

REPORT #6 - with Omnibus Bill Integrated

2015 TEXAS POA-PERTINENT BILLS by Sharon Reuler

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

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NUMERICAL ORDER OF BILLS ~ POSTED ONLINE THROUGH 4/10/15

HOUSE BILLS			
House	Author	Companion	Sharon's Topic Classification
HJR 55	Villalba	HJR 125	Uses - Religion
HJR 125	Krause	HJR 55	Uses - Religion
HB 745	Bohac	na	Uses - Street Signs
HB 748	Isaac	na	Uses - Propane Tanks
HB 939	Dale	na	Uses - Generators
HB 971	Bohac	na	Govern - Board Qualifications
HB 1072	Thompson	na	Govern - Board Qualifications
HB 1178	Isaac	na	Utilities - Exclusive Contracts (Fuel)
HB 1335	Gutierrez	na	Attorneys Fees - Foreclosure
HB 1442	Workman	na	Uses - Tree Removal
HB 1455	King	SB 834	Condominium - Litigation
HB 2147	Keffer	SB 864	Govern - Election (Ballots)
HB 2148	Keffer	SB 862	Govern - Election (Voting)
HB 2489	Leach	na	Uses - Rental Restrictions
HB 2594	Parker	na	Land Use - Golf Course
HB 2797	Villalba	SB 1168	OMNIBUS BILL - SUBDIVISION HOAs
HB 2999	Landgraf	na	Uses - Guns
HB 3089	Galindo	na	Building - High Rise Sprinklers
HB 3460	Murr	na	Uses - Flags
HB 3539	Dukes	SB 1626	Uses - Solar Devices

SENATE BILLS			
Senate	Author	Companion	Sharon's Topic Classification
SB 283	West	na	Assess - Foreclose (Rule 735/736)
SB 284	West	na	Assess - Foreclose (Rule 735/736)
SB 834	Creighton	HB 1455	Condominium - Litigation
SB 862	Keffer	HB 2148	Govern - Election (Voting)
SB 864	Keffer	HB 2147	Govern - Election (Ballots)
SB 1168	West	HB 2797	OMNIBUS BILL - SUBDIVISION HOAs
SB 1244	Burton	na	Documents-Amend & Govern-Election
SB 1535	Burton	na	Documents - Amend
SB 1538	Burton	na	Utilities - Exclusive Contracts (Telecom)
SB 1626	Rodriguez	HB 3539	Uses - Solar Devices
SB 1852	Nichols	na	Documents - Amend

NOTE: I moved several bills that were previously reported as POA-Pertinent Bills to my POA "Sundry Bills" report because I considered them less "on point." - SR

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BILL NO. AUTHOR	BILL TOPICS in alpha order ~ POSTED ONLINE THROUGH 4/10/15 (numerical list of bill numbers at front of report.)	Statute/Code Affected	Property Type	Status (SEE KEY)
HB 2797 SB 1168 ➤O-SEC 1&2	APPLICABILITY - CHAPTER 207. Chapter 207 of the Texas Property Code was written in the late 1990s by the Texas Association of Realtors who wanted a resale certificate for single-family homes similar to what condos have under TUCA. Although "everyone knows" Chapter 207 doesn't apply to condos, the law's wording left open the nonsensical possibility that condos could be subject to two separate, though similar, resale certificate requirements. SECTIONS 1 and 2 of the Omnibus Bill fix that. Law FIX.	TPC Ch 207 - amends 207.001(2) & 207.002	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 4	APPLICABILITY - CHAPTER 209. Reinforces that Chapter 209 of the Property Code doesn't apply to condos, period. (Creative types have tried - without success - to shoehorn condos into Chapter 209. Tsk Tsk.) Law FIX.	TPC 209.003 - amends (d)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 19	ASSESS - FORECLOSE (METHODS). <u>HUH?</u> As a stand-alone addition, it seems innocuous - authorizes the HOA to choose judicial foreclosure if the HOA doesn't want to use Rules 735/736 for a nonjudicial foreclosure (assuming it has the right to foreclose nonjudicially). But, I suspect this is paired with the statutory power of sale to assure POAs that they still have a choice. NEW law.	TPC 209.0092 - adds (d)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 19	ASSESS - FORECLOSE (POWER OF SALE). <u>WHOOAAA!! Say it ain't so, please.</u> Sure hope I'm reading this wrong but . . . it looks like an ill-advised attempt to create a <u>statutory</u> private power of sale for subdivisions with declarations that lack magic words. In issuing Rules 735/736, the Texas Supreme Court emphasized that nonjudicial foreclosure requires magic words in the declaration - a clear private power of sale. That's been the law in Texas forever. Creative lawyers contend that 209.0092 was written in 2011 to give all POAs nonjudicial foreclosure authority, which seems odd in light of the Legislature's desire to put obstacles in the HOA's path to foreclosure. This law change reads like an end-run around the Texas Supreme Court , which sought to preserve judicial-only foreclosure for POAs lacking an express private power of sale in the declaration. If it's not for that purpose, what else could it mean? This bill adds the underlined text to the last sentence of 209.0092(a): "A property owners' association may use the procedure described by this subsection to foreclose any lien described by the association's dedicatory instruments <u>and is considered to have with respect to the lien any power of sale required by law as a condition of using the procedure described by this subsection.</u> " NEW law.	TPC 209.0092 - amends (a)	SF only	1-HB&I SB&C HEARING 4/14 *

