(3) encourage news and other media to broadcast reenactments and to inform the public of the functions of crime stoppers organizations’ operations and programs;

(4) promote the process of crime stoppers organizations to forward information about criminal acts to the appropriate law enforcement agencies;

(5) help law enforcement agencies detect and combat crime by increasing the flow of information to and between law enforcement agencies;

(6) create specialized programs targeted at detecting specific crimes or types of crimes, including at least one program that:
   
   (A) encourages individuals to report sex offenders who have failed to register under Chapter 62, Code of Criminal Procedure; and
   
   (B) encourages individuals to report criminal activity relating to the trafficking of persons, as described under Chapter 20A, Penal Code; and

   (C) financially rewards each individual who makes a report described by Paragraph (A) or (B) that leads or substantially contributes to the arrest or apprehension:
   
   (i) of a sex offender who has failed to register under Chapter 62, Code of Criminal Procedure; or
   
   (ii) of a person suspected of engaging in conduct that constitutes an offense under Chapter 20A, Penal Code; and

   (7) encourage, advise, and assist crime stoppers organizations in implementing any programs created under Subdivision (6), including a program specifically described by Subdivision (6).

SECTION 6. This Act takes effect September 1, 2013.

Passed the Senate on April 18, 2013: Yeas 29, Nays 1; the Senate concurred in House amendments on May 23, 2013: Yeas 30, Nays 1; passed the House, with amendments, on May 20, 2013: Yeas 146, Nays 0, two present not voting.

Approved June 14, 2013.
Effective September 1, 2013.

CHAPTER 1352

S.B. No. 1372

AN ACT

relating to timeshare owners’ associations.

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

SECTION 1. This Act shall be known as the Texas Timeshare Owners’ Association Act.

SECTION 2. Chapter 221, Property Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. TIMESHARE OWNERS’ ASSOCIATIONS

Sec. 221.081. APPLICABILITY. (a) Except as provided by this section, this subchapter applies to a timeshare plan, the project instrument governing the timeshare property subject to the timeshare plan, and the association related to the timeshare plan, regardless of the date on which the timeshare plan was created.

(b) Except as provided by Section 221.083(f), this subchapter applies to a timeshare plan, the project instrument governing the timeshare property subject to the timeshare plan, and the association related to the timeshare plan, created before September 1, 2013, unless the project instrument is amended before September 1, 2013, to provide that this subchapter does not apply.

Sec. 221.082. POWERS AND LIMITATIONS OF BOARD. (a) An association may be governed by a board of directors. Except as provided in the project instrument, or this chapter, the board may act in all instances on behalf of the association.
(b) Except as expressly authorized in the project instrument or otherwise permitted by the
association, the board may not act on behalf of the association to:

1. amend the project instrument;
2. terminate the timeshare plan;
3. elect or remove board members; or
4. determine the qualifications, powers, duties, or terms of office of board members.

(c) Subject to the project instrument, the board may appoint a member to fill a vacancy on
the board and the member appointed serves for the unexpired portion of the term of the
predecessor board member.

Sec. 221.083. PERIOD OF DEVELOPER CONTROL. (a) Except as otherwise provided
in this section, the project instrument may provide for a period of developer control of an
association during which the developer, or a person designated by the developer, may
appoint and remove board members and officers of the association.

(b) Regardless of the period of developer control provided in the project instrument, that
period expires not later than the earlier of:

1. the 120th day after the date that at least 95 percent of the timeshare interests that
were created by the timeshare instrument are conveyed to owners other than the developer,
or
2. the fifth anniversary of the date the developer ceased to offer timeshare interests for
sale in the ordinary course of business under the timeshare plan or under another
timeshare plan in which the timeshare interests are included, whichever date is later.

