

2017 TEXAS POA LEGISLATIVE REPORT

BILLS OF PARTICULAR INTEREST
TO
COMMON INTEREST COMMUNITIES AND PROPERTY OWNERS ASSOCIATIONS
(SUBDIVISIONS, TOWNHOMES, CONDOMINIUMS, MIXED-USE & MASTER PLANNED COMMUNITIES)

Considered by the Texas Legislature's 85th Session
(Regular Session & First Special Session)

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This Report is merely a "heads up" about
the very few bills that became law, and the many that didn't.

It's no substitute for a thoughtful legal analysis
of the full content of each final bill.

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SCORECARD OF POA-PERTINENT BILLS IN 2017 TEXAS LEGISLATURE - THRU FIRST SPECIAL SESSION

~ PERTAINING TO COMMON INTEREST COMMUNITIES (POAs, HOAs, Condos, Townhomes, Subdivisions) ~

Prepared by Sharon Reuler • All bills available on www.capitol.state.tx.us

Bill #	STATUS as of 9/1/17	Sharon's Topic Classification	Author	Companion
HB 7-SS1	✓ EFFECTIVE 12/1/17	TREES - Removal	Phelan	SB107-SS1
HB 522	Dead at #3 & SS1 as HB 56 dead #F	USES - Religious Display	Schofield	SB-1609
HB 561	✓ EFFECTIVE 5/22/17	PACKAGE DELIVERY VEHICLES	Murphy	
HB 755	✓ EFFECTIVE 9/1/17	PRIVATE TRANSFER FEE [Denton County only]	Parker	
HB 923	Dead at #3	ASSESS - Fines	Shaheen	
HB 1128	✓ EFFECTIVE 9/1/17	FORECLOSURE - Sale Date	Wray	
HB 1341	Dead at #1	► OMNIBUS HOA <u>Governance</u> Bill [6 laws]	Munoz	
HB 1470	✓ EFFECTIVE 9/1/17	FORECLOSURE - Process & Proceeds	Villalba	SB-1405
HB 1572	Dead at #3 & SS1 as HB 70 dead #F	USES - Tree Removal	Workman	
HB 1767	Dead at #2	ASSESS - Collection by 3rd Parties	Collier	SB-2167
HB 1792	Dead at #2	LAND USE - Affordable Housing	Swanson	
HB 1964	Dead at #3 [companion passed]	UTILITIES - Submetered Water & Sewer	Murphy	SB 873
HB 1966	Dead at #3	USES - Guns	Paul	
HB 2320	Dead at #2	GOVERN - Declarant Control	Fallon	
HB 2508	Dead at #5	USES - Towing	Kuempel	
HB 2551	Dead at #2	LEASING - Short-Term	Parker	SB-451
HB 2827	Dead at #3 [companion passed]	ENTITIES - Merger of Unincorp Nonprofits	Oliveira	SB 1518
HB 2856	✓ EFFECTIVE 6/1/18	ENTITIES - Names	Villalba	SB-1835
HB 3502	Dead at #2 [companion passed]	CORRECTION - Duplicate Property Code Secs	Landgraf	SB 1488
HB 3528	Dead at #2	► OMNIBUS HOA <u>Collections</u> Bill [6 laws]	Vo	SB-2234
HB 3699	Dead at #1	LEASING - Tenant Rights (Foreclosure)	Walle	
HB 3868	Dead at #3	LEASING - Criminal History	Smithee	
HB 3888	Dead at #3	USES - Assisted Living	Zerwas	
HB 3974	Dead at #2	ASSESS - Condition of Purchase	Ashby	
HB 4012	Dead at #2	UTILITIES - Water Shut-Off	Paul	
HB 4026	Dead at #5	GOVERN - Board Qualifications	Roberts	
HB 4107	Dead at #3	ASSESS - Foreclose (Expedited)	Neave	
SB 451	Dead at #5	LEASING - Short-Term	Hancock	HB-2551
SB 873	✓ EFFECTIVE 6/1/17	UTILITIES - Submetered Water & Sewer	Creighton	HB-1964
SB 1202	Dead at #1	LEASING - Tenant Rights (Conversion)	West	
SB 1228	Dead at #2	ARCHITECTURAL - Damage Repair	Menendez	
SB 1405	Dead at #5 [companion passed]	ASSESS - Foreclose [Proceeds]	Creighton	HB 1470
SB 1488	✓ EFFECTIVE 9/1/17	CORRECTION - Duplicate Laws	West	HB-3502
SB 1518	✓ EFFECTIVE 9/1/17	ENTITIES - Governance & Merger Changes	Hancock	HB-2827
SB 1542	Dead at #1	CONDO - Creation	Kolhurst	
SB 1609	Dead at #7 & SS1	USES - Religious Display	Bett- & Kolk-	HB-522
SB 1620	Dead at #7 & SS1 as SB 98 dead #F	USES - Chickens	Taylor	
SB 1943	Dead at #7	USES - Guns	Hughes	
SB 2167	Dead at #1	ASSESS - Collection by 3rd Parties	West	HB-1767
SB 2234	Dead at #1	► OMNIBUS HOA <u>Collections</u> Bill [6 laws]	Menendez	HB-3528