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SB 283 West	ASSESS - FORECLOSE (RULE 735/736). <u>B-A-D game changer for condo foreclosures.</u> Expands use of the "expedited judicial proceeding" to nonjudicial foreclosure of almost all contract liens on residential property, which presumably includes purchase money mortgages and condo assessment liens. But . . . condos have both a contract lien (the declaration) and a statutory lien (TUCA) to secure an owner's payment of assessments. In the 2011 POA Reform Session, Senator West ensured that subdivision POAs (not condos) would obtain a court order before heading to the courthouse steps to conduct a nonjudicial foreclosure of the HOA's assessment lien, if the Declaration has a private power of sale. The "expedited judicial proceeding" to get the court order is governed by Rules of Civil Procedure 735 & 736. Why this expansion? Have heard rumors that a substitute bill is in the works.	TPC Ch. 51 - adds 51.0012	SF & Condo	1-B&C
SB 284 West	ASSESS - FORECLOSE (RULE 735/736). In an expedited foreclosure proceeding, citation must be served on each person shown on the POA's books as being obligated to pay. (Husband <u>and</u> wife. Duh? Isn't this already the law?)	Civ.Prac.& Rem. Code amends 17.031	SF only	1-State Affairs
HB 2797 SB 1168 ➤O-SEC 18	ASSESS - LIENHOLDERS. <u>HUH? Doesn't read "right".</u> This one's hard to figure out but looks dramatically new. HOAs are now required to give lienholders a pre-foreclosure notice and opportunity to cure the homeowner's debt to the HOA before the HOA can foreclose its assessment lien. Although the Property Code Section is still titled "Prerequisites to Foreclosure," this bill changes Subsection (a) from "HOA can't foreclose without notifying lienholders" to "HOA can't "SELL A PROPERTY PURSUANT TO A FORECLOSURE RIGHT" [?????] without notifying lienholders. What the heck does that mean? In a foreclosure, it's the trustee or sheriff who sells, not the HOA. Does this apply only if the HOA is the high bidder at the assessment lien foreclosure? Has 209.0091 become a post-foreclosure duty for the HOA? Am I reading it wrong? Help! NEW law.	TPC 209.0091 - amends (a) & (b), adds (c)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 16	ASSESS - PAYMENT APPLICATION. Clarifies that 2 types of payments to the HOA fall outside of the rigid statutory schedule for applying an owner's payments. The 2 exceptions are payments to the HOA (1) under court order or (2) by mutual agreement of owner and HOA. Law FIX.	TPC 209.0063 - adds (c)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 15	ASSESS - PAYMENT PLANS. Clarifies the limited circumstances under which the HOA is not required to negotiate a payment plan with a delinquent owner. Law FIX.	TPC 209.0062 - amends (c)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 17	ASSESS - PAYMENT PLANS. The 2011 HOA Reform laws exempt small subdivisions (14 or fewer lots) from the requirement to offer payment plans to delinquent owners. This fixes another section of Chapter 209 that talks about payment plans, so that it won't apply to the exempt small subdivisions. Law FIX.	TPC 209.0064 - amends (b)	SF only	1-HB&I SB&C HEARING 4/14 *