(c) A developer may voluntarily surrender the developer's right to appoint and remove
board members and officers of the association during the period of developer control by
executing a written instrument stating that the developer's rights are surrendered and
providing a copy of the instrument to the owners. The developer may provide in the
surrender instrument that, during the remaining period otherwise designated for developer
control, specified actions of the association or board as described in the project instrument
are effective only on approval of the developer. The surrender instrument must be recorded
in the real property records of the county in which the timeshare property is located.

(d) If the project instrument provides for a developer control period of shorter duration
than any period prescribed by this section, the project instrument controls.

(e) During the period of developer control and subject to the project instrument, the
developer may determine all matters governing the association, including the occurrence of
special or regular meetings of the members and the notice requirements and rules for those
meetings.

(f) This section applies to a timeshare plan created before September 1, 2013, and to the
project instrument governing the timeshare property subject to the timeshare plan only if the
developer and the association agree to the application in writing and the project instrument
is amended to provide for that application. If the conditions provided by this subsection are
not satisfied, a timeshare plan created before September 1, 2013, and the timeshare property
subject to the timeshare plan are governed by any developer control provisions provided in
the project instrument, notwithstanding any other law.

Sec. 221.084. ELECTION OF INITIAL BOARD MEMBERS AND OFFICERS. (a) Not
later than the termination, by expiration or surrender, of any period of developer
control, the owners, including the developer to the extent of any developer-owned timeshare
interests, must elect a board of at least three members. The board may include one or more
representatives of the developer.

(b) The board shall elect the officers of the association.

(c) The board members and officers of the association take office on election.

Sec. 221.085. REMOVAL OF BOARD MEMBERS. Notwithstanding any provision of a
project instrument to the contrary, the owners, by a vote of at least two-thirds of the voting
rights of persons entitled to vote and voting in person or by proxy at any meeting of the
owners, may remove a member of the board, with or without cause, other than a member
appointed by the developer during the period of developer control under Section 221.083, provided that the developer remains in control of the association.

Sec. 221.086. QUORUM. (a) Unless the project instrument provides for a larger quorum requirement, the percentage of voting interests constituting a quorum at a meeting of the members of an association is 10 percent of the voting interests of owners who are not delinquent in assessments, voting in person or by proxy.

(b) If a quorum is not present at any meeting of the association at which board members will be elected, the meeting may be adjourned and reconvened not later than the 90th day after the date of adjournment for the sole purpose of electing board members. Unless the project instrument provides for a larger quorum requirement, the quorum for the reconvened meeting is 10 percent of the voting interests of owners who are not delinquent in assessments, voting in person or by proxy.

(c) Unless the project instrument provides otherwise, a quorum of the board is considered present throughout a board meeting if the members entitled to cast a majority of the votes are present at the beginning of the meeting.

Sec. 221.087. VOTES. (a) If only one of the multiple owners of a timeshare interest is present at a meeting of the association, that owner may cast all votes allocated to that timeshare interest. If more than one of the multiple owners are present, the votes allocated to that timeshare interest may be cast only in accordance with the agreement of a majority of the timeshare interest held by the multiple owners unless the timeshare instrument expressly provides otherwise. For purposes of this subsection, there is a majority agreement if any one of the multiple owners casts the votes allocated to that timeshare interest and no protest is made promptly to the person presiding over the meeting by any of the other owners of the timeshare interest.

(b) Votes allocated to a timeshare interest may be cast under a proxy duly executed by an owner. A proxy must expressly state the dates of execution and termination. An owner may only revoke a proxy given under this section by actual notice of revocation to the person presiding over a meeting of the association. A proxy is revoked on presentation of a later dated proxy or other written revocation executed by the same owner. A proxy terminates the 25th month after the date the proxy is executed, unless the proxy specifies a shorter period or states that the proxy is coupled with an interest and is irrevocable.

(c) The project instrument for a timeshare plan may authorize votes of members of an association to be cast by mail only if:

(1) mail ballots are mailed or sent to each member in the manner prescribed for a notice of a special meeting under Section 221.089;

(2) the period for return of mail ballots is not later than the 30th day after the date the ballots are mailed or sent to members; and

(3) the required minimum number of ballots that must be returned by members for the vote to be effective represents at least the percentage of voting interests required for a quorum as prescribed by Section 221.086(a).