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2017 TEXAS POA-PERTINENT BILLS
85th Regular Session and First Special Session
POST-SESSION REPORT #9 by Sharon Reuler

~ PERTAINING TO COMMON INTEREST COMMUNITIES (aka POAs, HOAs, Condos, Townhomes, Subdivisions) ~
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BILL NO. AUTHOR (Regular Session unless noted)	<p align="center">POA-PERTINENT BILLS THAT BECAME LAW IN 2017</p> <p align="center">FOR THE FIRST TIME IN 34 YEARS (17 SESSIONS), TEXAS HAS NO (ZERO) SIGNIFICANT LAW CHANGES THAT ARE SPECIFIC TO COMMON INTEREST DEVELOPMENTS AND THEIR PROPERTY OWNERS ASSOCIATIONS. THIS REPORT FOCUSES ON THE FEW LAW CHANGES THAT AFFECT POAs DIRECTLY OR INDIRECTLY.</p>	Statute/ Code Affected	Property Type
<p align="center">HB 1470 Villalba</p>	<p>FORECLOSURE - SALE PROCESSES & PROCEEDS. <u>Effective 9/1/17.</u> IMPORTANT NEW LAW for anyone participating in residential nonjudicial foreclosures - as seller or buyer on the courthouse steps. It creates new duties and processes for conducting sales, and for dealing with excess sale proceeds (not uncommon in POA sales). Doesn't pertain to sheriff sales, and possibly not condo statutory lien foreclosure. The rub is that this foreclosure law isn't in the Property Code (where it belongs) with other foreclosure laws. Instead, it's hiding in the Business & Commerce Code. Promoted by the Barrett Daffin firm, which represents mortgage servicers. [THUMBS DOWN - UNINTENDED CONSEQUENCES FOR POAs & WRONG CODE LOCATION]</p>	Bus & Com Code adds Ch 22; also amends Occup Code	Condo & SF
<p align="center">HB 561 Murphy</p>	<p>DELIVERY VEHICLES. <u>Effective 5/22/17.</u> Addresses special State licensing of certain types of delivery vehicles and allows local governments and POAs to regulate the use of those specially-licensed vehicles. Good use of POA definitions from Property Code. [POA-specific]</p>	Trans Code	Condo & SF
<p align="center">SB 1488 West</p>	<p>CORRECTION - DUPLICATE LAWS. <u>Effective 9/1/17.</u> This 305-page corrections bill cleans-up technical issues in many State laws. In Chapter 209 of Property Code it eliminates one of the two (a-1) subsections of <u>Sec. 209.00592 - Voting; Quorum</u> - both of which were enacted in 2015. The shorter version is kaput, the longer version of (a-1) lives on. [POA-specific]</p>	TPC Ch 209 - §209.00592	SF
<p align="center">SB 873 Creighton</p>	<p>UTILITIES - SUBMETERED & MASTER METERED WATER & SEWER. <u>Effective 6/1/17.</u> For developments with a single ("master") water meter that serves units as well as common areas, Texas has rules for charging each unit's share. This bill deals with water and sewer "overcharges" that exceed what's permitted by State Code. Tenants now forced to use PUC administrative processes before suing the landlord or POA over utility charges. Adds a peculiar definition to State law - "manager of a condominium" is defined as the condominium <u>association</u>. (Fingers crosses the definition isn't borrowed for future law-making.) [THUMBS UP for bill's overall concept, THUMBS DOWN for definition.] [POA-specific]</p>	Water Code Ch 13	Condo
<p align="center">SB 1518 Hancock</p>	<p>ENTITY LAW. <u>Effective 9/1/17.</u> This bill makes many changes to the Texas Business Organizations Code, which regulates corporations and unincorporated nonprofit associations. <u>SECs 28, 29 & 30 may interest incorporated POAs:</u> #28 - Method by which member makes demand on Board to hold the annual meeting, #29 - Quorum of Board must present when Board action is taken (not just at start of meeting), #30 - Method for abstaining from Board action. Unincorporated POAs may be interested in the merger and conversion provisions in <u>SECs 2, 33 & 34.</u> APOLOGY NOTE: During Session I <u>wrongly</u> reported that vote-splitting applies to co-owners in POAs. Not so. The new vote-splitting law is for co-owners of stock shares in a business corporation. The devil's in the Code's definitions.</p>	Bus.Org.Code	Condo & SF