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HB 1335 Gutierrez	ATTORNEYS FEES - FORECLOSURE. This bill doesn't limit what attorneys charge, or what HOAs pay. It DOES put a \$500 cap on legal fees for which the HOA can demand reimbursement from the delinquent homeowner. Current law has a \$2,500 reimbursement cap for legal fees incurred by the HOA in a nonjudicial foreclosure, and no cap on legal fees in a judicial foreclosure. This bill not only lowers the cap to \$500 for nonjudicial foreclosures, it also expands the cap to judicial foreclosure. (Holy Moly!) <u>Bad Facts Make Bad Law.</u> The backstory is on the website of the Texas Family Council, which sponsors the bill.	TPC Amends 209.008	SF only	1-B&I
HB 3089 Galindo	BUILDINGS - HIGH RISE SPRINKLERS. Requires fire protection sprinklers in residential buildings that are 75 ft or more in height. Procedures for making a pre-2015 building compliant. \$10K fine for noncompliance.	Health&Safety Code Ch 766, adds Sub B	Condo	1-UrbAff HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 3	CHAPTER 209 - DEFINITIONS. Adds a new term - "verified mail" - which other sections of the Omnibus Bill use in place of "certified mail return receipt requested" - in 3 places. The change from certified to verified is linked to measuring time from the date something is sent by the HOA instead of the date received by the owner. Only one other Texas statute defines "verified mail" - self-storage facility liens (TPC Chapter 59). <u>Developers</u> , this SECTION also changes "and" to "or" in the definition of "development period." Why????? NEW law.	TPC 209.002 - amends (4-a) and adds (13)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 1455 King (of Parker)	CONDOMINIUM - LITIGATION. This "Condo Owner Protection Act" eliminates board-only decisions to sue for alleged defects in the design or construction of units or common elements. The bill requires homeowners to participate in the decision to sue. It also eliminates fishing expeditions by requiring the HOA to do its research and consider the consequences before filing suit. Builders and design professionals would have an opportunity to evaluate and fix alleged defects to avoid litigation. Why is this bill needed? Because TUCA - enacted in 1993 - didn't anticipate a wave of opportunistic litigation against developers of condos built within the last 10 years - whether or not defects are known. It became such a problem nationwide that the Uniform Law Commissioners - the bastion of balancing interests - recognized that developers weren't getting a fair shake . In 2008 they amended the model act to add a section titled "Litigation Involving Declarant." (This bill has aspects of the model act.) Helps directors, too , by shielding them from being pressured to file lawsuits without input of members. Unit owners, too . While the HOA's lawsuit is pending, the owner may have trouble selling or refinancing his allegedly defective unit for the price he wants. This bill empowers homeowners to evaluate the risks and decide on a course of action. The bill also tries to protect mandatory arbitration provisions (if any) in condo declarations. A step in the right direction, the bill still has some issues. Expect a committee substitute to be laid out at Tuesday's hearing. [Companion to SB 834]	TPC adds 82.119 to TUCA (Ch 82)	Condo only	1-Judic HEARING 4/14 *
SB 834 Creighton	CONDOMINIUM - LITIGATION. [See companion HB 1455]	TPC adds 82.119	Condo only	1-State Affairs

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HB 2797 SB 1168 ➤O-SEC 20	DOCUMENTS - AMEND. Because Chapter 209 now has a chapter-wide definition of "development period," the definition no longer needs to be repeated in each section to which it pertains. This removes the definition, but not the carve-out protection, from 209.0041. Law FIX.	TPC 209.0041 - repeals (a)	SF only	1-HB&I SB&C HEARING 4/14 *
SB 1244 SEC 1 Burton	DOCUMENTS - AMEND. BAD IDEA. Before 2011, some subdivisions couldn't amend their declarations because amendments had to be approved by extraordinarily high percentages of owners. The new (in 2011) Sec. 209.0041 capped approvals at 67% of total votes allocated to owners if the declaration required more than 67%. This bill dramatically lowers the cap even further, to 60% of the <u>votes CAST by HOA members</u> , without any minimum - not even requiring a quorum. So, in a subdivision of 500 lots, if only 75 people vote, 60% of those (45 owners out of 500) could amend the declaration. The norm is to require approval by at least a majority of property owners to amend restrictions. By contrast, bylaws are often easier to amend with approvals based on voting members, rather than owners. [SECTION 1 is same as SB 1535] [SECTION 2 of SB 1244 is reported under GOVERN-ELECTION NOTICE]	TPC 209.0041 - amends (h)	SF only	1-B&C
SB 1535 Burton	DOCUMENTS - AMEND. SAME BAD IDEA. [Same as SECTION 1 of SB 1244]	TPC 209.0041 - amends (h)	SF only	1-B&C
HB 2797 SB 1168 ➤O-SEC 5	DOCUMENTS - AMEND. Before 2011, some subdivisions couldn't amend their declarations because amendments had to be approved by extraordinarily high percentages of owners. The new (in 2011) Sec. 209.0041 capped approvals at 67% of total votes allocated to owners if the declaration required more than 67%. Uncertainty arose for subdivisions created with different voting populations, such as "only patio home owners vote on amendments of patio home provisions." As an option to 67% of "total votes," this bill adds 67% of "those <u>entitled to vote</u> on the amendment." Query. If the declaration requires that non-owners (such as mortgage lenders) approve amendments of certain provisions, does the 67% apply to them, too? [See also SECTION 20] Law FIX.	TPC 209.0041 - amends (h) and creates (h-1)	SF only	1-HB&I SB&C HEARING 4/14 *
SB 1852 Nichols	DOCUMENTS - AMEND. Initially, Chapter 211 of Property Code provided a process for amending restrictions that lack an amendment provision. This bill does 3 things. (1) Extends the scope of Chapter 2011 to a "bracket" of 3 counties with fewer than 50K people surrounding Lake Livingston - Polk, San Jacinto & Trinity. (2) Allows the law's amendment procedures to be used with restrictions that DO have amendment provisions but require a majority or more of owners to <u>sign</u> the amendment that is recorded. (3) Renews Sec. 211.002 (b-1) for another 4 years - until 2019. Because this bill is bracketed (not statewide in applicability) it may become law with little attention. Too bad . . . it's a peculiar bill that warrants more analysis because it may eventually become statewide law.	TPC Ch 211 - amends	SF only (maybe)	1-B&C HEARING 4/14 *