(d) Only timeshare interests included in the timeshare plan have voting rights.

(e) Unless the project instrument provides otherwise, owners who are delinquent in assessments do not have the right to cast a vote. The right to cast a vote is also subject to any additional limitations provided in the project instrument.

Sec. 221.088. OPEN MEETINGS; EXCEPTIONS. (a) Notwithstanding any provision in the project instrument to the contrary and except as provided in this section, after the period of developer control under Section 221.082, all meetings of the association and board are open to all members of the association and all members must be permitted to attend and listen to the deliberations and proceedings. Meetings must be conducted as provided in the project instrument. The board may adjourn a board meeting and reconvene in a closed executive session to consider:

(1) legal advice from an attorney for the board or the association;

(2) pending or contemplated litigation;
(3) financial information about an individual member of the association, an individual employee of the association, an individual employee of the managing entity, or an individual employee of a contractor for the association or managing entity; or

(4) matters relating to the job performance of, compensation of, health records of, or specific complaints against an individual employee of the association, an individual employee of the managing entity, or an individual employee of a contractor of the association or managing entity who works under the direction of the association or the managing entity.

(b) If a board meeting is closed as provided by Subsection (a)(1) or (2), the board, on final resolution of any matter for which the board received legal advice or that concerned pending or contemplated litigation, may disclose information about that matter in an open meeting, except to the extent that those matters are required to remain confidential by the terms of a settlement agreement or judgment.

Sec. 221.089. NOTICE. (a) A meeting of the members of the association must be held annually after the termination of the period of developer control under Section 221.083. Special meetings of the members of the association may be called by the president, by a majority of the board, or by owners having at least 25 percent of the votes allocated to timeshare interests in the association or any lower percentage specified in the project instrument.

(b) Unless the project instrument provides otherwise, the association or managing entity must send notice of the meeting to the mailing address of each owner on record with the association:

(1) not later than the 30th day or earlier than the 90th day before the date of an annual meeting; and

(2) not later than the 10th day or earlier than the 60th day before the date of a special meeting.

(c) The notice of a meeting of the owners must state the date, time, and place of the meeting. The notice of a special meeting of the owners must also state the purpose of the meeting. A notice of a meeting may be included in a list of upcoming meetings sent to owners, and the list is not required to be specific to one meeting. The failure of an owner to receive actual notice of a meeting of the owners does not affect the validity of any action taken at that meeting.

(d) Unless the project instrument provides otherwise, the association or managing entity must send notice of a board meeting held after the date the developer control period terminates to the mailing address of each owner on record with the association not later than the 10th day before the date of the meeting. Notice to owners of a board meeting is not required if emergency circumstances require action by the board before notice can be given. A notice of a board meeting must state the date, time, and place of the meeting. A notice of a meeting may be included in a list of upcoming meetings sent to owners, and the list is not required to be specific to one meeting. The failure of an owner to receive actual notice of a board meeting does not affect the validity of any action taken at that meeting.

(e) A notice may be provided in a newsletter or a similar mailing. Notice may be provided by prepaid United States mail, e-mail for those owners who have provided an e-mail address, or any other reasonable method selected by the board.

(f) Notwithstanding Subsections (a)–(d) or any other law related to notice by an association, a notice to an owner may be provided by conspicuous disclosure on the association’s website if the owner has consented to that alternative notice. Consent to that alternative notice must be in writing and may be revoked by the owner at any time.

(g) An affidavit of notice by an officer of the association or the managing entity is prima facie evidence that notice was provided under this section.