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<p align="center">HB 1128 Wray</p>	<p>FORECLOSURE - SALE DAY. <u>Effective 9/1/17.</u> For the first time since 1889, if a "First Tuesday" (the Statewide day each month to conduct foreclosure sales on courthouse steps) lands on New Years Day or Independence Day, the sale day is automatically changed to "First Wednesday." [THUMBS DOWN FOR MESSING WITH TRADITION.]</p>	TPC §51.002 and 2 other Codes	Condo & SF
<p>1st Special Session HB 7 Phelan</p>	<p>TREES - REMOVAL. <u>Effective 12/1/17.</u> Limits how cities can force land owners to mitigate tree removal. Designed to level the playing field for land developers, the new law pertains to ALL land owners, including POAs that own or maintain common areas, as well as individual homeowners. Oddly defines "residential structure". [THUMBS UP FOR PRIVATE PROPERTY RIGHTS.]</p>	Local Govt Code - Ch 212 adds §212.905	Condo & SF
<p>HB 2856 Villalba</p>	<p>ENTITY NAMES. <u>Effective 6/1/18.</u> Of interest to anyone who creates or reinstates legal entities. State law OKs only a single use of an entity name - statewide, even though the same property or subdivision name is used in many cities. HB 2856 makes it easier to secure an entity name for which there's competition. The old rule prohibited entity names that were "deceptively similar." The new rule is that entity names must be "distinguishable." That distinction speaks volumes to the Secretary of State.</p>	Bus Organs Code	Condo & SF
<p>HB 755 Parker</p>	<p>PRIVATE TRANSFER FEE. <u>Effective 9/1/17.</u> This bill interests developers of large master-planned developments who want to use "private transfer fees" to fund cultural, educational, and recreational activities for the communities they create. The 2011 Legislature made it very hard to fund any activity with private transfer fees. HB 755 slightly loosens the prohibition for educational activities - but only in Denton County. Not POA-specific but typically affects the same population.</p>	TPC §5.202 [Denton County]	Condo & SF

A SAMPLING OF SOME OTHER NEW LAWS THAT MAY INTEREST PEOPLE WHO WORK WITH REAL ESTATE:

HB 890 requires contract notice of proximity to military installations

HB 2279 amends law dealing with residential service contracts (home warranties)

HB 2567 updates State law protecting forests from destructive pests - creates duties for owners of forested land

HB 3879 allows a landlord to be represented by non-lawyer in eviction appeal

SB 42 requires county clerks and appraisal districts to redact (from public websites) the home addresses of certain judge and their spouses, if requested

SB 488 adopts Uniform Partition of Heirs' Property Act

SB 920 amends law allowing right of entry to retrieve personal property when family violence is threatened (may affect POAs that control access to a property)

SB 1955 clarifies the lis pendens expunction law

SB 2212 requires contract disclosure if seller doesn't have fee title to property, also advertising by agents and brokers