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HB 2797 SB 1168 ➤O-SEC 6	GOVERN - BOARD MEETINGS. Confirms that the board may conduct all of its meetings by electronic or telephonic means, provided the directors can communicate with each other and provided all owners "in attendance at the meeting" can hear all the directors, except when they're in executive session. No change to notice requirements. Law FIX.	TPC 209.0051 - adds (c-2)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 6	GOVERN - BOARD MEETINGS. Enacted in 2011, Subsection (h) of the Open Board Meetings section allows the board to <u>meet</u> by telephonic or electronic means, or to decide by unanimous written consents, without notifying the owners in advance, under certain circumstances. This bill re-writes Subsection (h) to address " <u>taking action outside of a meeting</u> " [new concept], while eliminating unanimous written consents. In place of requiring the directors to speak to and hear one another (two-way discussion which may lead to consensus), each director must have a reasonable opportunity to express his opinion (one-way) and vote. <u>Shapeshifter.</u> NEW law.	TPC 209.0051 - amends (h)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 6	GOVERN - BOARD MEETINGS. Section 209.0051 - requiring open board meetings - doesn't apply during the development period, with some exceptions. Because Chapter 209 now has a chapter-wide definition of "development period," the definition no longer needs to be repeated in each section to which it pertains. This removes the definition, but not the carve-out protection, from 209.0051. Law FIX.	TPC 209.0051 - amends (b)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 1072 Thompson	GOVERN - BOARD QUALIFICATIONS. In the 2011 POA Reform Session our lawmakers outlawed all obstacles to running for the board of directors of a subdivision POA so that any member could serve, except for one qualifier. Can't serve if convicted of a felony or a crime involving moral turpitude. This bill puts a time limit on the conviction. If the conviction was more than 20 years ago, the POA member is rehabilitated and eligible to serve.	TPC Ch 209 - amends 209.00591(b)	SF only	1-B&I HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 10	GOVERN - BOARD QUALIFICATIONS. Enacted in 2011, Sec. 209.00591 voids <u>all</u> provisions in HOA documents that could be used to disqualify an owner from serving on the HOA board (except for crimes of moral turpitude). Prior to 2011, most HOA bylaws had criteria for service on the board, such as being current in assessments, term limits, being unrelated to other directors. The 2011 law change negated all of the board qualifiers in HOA bylaws. This bill allows bylaws to have one qualifier - requiring a director to live in the subdivision (thus disqualifying investor owners). <u>Why this one qualifier and not others?</u> It would not apply during the development[sic] period. NEW law.	TPC 209.00591 - adds (b-1)	SF only	1-HB&I SB&C HEARING 4/14 *