Sec. 221.090. DUTIES; LIST OF OWNERS. (a) The association or managing entity of the association must maintain among its records a complete and current list of the names and addresses of all owners of timeshare interests in the timeshare plan. The association or managing entity must update this list not less than quarterly.
(b) The association or managing entity may not publish the owners list or provide a copy of the list to any owner or to any third party, except:

(1) as reasonably required to conduct legitimate association business; or

(2) as authorized or required by law.

(c) On the termination of the period of developer control under Section 221.083 and on the written request of an owner, the association or managing entity shall send by first class mail to owners on the list described by Subsection (a) any materials provided by any owner if the purpose of the mailing is for legitimate association business, including a proxy solicitation for the recall of a board member elected by the owners or the discharge of the managing entity. The use of the solicited proxies must comply with the project instrument and this chapter. Materials required to be provided under this subsection must be mailed not later than the 30th day after the date the request is received from an owner.

(d) The board or the managing entity is responsible for determining the appropriateness of a mailing requested under Subsection (c) and establishing reasonable procedures for exercising rights under this section. The association or managing entity does not have an obligation to mail an item that the board or managing entity reasonably believes based on advice of legal counsel may be libelous or otherwise actionable. An owner who requests the mailing of materials under Subsection (c) must reimburse the association or managing entity for the actual costs of performing the mailing or a proportionate share of actual costs if the mailing is included in a mailing with other items.

(e) After the termination of the period of developer control under Section 221.083, it is a violation of this subchapter to refuse to mail material provided by a requesting owner who has complied with the reasonable procedures established by the board or managing entity, if:

(1) the sole purpose of the materials is to advance legitimate association business; and

(2) the requesting owner has:

(A) tendered to the association or managing entity payment of the cost under Subsection (d); or

(B) requested an invoice for that cost and has not received the invoice before the 10th day after the date the request was delivered to the association or managing entity.

(f) Except as otherwise authorized or required by law, the association or other managing entity may not furnish the name, address, telephone number, or e-mail address of any owner to any other owner or authorized agent of an owner unless the owner whose name, address, phone number, or e-mail address is requested first approves the disclosure in writing.

SECTION 3. Section 221.002, Property Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) “Board” means the governing body of a timeshare association designated in a project instrument to act on behalf of the association.

SECTION 4. Subsection (d), Section 221.003, Property Code, is amended to read as follows:

(d) A timeshare property subject to this chapter is not subject to:

(1) Section 5.008 or 5.012; 

(2) Chapter 202; 

(3) Chapter 207; or 

(4) Chapter 209, unless an individual timeshare owner continuously occupies a single timeshare property as the owner’s primary residence 12 months of the year.

SECTION 5. Subchapter A, Chapter 221, Property Code, is amended by adding Section 221.004 to read as follows:

Sec. 221.004. CONFLICTS OF LAW. (a) The provisions of this chapter prevail over a conflicting or inconsistent provision of law applicable to timeshare owners’ associations.

(b) Provisions of this code relating to property owners’ associations do not apply to an association subject to this chapter.
SECTION 6. Subsections (a) and (b), Section 221.011, Property Code, are amended to read as follows:

(a) The developer of a timeshare plan any part of which is located in this state must record the timeshare instrument in this state. When a person expressly declares an intent to subject the property to a timeshare plan through the recordation of a timeshare instrument that sets forth the information provided in Subsection (b), that property shall be established as a timeshare plan.

(b) The declaration made in a timeshare instrument recorded under this section must include:

(1) a legal description of the timeshare property, including a ground plan indicating the location of each existing or proposed building included in the timeshare plan;
(2) a description of each existing or proposed accommodation, including the location and square footage of each unit and an interior floor plan of each existing or proposed building;
(3) a description of any amenities furnished or to be furnished to the purchaser;
(4) a statement of the fractional or percentage part that each timeshare interest bears to the entire timeshare plan;
(5) if applicable, a statement that the timeshare property is part of a multisite timeshare plan; and
(6) any additional provisions that are consistent with this section; and
(7) the provisions required by Subchapter I to be included in a project instrument unless the provisions are included in one or more other project instruments.