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BILL NO. AUTHOR	POA-PERTINENT BILLS that died in 2017 (in alpha order of topic assigned by Sharon Reuler)	Statute/ Code Affected	Property Type	Status (SEE KEY)
SB 1228 Menendez	ARCHITECTURAL - DAMAGE REPAIR. Common sense should make this bill unnecessary. Requires HOA to "immediately" approve an owner's request to repair weather-damaged property to its pre-damage condition. News Flash! Every HOA in Texas does not require HOA approval to replace a hail-damaged roof. This bill may inadvertently change that. Unintended Consequences. [1] May give some HOAs architectural authority they weren't intended to have. [2] May override HOA docs that don't require approval of repairs to pre-damage condition. Issues: [1] If the HOA's only option is to approve the work, why bother with an application? Just allow the repair. If the HOA has discretion, what penalty if it disapproves the repair? [2] Does sun-faded paint qualify as "weather-related damage"? [3] What's an "event"? [4] How long after the event can the owner wait to apply? [5] What's the HOA's turn-around on "immediately"? [Bravo for wanting to protect owners from unreasonable HOAs. But, THUMBS DOWN for bill's vague wording and unintended consequences.]	TPC Ch 209 adds §209.018	SF	#2
HB 3528 Vo	ASSESS - OMNIBUS COLLECTIONS BILL WITH 6 STAND-ALONE PARTS. See last page of report for section-by-section overview of HB 3528 by Vo and SB 2234 by Menendez. THUMBS WAY DOWN	TPC Ch 209 adds §209.0061	SF	#2
SB 2234 Menendez	ASSESS - OMNIBUS COLLECTIONS BILL WITH 6 STAND-ALONE PARTS. See last page of report for section-by-section overview of HB 3528 by Vo and SB 2234 by Menendez. THUMBS WAY DOWN	TPC Ch 209	SF	#1
HB 1767 Collier	ASSESS - COLLECTION BY 3RD PARTIES. Not POA-specific. Adds a whole new chapter to Texas Finance Code, titled "Collection of Consumer Debt by Debt Buyers." If passed, it prevails over conflicting statutes, such as (possibly) TPC 209.0064 which limits third party collections of HOA assessments in subdivisions. [Companion to SB 2167]	Finance Code Adds Ch 397	Condo & SF	#2
SB 2167 West	ASSESS - COLLECTION BY 3RD PARTIES. Not POA-specific. Adds a whole new chapter to Texas Finance Code, titled "Collection of Consumer Debt by Debt Buyers." It would prevail over conflicting statutes, such as (possibly) TPC 209.0064 which limits third party collections of HOA assessments in subdivisions.[Companion to HB 1767.]	Finance Code Adds Ch 397	Condo & SF	#1
HB 3974 Ashby	ASSESS - CONDITION OF PURCHASE. HOME BUILDERS, MORTGAGE LENDERS, INVESTORS & TITLE INSURERS, BEWARE. Fuzzy intent. Bill may try to prevent a delinquent owner from buying even more lots or homes in the subdivision. If so, Bravo! But . . . how to achieve viz-a-viz disputed charges, foreclosure sale buyers, title insurance issues, use of trustees and single-asset entities to purchase, yada yada? THUMBS DOWN. DEVIL'S IN THE DETAILS.	TPC Ch 209 adds §209.0065	SF	#2
HB 923 Shaheen	ASSESS - FINES. Bill says fines levied by a subdivision HOA must be "reasonable" based on (1) nature of violation, (2) frequency of violation, and (3) violation's effect on the entire subdivision. Current law addresses fining procedures, but not amounts. HOA must record a policy that IDs types of violations and fine amounts for each type, and must make the fining schedule available to owners by posting on the HOA website or distributing it annually to members. HB 923 does not speak to "administrative fees" which some HOAs tack on top of fines. Sidenote. Old school lawyers use to tell HOAs they couldn't fine without specific fining authority in the restrictive covenants, which is often absent in older documents. HB 923 reinforces the concept of Chapter 209 as statutory fining authority for HOAs that lack fining powers in their original docs. THUMBS UP FOR A REASONABLE IDEA.	TPC Ch 209, adds §209.0061	SF	#3
HB 4107 Neave	ASSESS - FORECLOSE (EXPEDITED). Not POA-specific. Amends the TCPRC Section titled "Mediation Following Application for Expedited Foreclosure" to address the loss mitigation application.	CivPrac&Rem Code §154.028	SF	#3
SB 1405 Creighton	ASSESS - FORECLOSE (PROCEEDS). See description of companion HB 1470, which passed both chambers.	Bus & Com Code; Occup Code	Condo & SF	#5

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This overview report is volunteered by Texas attorney Sharon Reuler to provide general information to select audiences about certain types of proposed Texas legislation during the 2017 session. It focuses on Sharon's notion of POA-specific and POA-relevant bills and does not purport to cover all bills that may impact POAs. It's 100% guaranteed to be incomplete. All comments, opinions, attitudes, typos, and plain ol' mistakes are Sharon's and do not represent any organization of which she is a member, or any client that she represents. Sharon speaks for herself only. Contact information available on www.txlandlaw.com