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HB 971 Bohac	GOVERN - BOARD QUALIFICATIONS. <u>B-A-D IDEA</u> cloaked in good intentions. The bill is touted as a beneficial no-cost D-I-Y form of board education. We're all in favor of well-educated boards. Duh. But, this particular approach is wrong-headed. Before taking office, each director (elected or appointed) must swear two things in writing, and the POA must preserve the oath for 5 years. <u>Swear 1</u> - that he read specified laws and all of the POA's governing documents. <u>Swear 2</u> - that he'll enforce and comply with those statutes & docs. If he doesn't swear both, his service on the board is suspended until he complies. Sounds fabulous, but . . . statutes and legal docs aren't written for laypeople to digest, nor to be read cover-to-cover. They're resources, not novels. Reading doesn't guarantee understanding or prevent bad choices. Lest you think there are only a few documents to read, many HOAs have dozens of docs written in legalese. Volunteer directors deserve a modicum of respect, which is entirely absent in HB 971. If this becomes law, we will have empty board seats or widespread false swearing. <u>Developers: No carve-out for declarant appointees to the board.</u> Many HOAs - especially the small, rural, and self-managed ones - don't know about current statutory duties, such as management certificates. ISSUES. [1] If HB 971 becomes law, will board acts and decisions be void or voidable because of non-compliance with this law? [2] Bill intends but fails to make the reading and swearing requirements applicable to pre-TUCA condos. [3] Bill increases the duty standard for officers & directors of pre-TUCA (pre-1994) condos. THERE OUGHTA BE A LAW . . . How about a law that requires homebuyers to read all the HOA docs as a condition of closing a home purchase? Or, one that requires lawmakers to read every bill they vote on - and the current law that will be changed by the bill? Sure they "oughta shoulda", but . . . really - by law?	TPC Ch 81, 82 & 209	SF & Condo	1-B&I HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 10	GOVERN - DECLARANT CONTROL. Thumbs Up!! Enacted in 2011, Section 209.00591 ensures that homeowners will have a seat at the table within 10 years or by the time the project is 75% complete and sold to homeowners, if not sooner. When the 10 year or 75% trigger is reached, the homeowners elect at least one-third of the board. This bill clarifies that a developer's sale of 75% of the vacant lots to homebuilders does not trigger the election requirement, which would be nonsensical in a subdivision of vacant lots. Unfortunately, the bill doesn't contemplate the conveyance of vacant lots to an intermediary, such as a broker, investor, or bank. Would be better if the 75% were based on improved lots - lots with houses - rather than the type of owner. But, this fix is better than no fix <u>for developers who are not homebuilders</u> but who need to control aspects of the project until it's built out. Law FIX.	TPC 209.00591 - amends (c)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 12	GOVERN - ELECTIONS. The law requiring that directors be elected has an exception for the declarant-appointed board during the development period. This bill removes the definition of "development period" from the section because Chapter 209 now has a global definition that applies. Declarant's exemption is not changed. Law FIX.	TPC 209.00593 - amends (d)	SF only	1-HB&I SB&C HEARING 4/14 *

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REPORT #6 - with Omnibus Bill Integrated

2015 TEXAS POA-PERTINENT BILLS by Sharon Reuler

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

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HB 2147 Keffer	GOVERN - ELECTION (BALLOTS). The 2011 HOA Reform Laws outlaw the much-revered secret ballot by requiring owners to sign their ballots (to prevent fraud), which must then be sealed so no one can see how someone voted (to prevent retaliation). It was a trade-off in negotiating a complicated bill. Elimination of secret ballots hasn't proven to be popular with homeowners who don't trust the security of the signed ballots. HB 2147 restores the option of secret ballots if the HOA has a system for making sure homeowners don't stuff the ballot box. [Companion to SB 864]	TPC 209.0058 - amends (a), adds (d)	SF only	1-B&I HEARING 4/14 *
SB 864 Birdwell	GOVERN - ELECTION (BALLOTS). The 2011 HOA Reform Laws outlaw the much-revered secret ballot by requiring owners to sign their ballots (to prevent fraud), which must then be sealed so no one can see how someone voted (to prevent retaliation). It was a trade-off in negotiating a complicated bill. Elimination of secret ballots hasn't proven to be popular with homeowners who don't trust the security of the signed ballots. HB 2147 restores the option of secret ballots if the HOA has a system for making sure homeowners don't stuff the ballot box. [Companion to HB 2147]	TPC 209.0058 amends (a), adds (d)	SF only	1-B&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 9	GOVERN - ELECTION (BALLOTS). Enacted in 2011, Sec. 209.0058 requires that all ballots be signed - period. This qualifies the signature requirement by limiting it to 5 types of issues on which HOA members vote: (1) a "director election" [new term], (2) amendments of dedicatory instruments, (3) increases in regular assessments, (4) adoption of special assessments, and (5) removal of directors. <u>Why these issues and not others?</u> Like, conveying common area or borrowing money? More important, I fear this <u>may create an expectation</u> that owners have a statutory right to vote on all these issues even if the declaration specifically authorizes the board to increase and levy assessments without a vote of owners. That would be <u>B-A-D</u> , methinks. NEW law.	TPC 209.0058 - amends (a)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 9	GOVERN - ELECTION (BALLOTS). Because some ballots are for specific neighborhoods, this clarifies that all election ballots must be signed, not only ballots used in HOA-wide elections. Law FIX.	TPC 209.0058 - amends (c)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 13	GOVERN - ELECTION (BALLOTS). Enacted in 2011, Section 209.00594 regulates the handling of signed ballots. This confirms that the vote tabulator must not tell a living soul how someone votes, and narrows who can see the signed ballots. Law FIX.	TPC 209.00594 - adds (b-1), amends (c)	SF only	1-HB&I SB&C HEARING 4/14 *

