on or before the 10th business day after the date the association receives the request, send written notice of dates that the owner may inspect, during normal business hours, the requested books and records to the extent those books and records are in the actual physical possession, custody, and control of the association; or

2. if copies of identified books and records are requested, the association shall, to the extent those books and records are in the actual physical possession, custody, and control of the association, produce copies of the requested books and records on or before the 10th business day after the date the association receives the request, except as otherwise provided by this section.

(e) If the property owners' association fails to produce the books or records requested under Subsection (d) on or before the 10th business day after the date the association receives the request, the association must provide to the requestor written notice that:

1. informs the requestor that the association is unable to produce the information and the specific reasons for that inability on or before the 10th business day after the date the association received the request; and

2. if the association can produce the information, notifies the requestor of the date by which the information will be sent or made available for inspection to the requesting party, which may not be later than the 15th day after the date notice under this subsection is given.

(f) If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours of the property owners' association, and the requesting party shall identify the books and records for the association to copy and forward to the requesting party.

(g) A property owners' association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the association.

(h) A property owners' association board must adopt a records production and copying policy that prescribes the costs the association will charge for the compilation, production, and reproduction of information requested under this section. The prescribed charges may include all reasonable costs of materials, labor, and overhead. The policy required by this subsection must be recorded as a dedicatory instrument. If the policy is not recorded, the association may not charge an owner for the compilation, production, or reproduction of information requested under this section. If the policy is recorded, the requesting owner or the owner's representative is responsible for all costs related to the compilation, production, and reproduction of the requested information based on the amounts prescribed by the policy. The association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the total of the estimated costs

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differs from the total of the actual costs, the association shall submit a final invoice to the owner on or before the 30th business day after the date the requested copies are delivered. If the actual total cost is higher than the estimated total cost, and the owner fails to reimburse the association before the 30th business day after the date the invoice is sent to the owner, the association may add the amount due to the owner’s account as an assessment. If the actual total cost is less than the estimated total cost, the association shall issue a refund to the owner not later than the 30th business day after the date the requested copies are delivered.

(i) A property owners’ association must estimate costs under this section using amounts prescribed by the policy adopted under Subsection (h).

(j) Information may be released in an aggregate or summary manner that would not identify an individual property owner. Except as provided by Subsection (k) and to the extent the information is provided in the meeting minutes, the property owners’ association is not required to release or allow inspection of any books or records that identify:

1. the dedicatory instrument violation history of an individual owner;
2. an owner’s personal financial information, including records of payment or non-payment of amounts due the association;
3. an owner’s contact information, other than the owner’s address;
4. an owner’s property files or building plans;
5. books or records described by Subsection (c);
6. any information to which an owner objects to releasing or has not granted approval for releasing; or
7. information related to an employee of the association, including personnel files.

(k) The books and records described by Subsection (j) shall be released or made available for inspection if:

1. the express written approval of the owner whose records are the subject of the request for inspection is provided to the property owners’ association; or
2. a court orders the release of the books and records or orders that the books and records be made available for inspection.

(l) A property owners’ association shall adopt and comply with a document retention policy that includes, at a minimum, the following requirements:

1. certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;
2. financial books and records shall be retained for seven years;
3. account records of current owners shall be retained for five years;
4. contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;
5. minutes of meetings of the owners and the board shall be retained for seven years; and
6. tax returns and audit records shall be retained for seven years.

(m) A member of a property owners’ association who is denied access to or copies of the association books or records to which the member is entitled under this section may file a petition with the county court at law in which all or part of the property that is governed by the association is located requesting relief in accordance with this subsection. If the county court at law finds that the member is entitled to access to or copies of the records, the county court at law may grant one or more of the following remedies:

1. a judgment ordering the association to release or allow access to the books or records;
2. a judgment against the association for court costs and attorney’s fees incurred in connection with seeking a remedy under this section; or
3. a judgment authorizing the owner or the owner’s assignee to deduct the amounts awarded under Subdivision (2) from any future regular or special assessments payable to the association.
(n) If the property owners' association prevails in an action under Subsection (m), the association is entitled to a judgment for court costs and attorney's fees incurred by the association in connection with the action.