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SB 1542 Kolkhorst	CONDO - CREATION. B-A-D for developers. Authorizes county approval of condo declaration before it is eligible for recording in county records. A condominium is "created" when the developer records a declaration of condominium in the county land records. The only public official who sees the declaration is the County Clerk for whom recording is a ministerial task. That's been the law in Texas since the first condo was created in 1963. Approval of what? Can the county withhold approval for no reason? Bill is permissive, not mandatory. Don't know backstory. [THUMBS WAY DOWN. TOO BROAD.]	TPC §82.051 adds (d-1)	Condo	#1
HB 3502 Landgraf	CORRECTION - DUPLICATE PROPERTY CODE SECTIONS. This 305-page omnibus corrections bill cleans-up for many State laws, including one chapter of the Property Code - 209. See SECTION 16.001 on Page 122. [Companion to SB 1488 which passed into law.]	TPC Ch 209 - §209.00592(a-1)	SF	#1
HB 4026 Roberts	GOVERN - BOARD QUALIFICATIONS. Unintended Consequences for Developers. Prohibits cohabitators of a "primary residence" from serving on the HOA board at the same time. This badly written bill doesn't address co-owners - only cohabitators. The primary residence of one could be the other's secondary residence. Also, what to do if no other candidates for board? HOAs should have latitude in tailoring some reasonable qualifications for board service - as Bylaws, not as State law. Any limit should be conditioned on availability of board candidates. One size does not fit all. What sounds healthy for a large HOA with a pool of board candidates is toxic for a super-small or apathetic HOA. History lesson! Prior to 2011, it was common for HOA Bylaws to have limitations like this on who could serve on the board. Hearing complaints from homeowners who were denied board positions because of delinquent accounts, the 2011 Legislature outlawed ALL qualifications for board service (except for criminal convictions) - throwing the baby out with the bath water. The 2015 Legislature began carving into the 2011 statutory ban on board qualifications. But . . . instead of authorizing ("the HOA <u>may</u> prohibit co-owners from co-serving") this bill creates statewide mandate. [THUMBS DOWN.]	TPC §209.00591 adds (d)	SF	#5
HB 2320 Fallon	GOVERN - DECLARANT CONTROL. YIKES! Developers & homebuilders. STOP THIS BILL. While a project is growing and being populated, it's customary for the developer to run the show by appointing all the HOA directors - typically people who work for the developer. The HOA directors hire the HOA manager, adopt the HOA budget, set the assessments, and enforce the rules - all of which affect homebuilders as they build-out the subdivision. In 2011 Texas law began requiring that one-third of the HOA directors be elected by homeowners when the project is 75% built-out. This bill accelerates the election of directors. Under HB 2320, 1/3 of the board is elected by homeowners when subdivision is only 50% built and sold . At 75% homeowners elect a majority of the directors . HB 2320 also requires that board meetings be held within 10 miles of the subdivision during declarant control. [THUMBS DOWN. IMPRACTICAL, CUMBERSOME, COSTLY, CONTENTIOUS.]	TPC §209.0051 & §209.00591	SF	#2
HB 1341 Munoz, Jr.	GOVERN - OMNIBUS GOVERNANCE BILL HAS 6 INDEPENDENT LAW CHANGES. See next to last page of report for section-by-section overview of HB 1341. [THUMBS WAY DOWN]	TPC Ch 209	SF	#1
HB 2827 Oliveira	GOVERN - VOTING. See description of companion SB 1518 - sent to Governor 5/11/17 .	Bus.Org.Code - many sections	Condo & SF	#3
HB 1792 Swanson	LAND USE - AFFORDABLE HOUSING. This is a NIMBY bill. B-A-D for developers seeking low income tax credits. Also BAD for people who need affordable housing, like teachers, nurses, and fire fighters. Requires notice and comment on proposed tax credit projects by any HOA and voluntary neighborhood association <u>within 5 miles of the site</u> . We don't have HOA registries. Impossible to implement in urban areas. [THUMBS DOWN]	Govt Code - amends Ch 2306	Condo & SF	#2
HB 3868 Smithee	LEASING - CRIMINAL HISTORY. If approved by "a majority of owners", HOA may investigate the background and criminal history of prospective tenants in the subdivision. Bill is silent as to what the HOA does with the info. HB 3868 may inadvertently legitimize short-term rentals. BAD. Criminal check may trigger fair housing investigation. See MUD Policy issued 4/4/16 . Another BAD - a "majority of owners" is different than owners of a majority of the lots or owners holding a majority of the votes. Also BAD - approval procedure in HB 3868 overrides all other approval procedures. That's a slippery slope. Sadly, no substantive testimony at hearing. [THUMBS DOWN - RISKY & SLIPPERY]	TPC Ch 209 - adds §209.018	SF	#3