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HB 2797 SB 1168 ➤O-SEC 7	GOVERN - ELECTION (NOTICE). Enacted in 2011, Section 209.0056 requires the HOA to give owners prior notice of the election or vote - all owners get notice of association-wide votes, and categories of owners get notice of votes that pertain only to their category. This bill creates an inexplicable distinction between notices of voting at a meeting, versus voting <u>not</u> at a meeting. Why do <u>all</u> owners get notices of votes that pertain to only one category of owners if the vote is not taken at a meeting, but not if the vote <u>is</u> taken at a meeting? Can you explain to me? Also, this SECTION uses a new undefined term - "association owners." NEW law.	TPC 209.0056 - amends (a) and adds (a-1)	SF only	1-HB&I SB&C HEARING 4/14 *
SB 1244 SEC 2 Burton	GOVERN - ELECTION (NOTICE). Law now requires the HOA to give members at least 10 days (but no more than 60 days) notice before HOA elections or votes. SECTION 2 of bill increases the minimum notice to 30 days. [Note: 10 to 60 days is the law for Texas corporations and condominiums.] [SECTION 1 of bill is under Documents-Amend]	TPC 209.0056 - amends (a)	SF only	1-B&C
HB 2797 SB 1168 ➤O-SEC 8	GOVERN - ELECTION (RECOUNT). Enacted in 2011, Section 209.0057 allows an owner to challenge a vote of members by demanding a recount, which must be done by an official hired by the HOA, at the expense of the owner who demands the recount. This bill adds procedures for dealing with the costs of the recount. Essentially, HOA must have full prepayment in hand before initiating a recount. Other changes to Section 209.0057 are clarifying fixes. This uses "association owners" [new term] and changes certified mail to "verified mail." I could be convinced that these are substantive changes worthy of a " NEW " bill. Law FIX.	TPC 209.0057 - amends 3 subsecs & adds 4 subsecs	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2797 SB 1168 ➤O-SEC 11	GOVERN - ELECTION (VOTING). The voting procedures law enacted in 2011 has confounded practitioners and HOAs that sincerely want to be law-abiding. This bill <u>tries</u> to eliminate some of the confusion, such as counting absentee ballots even if nominations are taken from the floor of the meeting. Query. Why limit electronic ballots to an "additional way of voting"? Won't electronic ballots soon become the method of choice? Law FIX.	TPC 209.00592 - amends (a), adds (a-1) & (c-1)	SF only	1-HB&I SB&C HEARING 4/14 *
HB 2148 Keffer	GOVERN - ELECTION (VOTING). The 2011 HOA Reform Laws provide procedures for different voting methods - in person or by proxy, absentee, and electronic. Some folks think the 2011 law means that the HOA <u>must</u> provide all the options. Bill clarifies that the HOA is not required to provide more than one voting method, unless more are required by the HOA documents. Concern. Should we clarify that the board may choose to offer more than one method, even if not required by the HOA docs? [Companion to SB 862]	TPC 209.00592 - adds (a-1)	SF only	1-B&I HEARING 4/14 *
SB 862 Birdwell	GOVERN - ELECTION (VOTING). [Same description as for companion HB 2148]	TPC 209.00592 - adds (a-1)	SF only	1-B&C HEARING 4/14 *