(o) On or before the 10th business day before the date a person brings an action against a property owners' association under this section, the person must send written notice to the association of the person's intent to bring the action. The notice must:

1. be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service, to the mailing address of the association or the association's authorized representative as reflected on the most current management certificate filed under Section 215.013; and

2. describe with sufficient detail the books and records being requested.

(p) For the purposes of this section, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.

SECTION 4. Chapter 215, Property Code, is amended by adding Sections 215.016, 215.017, and 215.018 to read as follows:

Sec. 215.016. NOTICE REQUIRED BEFORE CERTAIN ENFORCEMENT ACTIONS. (a) Before a property owners' association may file a suit against an owner, other than a suit to collect a regular or special assessment or judicial foreclosure under the association's lien, or charge an owner for property damage, the association or its agent must give written notice sent to the owner by certified mail, return receipt requested, to the property address of the owner.

(b) The notice must:

1. describe the violation of the declaration or property damage that is the basis for the suit or charge and state any amount due to the association from the owner, and

2. inform the owner that the owner:

   A. is entitled, as applicable, to a reasonable period to cure the violation and avoid the suit unless the owner was previously given notice and a reasonable opportunity to cure by the association for the same or a similar violation within the preceding six months;

   B. may request a hearing under Section 215.017 on or before the 30th day after the date the owner receives the notice; and

   C. may have special rights or relief related to the suit or charge under federal law, including, without limitation, the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if the owner is serving on active military duty.

Sec. 215.017. HEARING BEFORE BOARD. (a) Except as provided by Section 215.009(c), if the owner is entitled to an opportunity to cure a violation, the owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter at issue before a committee appointed by the board of the property owners' association or before the board if the board does not appoint a committee.

(b) The association shall hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. The board or committee or the owner may request a postponement, and if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties.

(c) The notice and hearing provisions of this section and Section 215.016 do not apply if the association files a suit seeking a temporary restraining order or temporary injunctive relief or a suit that includes foreclosure as a cause of action.

Sec. 215.018. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN ASSESSMENTS. (a) A property owners' association shall adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties. For purposes of this section,
monetary penalties do not include reasonable costs associated with administering the payment plan or interest.

(b) A property owners’ association is not required to enter into a payment plan with an owner who failed to honor the terms of a previous payment plan.

(c) A property owners’ association shall file the association’s guidelines under this section in the real property records of each county in which any portion of the subdivision is located.

SECTION 5. This Act takes effect September 1, 2013.

Passed by the House on May 4, 2013: Yeas 136, Nays 1, 2 present, not voting; passed by the Senate on May 22, 2013: Yeas 31, Nays 0.

Approved June 14, 2013.

Effective September 1, 2013.

CHAPTER 674

H.B. No. 1846

AN ACT

relating to suspension or denial of issuance or renewal of a license for failure to pay child support.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 232.008, Family Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Subject to Subsection (b-1), the [The] court or Title IV-D agency may stay an order suspending a license conditioned on the individual’s compliance with:

(1) a reasonable repayment schedule that is incorporated in the order;

(2) the requirements of a reissued and delivered subpoena; or

(3) the requirements of any court order pertaining to the possession of or access to a child.

(b-1) The court or Title IV-D agency may not stay an order under Subsection (b)(1) unless the individual makes an immediate partial payment in an amount specified by the court or Title IV-D agency. The amount specified may not be less than $200.

SECTION 2. Section 232.0135(b), Family Code, is amended to read as follows:

(b) A licensing authority that receives the information described by Subsection (a) shall refuse to accept an application for issuance of a license to the obligor or renewal of an existing license of the obligor until the authority is notified by the child support agency that the obligor has:

(1) paid all child support arrearages;

(2) made an immediate payment of not less than $200 toward child support arrearages owed and established with the agency a satisfactory repayment schedule for the remainder or is in compliance with a court order for payment of the arrearages;

(3) been granted an exemption from this subsection as part of a court-supervised plan to improve the obligor’s earnings and child support payments; or

(4) successfully contested the denial of issuance or renewal of license under Subsection (d).

SECTION 3. (a) Section 232.008(b-1), Family Code, as added by this Act, applies only to an order suspending a license that is rendered on or after the effective date of this Act. An order suspending a license rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

(b) Section 232.0135(b), Family Code, as amended by this Act, applies only to a notice provided under Section 232.0135(a), Family Code, on or after the effective date of this Act.