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HB 2551 Parker	LEASING - SHORT TERM. See description of companion SB 451.	LocalGovtCode - adds §250.008	Condo & SF	#2
SB 451 Hancock	LEASING - SHORT TERM. Supports air B&Bs by preventing local governments from prohibiting STRs (short-term rentals) - up to 30 consecutive days - while allowing some regulation. This is a "hot topic" with interesting public policy aspects. Many POAs prohibit STRs. <u>Bill states that it does not affect regulation by a POA</u> - which is correctly defined in the substitute version. (Thanks for the fix!) [Companion to HB 2551]	LocalGovtCode - adds §250.008	Condo & SF	#5
HB 3699 Walle	LEASING - TENANT RIGHTS. Not POA-specific. Foreclosure purchasers, ALERT! If a tenant-occupied dwelling is sold at a foreclosure sale, the tenant has a new bundle of rights under HB 3699. Under some circumstances, tenant has a <u>90-day</u> right [instead of current 30 days] to occupy after receiving notice to vacate.	TPC §24.005 adds 5 subsecs	Condo & SF	#1
SB 1202 West	LEASING - TENANT RIGHTS. Not POA-specific. Bad for developers & investors. This bill affects condo conversions by adding duties to the ones specified in Property Code Chapter 82 - Texas Uniform Condominium Act. It appears to apply if you're trying to create a condo out of rental property, or to terminate a condo for redevelopment purposes. The bill is anti-landlord in many ways, and applies even if you own a single rent house or condo unit. Hope TAA puts the kibosh on this bill. [THUMBS DOWN]	TPC Ch 92, adds §92.026	Condo & SF	#1
HB 3888 Zerwas	USES - ASSISTED-LIVING. On its surface, HB 3888 doesn't seem to change current law. It authorizes the POA to enforce restrictions against an assisted-living facility (specifically) just like any other land use in the development subject to the same restrictions - no special treatment, while recognizing that "community homes" have statutory protection. Could it be that an assisted-living facility is in a housing development with "one size fits all" restrictions and seeks special treatment from the HOA under the guise of being State-licensed? Is this the tip of an iceberg of changing land uses in aging developments with restrictions written for a single land use? [THUMBS DOWN - UNNECESSARY]	TPC Ch 202 adds §202.0045	Condo & SF	#1
SB 1620 Taylor	USES - CHICKENS. Not POA-specific. Endorses everyman's right to raise chickens by voiding <u>government</u> prohibitions against 6 or fewer chickens per . . . individual. Alarms. [1] HOAs & Developers - <u>It doesn't affirm that private restrictions (like HOA rules) against chickens are still enforceable</u> - an affirmation that is becoming customary in bills like these. [2] <u>No limit on maximum chickens per lot - 5 people sharing a house could keep 30 chickens.</u> [3] Not tied to residential use. [4] Not tied to property ownership. Side issue: Some HOA Docs are silent about chickens because they were written in an era of relying on City ordinances to prohibit barnyard critters. Domino theory sez that if this bill passes, won't be long before the chicken lobby seeks an override of HOA rules.	Agri Code, adds §251.007 titled "Six Chickens Allowed"	Condo & SF	#7
1st Special Session SB 98 Taylor	USES - CHICKENS. The text of SB 1620 from the Regular Session was re-filed as SB 98 for the First Special Session in hopes the Governor would open the agenda.	Agri Code, adds §251.007 titled "Six Chickens Allowed"	Condo & SF	F
HB 1966 Paul	USES - GUNS. Prevents HOA from prohibiting concealed handguns going to or from unit or car. Although bill seems to aim at multifamily residential property, use of "condos" means it applies to detached units and nonresidential as well as detached residential. [16 authors]	TPC Ch 82 adds §82.121 and Ch 92 adds §92.026	Condo only	#3
SB 1943 Hughes	USES - GUNS. POA can't prevent lawful possession, transportation, storage, or discharge of firearms or ammo.	TPC Ch 202 adds §202.020	Condo & SF	#7

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This overview report is volunteered by Texas attorney Sharon Reuler to provide general information to select audiences about certain types of proposed Texas legislation during the 2017 session. It focuses on Sharon's notion of POA-specific and POA-relevant bills and does not purport to cover all bills that may impact POAs. It's 100% guaranteed to be incomplete. All comments, opinions, attitudes, typos, and plain ol' mistakes are Sharon's and do not represent any organization of which she is a member, or any client that she represents. Sharon speaks for herself only. Contact information available on www.txlandlaw.com

2017 TEXAS POA-PERTINENT BILLS LOSERS & SNOOZERS REPORT #9 by Sharon Reuler

~ PERTAINING TO COMMON INTEREST COMMUNITIES (aka POAs, HOAs, Condos, Townhomes, Subdivisions) ~
Please visit the State's free public website . . . <http://www.capitol.state.tx.us> . . . for these and all the bills.
■ SB=Senate Bill ■ HB=House Bill ■ TPC=Texas Property Code ■ SF = POA\HOA that's not condo