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HB 2594 Parker	LAND USE - GOLF COURSE. <u>THUMBS DOWN.</u> Some older golf courses and country clubs cease to be viable and beg for redevelopment. Bill adds a whole new chapter to Property Code to provide a grass roots petition process for eliminating a golf course or county club restriction on land - but only if the restriction is in a particular type of document. Poorly drafted bill could have unintended consequences. Issues: (1) any owner who can get 66% of the owners to sign a petition can modify the document - no need to show that the land is ripe for redevelopment. (2) <u>DEVELOPERS - no carve-out for new projects during build-out.</u> (3) Doesn't address Local Govt Code §212.0155 which focuses on re-platting as well as re-use of land used for golf courses and country clubs. (4) May apply to nonresidential & mixed-use projects as well as residential, except that one definition comes from TPC Chapter 209 (residential only). (5) Definition of POA could also apply to voluntary POAs. (6) If a subdivision plat qualifies as the type of document that can be changed by petition, will local governments recognize it as a plat amendment? (7) Why 66% owner approval instead of the more standard two-thirds or 67%?	TPC adds Chapter 213	SF & Condo	1-B&I HEARING 4/14 *
HB 2797 Villalba	OMNIBUS BILL FOR SUBDIVISIONS. The 24 subparts of the large Omnibus Bill are integrated into this report. A section-by-section overview of the multi-topic Omnibus Bill is also available. [Companion to SB 1168]	TPC Ch 207 & 209 - amends many sections	SF only	1-B&I HEARING 4/14 *
SB 1168 West	OMNIBUS BILL FOR SUBDIVISIONS. The 24 subparts of the large Omnibus Bill are integrated into this report. A section-by-section overview of the multi-topic Omnibus Bill is also available. [Companion to HB 2797]	TPC Ch 207 & 209 - amends many sections	SF only	1-B&C HEARING 4/14 *
HB 3460 Murr	USES - FLAGS. The 2011 HOA Reform Laws protect the rights of homeowners to fly certain flags - US flag, Texas flag, and flag of any US military branch. This bill authorizes more flags: Blue Star Mothers Service flag, a POW/MIA flag, any of the "Six Flags Over Texas," and any historical Texas flag ("Come and Take It").	TPC amends 202.012	SF & Condo	1-B&I HEARING 4/14 *
HB 939 Dale	USES - GENERATORS. Some version of this bill has been filed every session since 2009. The 2015 bill nearly identical to the one that ended the 2013 Session as CSHB 2524. Protects homeowner's use of electric standby generators during power outages while allowing the POA to adopt certain requirements and restrictions to control the location and appearance. Generators have become popular in hurricane-prone areas that suffer long power outages. Noise levels are not addressed. Changes in the House committee substitute are mostly non-substantive. Removes presumption of compliance if generator installation is approved by a utility provider. Local government may still approve.	TPC Ch 202 - adds 202.019	SF & Condo	3
HB 2999 Landgraf	USES - GUNS. HOA can't stop a person from lawfully possessing, transporting, storing, or discharging firearms or ammo. Bill says "any person" - not limited to owners or residents. At hearing on 4/7, no one testified against the bill. Author laid out a committee substitute which he described as the Legislative Council version of the bill filed.	TPC Ch 202 - adds 202.019	SF & Condo	2-PSafety pending

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HB 748 Isaac	USES - PROPANE TANKS. No HOA, city, or county may prohibit or restrict an above-ground liquid propane gas tank if the size is needed to meet the home's gas needs, except to require screening. If bill goes forward, it needs fixing so HOA can approve placement - an issue in higher density subdivisions. Same bill, by same author, was filed in 2013. No action after filing in 2013. Where is this an issue? Pending in H committee since hearing on 3/10.	TPC adds to Ch 202. Also, Local Govt Code adds to Ch 250.	SF & Condo	2-B&I pending
HJR 55 Villalba	USES - RELIGION. Proposes to amend Texas Constitution to prevent a government or a "homeowners' association" (not defined) from interfering with a person's free exercise of religion, unless necessary to further compelling governmental interest or the HOA's " <u>compelling quasi-governmental interest</u> " (not defined). This could have significant unintended consequences. If passed by Legislature, it goes on a statewide ballot in Nov '15. [See Tex. Constitution Art. 1, Sec. 6 and Tex. Civ.Prac.& Rem.Code, Chapter 110, Sec. 110.001] [Same as HJR 125]	Texas Constitution	SF & Condo	1-State Affairs
HJR 125 Krause	USES-RELIGION. [Same as HJR 55]	Texas Constitution	SF & Condo	1-State Affairs
HB 2489 Leach	USES - RENTAL RESTRICTIONS. Some HOAs, particularly in higher density properties, keep a tight rein on rental units. This bill prevents the HOA from requiring copies of leases, charging fees specific to rental units, or interviewing prospective renters. BEWARE. The bill's caption is broad enough for the bill to morph into a total ban of <u>all</u> rental restrictions and prohibitions, such as those adopted by the HOA to qualify homes for Fannie Mae or FHA financing and bans against lease signs in front yards or windows. Also, some developers forbid lease signs in front yards while building out the subdivision. Keep an eye on this one.	TPC Ch 202 - adds 202.019	SF & Condo	1-B&I
HB 3539 Dukes	USES - SOLAR DEVICES. The 2011 HOA Reform Laws protect the rights of homeowners to install solar devices on their homes, subject to some HOA controls, <u>and</u> subject to the developer's right to restrict or prohibit solar panels during build-out of the subdivision. Some North Texas developers were lambasted by the media for standing between homeowners and their solar panels. This pro-consumer bill <u>limits the developer carve-out</u> to developments with 50 or fewer homes. [Companion to SB 1626]	TPC amends 202.010 (f)	SF & Condo	1-B&I HEARING 4/14 *
SB 1626 Rodriguez	USES - SOLAR DEVICES. [Same description as for companion HB 3539]	TPC amends 202.010 (f)	SF & Condo	1-B&C HEARING 4/14 *
HB 745 Bohac	USES - STREET SIGNS. A 2011 law allows POAs to put speed feedback signs on public roads within "its jurisdiction" if the POA pays for the sign and maintenance. Bill does the same for solar-powered LED stop signs. At 3/26 hearing, no testimony for or against. Statewide bill sent to Local & Consent Calendar.	Transport Code - amends 430.002	SF only	3