SECTION 7. Section 221.025, Property Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) A timeshare plan subject to Chapter 82 that complies with this chapter is exempt from:

(1) Section 82.0675 relating to club membership; and
(2) Sections 82.103(c)-(e) relating to declarant control.

(c-1) The exemption provided by Subsection (c)(2) applies to a timeshare plan created before September 1, 2013, and to the project instrument governing the timeshare property subject to the timeshare plan only if the developer and the association agree to the application of the exemption in writing and the project instrument is amended to provide for the application of the exemption. If the conditions provided by this subsection are not satisfied, a timeshare plan created before September 1, 2013, and the timeshare property subject to the timeshare plan are governed by any developer control provisions provided in the project instrument, notwithstanding any other law.

SECTION 8. Section 221.071, Property Code, is amended by adding Subsection (e) to read as follows:

(e) A person, other than an owner of a timeshare interest who purchased the interest from a developer for the person's own personal use and occupancy, commits a false, misleading, or deceptive act or practice within the meaning of Sections 17.46(a) and (b), Business & Commerce Code, and an unconscionable action or course of action as defined by Section 17.45, Business & Commerce Code, by knowingly participating, for consideration or with the expectation of consideration, in any plan or scheme a purpose of which is to transfer a timeshare interest to a transferee who does not have the ability, means, or intent to pay all assessments and taxes for the timeshare interest. An association or other managing entity does not commit an act or action as described by this subsection by performing administrative acts and collecting fees or expenses as customary or required by law or under the project instruments in connection with a transfer by an owner of a timeshare interest in the timeshare property.

SECTION 9. This Act takes effect September 1, 2013.

Passed the Senate on April 18, 2013: Yeas 31, Nays 0; the Senate concurred in House amendments on May 20, 2013: Yeas 31, Nays 0; passed the House, with amendments, on May 16, 2013: Yeas 142, Nays 2, two present not voting.
CHAPTER 1353

S.B. No. 1390

AN ACT
relating to an audit by the state auditor of the Texas Enterprise Fund.

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

SECTION 1. (a) The state auditor shall conduct an audit of the Texas Enterprise Fund established under Section 481.078, Government Code. The state auditor may establish the scope of the audit and objectives for the audit that are consistent with generally accepted government auditing standards and with other audits conducted by the state auditor under Chapter 321, Government Code.

(b) The audit may determine whether money from the fund is:

(1) disbursed in compliance with the requirements of Section 481.078, Government Code, and other relevant laws or standards; and

(2) monitored to determine whether the persons or entities awarded money from the fund comply with the terms of any applicable agreements and with the requirements of Section 481.078, Government Code, and other relevant laws or standards.

(c) Consistent with generally accepted government auditing standards and with other audits conducted by the state auditor under Chapter 321, Government Code, the state auditor may assess the efficiency and effectiveness of the Texas Enterprise Fund.

(d) The state auditor shall prepare a report of the audit conducted under this section. Not later than January 1, 2015, the state auditor shall file the report with the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee of the senate and house of representatives having primary jurisdiction over fiscal matters. The report may include:

(1) details on the grant approval process;

(2) details on the compliance of past and present grant recipients with the terms of applicable agreements and with the requirements of the Government Code and other relevant laws or standards;

(3) a synopsis of grant agreements that have been amended to reduce the job creation goals established in the original agreement or to extend the time allotted to achieve job creation goals; and

(4) an itemization of grant money returned to this state, including a summary of the reasons the money was returned.

SECTION 2. This Act expires September 1, 2015.

SECTION 3. This Act takes effect September 1, 2013.

Passed the Senate on April 16, 2013: Yeas 26, Nays 3; the Senate concurred in House amendments on May 23, 2013: Yeas 26, Nays 3; passed the House, with amendments, on May 20, 2013: Yeas 145, Nays 0, two present not voting.

Approved June 14, 2013.

Effective September 1, 2013.