BILL NO. AUTHOR	POA-PERTINENT BILLS that died in 2017 (in alpha order of topic assigned by Sharon Reuler)	Statute/ Code Affected	Property Type	Status (SEE KEY)
HB 522 Schofield	USES - RELIGIOUS DISPLAY. See companion SB 1609 for description.	TPC Ch 202 - amends §202.018	Condo & SF	#3
SB 1609 Bettencourt +	USES - RELIGIOUS DISPLAY. The way this bill morphed is the dandiest thing. Historically, Texas HOAs use architectural control to regulate public religious displays on homes and yards. The permanent religious display door was opened in 2011 by the "mezuzah law" that allows folks to permanently affix a small (25 sq. in.) religious symbol on the front door or door frame - written for a high-rise condo with front doors opening to common interior hallways. As originally filed, SB 1609 allowed religious displays without limits of any kind, for subdivisions & condos. Most of the people testifying at the hearing wanted "He Is Risen" yard signs. (No testimony from proponents of the 30+ other religions in Texas.) The Committee was receptive to imposing some limits on religious displays. Wait for it! . . . Someone suggested treating religious displays like political signs . Although the juxtaposition of religious icons and political signs seems ironic, that's how the bill was revised. That might have been a good idea if the political sign statute (TPC §202.009) didn't look like the proverbial camel created by a committee. Why write a law specific to a situation when you can borrow a law written for a different situation? Lawmakers seem to trust repetition. Helps get a bill passed. The substituted version of SB 1609 is complicated, convoluted, and confusing as heck. I'm trying hard to find something to like about SB 1609 because anything cloaked as religious freedom is likely to pass, even a mucky bill. [THUMBS DOWN] [Companion HB 522 didn't pass House by deadline of 5/12.]	TPC Ch 202 - amend §202.018	Condo & SF	#7
1st Special Session HB 56 Schofield	USES - RELIGIOUS DISPLAY. The text of SB 1609 from the Regular Session was re-filed as HB 56 for the First Special Session in hopes the Governor would open the agenda.	TPC Ch 202 - amend §202.018	Condo & SF	F
HB 2508 Kuempel	USES - TOWING. BIG! NEW! This bill moves some of the vehicle towing laws from the Texas Occupations Code to the Texas Property Code as the new 12-page "Texas Parking Facility Act." POAs are a type of "parking facility owner" defined by the Act. Don't yet know how it differs from current towing laws affecting POAs. But, happy to see it in the Property Code. (History nerds may recognized Title 16 of TPC - and the 400s Sections - as once housing [LOL!] the short-lived Texas Residential Construction Commission Act.)	Adds Title 16 §§401.001 et seq to Property Code	Condo & SF	#5
HB 1572 Workman	USES - TREE REMOVAL. POAs and local governments must allow owner to remove trees or vegetation on his land that "the owner believes" pose a risk of fire. Rep. Workman filed same bill in 2013 [HB1858] & 2015 [HB1442] in response to 2011 Labor Day Fires in Central Texas, drought, and proliferation of invasive "junk trees" such as Ash Juniper ("Cedars"), Mesquite, and Salt Cedars. Bill was much debated in 2013, saw little action in 2015.	TPC Ch 202, adds 202.013; LocalGovt Code adds 250.008	Condo & SF	#3
HB 4012 Paul	UTILITIES - MASTER METERED WATER. Notices that the water utility company must give before shutting-off master-metered water to a multi-family property (includes condos with at least 10 units). Doesn't apply if water is submetered to the units. This is in addition to notices required by other statutes.	Water Code Ch 13 - amends	Condo	#2
HB 1964 Murphy	UTILITIES - SUBMETERED & MASTER METERED WATER & SEWER. [See description of companion SB 873 - passed both chambers.]	Water Code Ch 13 - multi sections	Condo	#3

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**2017 TEXAS POA-PERTINENT BILLS
LOSERS & SNOOZERS REPORT #8 by Sharon Reuler**

BILL SECTION	<p align="center">OMNIBUS* HOA GOVERNANCE BILL OVERVIEW HB 1341 by Munoz, Jr. SECTION-BY-SECTION REPORT OF 6 INDEPENDENT LAWS IN A 3-PAGE BILL IN NUMERICAL ORDER OF BILL'S SECTIONS</p>	TX PROPERTY CODE SECTION AFFECTED	Property Type
1	<p>GOVERN - OPEN RECORDS. State law now requires the use of certified mail for an owner to request access to the HOA's open records. HB 1341 makes it easier (and less costly) for the owner to request access - allowing requests by email, telephone, and snail mail. Although this change seems reasonable for HOAs managed by volunteers, it may be a snake-pit for companies that manage many HOAs and rely on formal processes to ensure that an owner's request is not overlooked. [THUMBS DOWN - OK FOR SOME, NOT FOR ALL]</p>	§209.005 - amends (e)	SF only
1	<p>GOVERN - OPEN RECORDS. State law now allows the HOA to prevent an owner from seeing certain HOA records, such as personnel files. Knowing how much workers are paid seems to be a huge issue for some people. HB 1341 looks like an attempt to circumvent the confidentiality of personnel files by forcing the HOA to open records of its payments to HOA's management company "to pay the company's employees to work on behalf of the HOA on HOA property." Is bill aimed at on-site managers and porters? [NEUTRAL - DON'T KNOW ENOUGH ABOUT.]</p>	§209.005 - adds (l-1)	SF only
2	<p>GOVERN - BOARD MEETING. Chapter 209's open board meetings section was written in 2011 with a possibly-unique concept - "meeting records," of which the official minutes are but a part. HB 1341 seizes on the vagueness of "meeting records" by requiring it to include all communications from members relating to the board meeting. Why? So a homeowner can prove that his requests to bring a topic to the board's attention were denied? [THUMBS DOWN - TOO BIG A BURDEN ON EVERY SUBDIVISION HOA IN TEXAS FOR QUESTIONABLE BENEFIT]</p>	§209.0051 amends (d)	SF only
2	<p>GOVERN - BOARD MEETING. This is a contender for the Worst Idea Award. It threatens to turn board meetings into gripefests. HB 1341 allows every owner to speak for at least 30(!) minutes at every board meeting. Whoa! The purpose of a board meeting is for directors to thoughtfully deliberate the HOA's business, not to provide a soapbox for homeowners. Under current State law, owners may attend board meetings to observe the board's deliberations, but have no right to speak. Even so, many HOAs provide time-limited open-mike sessions at start or end of board meetings. [THUMBS DOWN FOR DYSFUNCTIONALITY.]</p>	§209.0051 adds (f-1)	SF only
3	<p>GOVERN - ANNUAL MEETING. HB 1341 adds a 10-day notice to members for HOA annual meetings. Although Prop Code Chapter 209 has detailed notice requirements for HOA board meetings and elections, it's silent on notice requirements for HOA membership meetings, like the annual meeting. A minimum of 10 days notice is standard. [NEUTRAL]</p>	§209.014 - amends (a)	SF only
4	<p>LAW ENFORCEMENT - BY STATE. When the HOA ignores the consumer protections in Chapter 209, the wronged owner has no remedy other than suing the HOA so a court can order the HOA to follow the law. If the HOA fights the lawsuit, the owner's costs skyrocket. Bottom line - suing the HOA is too costly for most homeowners, and the bad-boy HOAs know it. Wronged owners are looking for a champion to make the HOA law-abiding. This bill authorizes the Texas attorney general, district attorney, or county attorney to sue the HOA for violating TPC Chapter 209. How is it funded? The HOA can be penalized up to \$25K for violating TPC Chapter 209 - paid to the State. Court-ordered pre-trial mediation may resolve most issues. Wish bill required prior notice to HOA so HOA has one more chance to do the right thing. HOAs claim threat of foreclosure is effective for collecting delinquencies. Perhaps threat of State enforcement would inspire bad-boy HOAs to follow the law. Doesn't affect condos. And applies only to violations of TPC Chapter 209 - not other laws and not the HOA documents. [THUMBS UP FOR FRESH IDEA]</p>	Ch 209 adds §209.017	SF only