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HB 1442 Workman	USES - TREE REMOVAL. Protects property owners from local governments and POAs that try to prevent the owner from removing trees or vegetation on his land that "the owner believes" pose a risk of fire. Bill responds to the 2011 Labor Day Fires in Central Texas, the prospects of continued drought, and the proliferation of certain invasive "junk trees" such as Ash Juniper ("Cedars"), Mesquite, and Salt Cedar. The 2015 bill is identical to the one that ended the 2013 Session as CSHB 1858 - a version that was heavily negotiated with cities, state agencies, and military interests - each of which has a carve-out in the Local Govt Code section.	TPC Ch 202 adds 202.013; Local Govt Code adds 250.007	SF & Condo	1-B&I
HB 1178 Isaac	UTILITIES (FUEL) - EXCLUSIVE CONTRACTS. <u>Developers, head's up.</u> This bill prohibits developers and POAs from adopting or enforcing covenants that require all owners to use a particular fuel or fuel provider, or that penalize owners who don't use the required fuel or provider. If "fuel" means a material that is burned to produce heat or power, this may be limited to gas and propane. Bad Facts Make Bad Law. Rep. Isaacs' district has several "community propane systems" that are perceived as anti-consumer. Community propane systems operate with a centralized propane tank that provides propane to homes through underground piping. Unlike other utilities, these systems are largely unregulated. Ground zero for this issue is the 2,000 home Belterra community near Dripping Springs which is served by Texas Community Propane (TCP). Reportedly, Belterra's restrictions reference a 30-year self-renewing exclusive contract with TCP as the only fuel provider for the subdivision and heavily penalizes (up to \$1,500) residents who don't use TCP. <u>Caution.</u> This bill needs attention if white-hat developers and POAs need to be able to guarantee a consumer base to a fuel provider for a number of years to compensate for fuel-related infrastructure costs. Don't throw out the baby with the bathwater. A better-written bill would help Belterra owners without penalizing arrangements that aren't so extremely one-sided.	TPC Ch 202 - adds 202.008	SF & Condo	1-B&I HEARING 4/14 *
SB 1538 Burton	UTILITIES (TELECOMMUNICATIONS) - EXCLUSIVE CONTRACTS. Contract between HOA and telecommunications provider can't be exclusive. Residents must be able to contract with a different provider, without penalty.	Bus & Commerce Code - adds Chapter 59	SF & Condo	1-Nat Res
HB 2797 SB 1168 ➤O-SEC 14	VIOLATIONS - NOTICE. It adds some procedures for violation notices given by the HOA to an owner. The owner's 30 day right to request a hearing begins when the HOA mails the notice, instead of when the owner receives it. It seems to carve out violations that "pose a threat to public health or safety," but doesn't address what to do with that category of violation. Also, it defines "public health or safety" in a way that has nothing to do with the "public," or property, or pets. It talks about violations of a "curable nature" (not defined) but not the type of violation that is "cured" by not being repeated. If this becomes law, it will need fixing next Session. Law FIX & NEW law.	TPC 209.006 - amends (a) & (b), and adds (c)-(f)	SF only	1-HB&I SB&C HEARING 4/14 *