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**2017 TEXAS POA-PERTINENT BILLS
LOSERS & SNOOZERS REPORT #8 by Sharon Reuler**

BILL SECTION	<p align="center">OMNIBUS* HOA COLLECTIONS BILL OVERVIEW HB 3528 by Vo and SB 2234 by Menendez SECTION-BY-SECTION REPORT OF 6 NEARLY-INDEPENDENT LAWS IN AN 8-PAGE BILL IN NUMERICAL ORDER OF BILL'S SECTIONS</p>	SECTION OF TX PROPERTY CODE CHAPTER 209 AFFECTED	Property Type
1	<p>ASSESS - COLLECTION COSTS. The gist of NEW §209.0061 is to severely limit charges that are tacked onto a delinquent account by HOA, HOA manager, and HOA attorney. Late fees can't exceed 10% of the delinquent assessment. Interest and administrative charges are capped at 0.5%. Attorneys fees can't exceed 25%. Payment plan fees max at 3%. Also, owner can't be charged for payment plan negotiation or helping the owner understand the HOA's claim. The bill tries to limit charges to those authorized by the "dedicatory instruments", perhaps unaware that some HOAs record self-serving statements of fabricated authority, thus creating a "dedicatory instrument" that meets the letter of this new law. Bill overlooks charges authorized by statute. Small fees reduce HOA's interest in pursuing small debts until they accumulate to a size worth pursuing. Without a corresponding extension in statute of limitations (from 4 years to 10 years), HOAs may be forced to write-off some delinquencies. Although owners need protection from excessive fees, this isn't the answer. [THUMBS DOWN]</p>	adds §209.0061	SF only
1	<p>ASSESS - DEMAND LETTER. (1) Required contents for the delinquency demand letter that HOA must send to owner before HOA can add attorneys fees to owner's account. (2) Letter must itemize and substantiate ("verify") every component of the debt and give the owner 30 days in which to question the charges and obtain additional information, at no charge. Sounds like it duplicates the debt verification letter the HOA attorney sends as required by Fair Debt Collection Practices Act.</p>	adds §209.00611	SF only
1	<p>ASSESS - LAWSUIT. Owner has 60 days (after being served with lawsuit) to cure the debt described in the HOA's petition without being liable for more collection-related charges. Limits what HOA can claim, such as a cap of \$500 on "additional attorneys fees." Owner can make payment to HOA's attorney. Court may award more attorneys fees.</p>	adds §209.00612	SF only
2	<p>ASSESS - PAYMENT PLAN. Allows early pay-off of plan without penalty. (Do HOAs penalize early payment? Why?) Eliminates HOA manager's carve-out for payment plan administrative fees, which are capped elsewhere in bill. [Thumbs Up]</p>	§209.0062 amends (a) & adds (a-1)	SF only
3	Re-titles heading of Sec. 209.0063. (Non-substantive)	§209.0063 amends	SF only
4	<p>ASSESS - PAYMENT. HOA may not refuse partial payments or block payment portals, even under payment plan. [OK]</p>	§209.0063 adds (c)	SF only
5	<p>ASSESS - FORECLOSURE. Prevents HOA from foreclosing a delinquent account that is \$5,000 or less. Unfortunately, bill doesn't extend the statute of limitations. In some cases, more than 4 years may be required for debt to exceed \$5K. [THUMBS DOWN]</p>	amends §209.009	SF only

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