

## 2017 TEXAS POA-PERTINENT BILLS - INACTIVE REPORT #6 by Sharon Reuler

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

12 BILLS STILL "AT THE STARTING GATE" IN CHAMBER OF ORIGIN

(NO ACTION SINCE BEING FILED - AS OF 4/21/17)

HOWEVER, 4 OF THE 12 HAVE "ACTIVE" COMPANIONS IN THE OTHER CHAMBER

Bill #	Author	Companion - ACTIVE - See Active Rpt #6	Sharon's Topic Classification
HB 1341	Munoz		► OMNIBUS HOA <u>Governance</u> Bill [6 laws]
HB 1572	Workman		USES - Tree Removal
HB 1792	Swanson		LAND USE - Affordable Housing
HB 3502	Landgraf	SB 1488	CORRECTION - Duplicate Property Code Secs
HB 3699	Walle		LEASING - Tenant Rights (Foreclosure)
HB 3888	Zerwas		USES - Assisted Living
HB 4012	Paul		UTILITIES - Water Shut-Off
SB 1202	West		LEASING - Tenant Rights (Conversion)
SB 1542	Kolhurst		CONDO - Creation
SB 1609	Bettencourt & Kolkhorst	HB 522	USES - Religious Display
SB 2167	West	HB 1767	ASSESS - Collection by 3rd Parties
SB 2234	Menendez	HB 3528	► OMNIBUS HOA <u>Collections</u> Bill [6 laws]

\* Please visit <http://www.capitol.state.tx.us> for these and all the bills.

TWO ►**Omnibus** HOA Bills were filed in 2017. Both apply to "Chapter 209" subdivisions (not condos). One Omnibus Bill - HB 1341 - focuses on HOA governance. The other - companions HB 3528 & SB 2234 - focuses on assessment collections. An Omnibus Bill is a compilation of independent law changes that share the same bill number, which means each law change gets less scrutiny. Report #6 treats each law change in the Omnibus Bills as if it were a separate bill. The last page of Inactive Report #6 provides an overview of the "Governance" Omnibus Bill, which hasn't moved to date. The other Omnibus Bill is reported on Active Report #6 because the House version is scheduled for a hearing on 4/24/17.

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BILL NO. AUTHOR	<b>POA-PERTINENT BILLS</b> ~ POSTED ONLINE THROUGH 4/21/17 <i>(in alpha order of topic assigned by Sharon Reuler)</i> Describes the initially filed version of a bill (unless otherwise noted). Because bills morph during Session, unwise to rely on these thumbnail descriptions.	Statute/ Code Affected	Property Type	Status (SEE KEY) as of 4/21/17
<b>SB 2234</b> Menendez	<b>ASSESS - OMNIBUS COLLECTIONS BILL</b> has 6 independent law changes, described in detail in the Active Report under its companion House Bill 3528 by Vo.	TPC Ch 209	SF	#1 S B&C
<b>SB 2167</b> West	<b>ASSESS - COLLECTION BY 3RD PARTIES.</b> 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 "active" HB 1767.]	Finance Code Adds Ch 397	Condo & SF	#1 S B&C
<b>SB 1542</b> Kolkhorst	<b>CONDO - CREATION.</b> <b>B-A-D for developers.</b> 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. SB 1542 changes that by authorizing a county to require "approval from the county" before a declaration of condominium can be recorded by the County Clerk. <b>Approval of what? Can the county withhold approval for no reason?</b> Bill is permissive, not mandatory. Don't know backstory. [THUMBS WAY DOWN. TOO BROAD.]	TPC §82.051 adds (d-1)	Condo	#1 S B&C
<b>HB 3502</b> Landgraf	<b>CORRECTION - DUPLICATE PROPERTY CODE SECTIONS.</b> 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 "active" SB 1488.]	TPC Ch 209 - §209.00592(a-1)	SF	#1 H State Aff
<b>HB 1341</b> Munoz, Jr.	<b>GOVERN - Omnibus Governance Bill</b> has 6 independent law changes, described in detail on the last page of this Inactive Report.	TPC Ch 209	SF	#1 H B&I
<b>HB 1792</b> Swanson	<b>LAND USE - AFFORDABLE HOUSING.</b> This is a NIMBY bill. <b>B-A-D for developers seeking low income tax credits.</b> 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	#1 H UrbanAff
<b>HB 3699</b> Walle	<b>LEASING - TENANT RIGHTS.</b> Not POA-specific. <b>Foreclosure purchasers, ALERT!</b> 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 H B&I

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Status Key: **[F]** Filed, **[1]** In Committee, Chamber 1, **[2]** Heard & Pending in Committee, Chamber 1, **[3]** Out of Committee, Chamber 1, **[4]** Passed by Chamber 1, **[5]** Assigned to Committee, Chamber 2, **[6]** Heard & Pending in Committee, Chamber 2, **[7]** Out of Committee - Chamber 2, **[8]** Passed by Chamber 2, **[9]** Conference Committee, **[10]** Sent to Gov.

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](http://www.txlandlaw.com)

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<b>SB 1202</b> West	<b>LEASING - TENANT RIGHTS.</b> Not POA-specific. <b>BAD for developers &amp; investors.</b> 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. <b>[THUMBS DOWN]</b>	TPC Ch 92, adds §92.026	Condo & SF	#1 S B&C
<b>HB 3888</b> Zerwas	<b>USES - ASSISTED-LIVING.</b> 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? <b>[THUMBS DOWN - UNNECESSARY]</b>	TPC Ch 202 adds §202.0045	Condo & SF	#1 H B&I
<b>SB 1609</b> Bettencourt +	<b>USES - RELIGIOUS DISPLAY.</b> 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 allows religious displays without limits of any kind, for subdivisions & condos. The House version was changed substantially in committee. <b>[THUMBS DOWN]</b> <b>[Companion to "active" HB 522.]</b>	TPC Ch 202 - amend §202.018	Condo & SF	#1 S B&C
<b>HB 1572</b> Workman	<b>USES - TREE REMOVAL.</b> 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; Local Govt Code adds 250.008	Condo & SF	#1 H B&I
<b>HB 4012</b> Paul	<b>UTILITIES - MASTER METERED WATER.</b> 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	#1 H NatRes

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► OMNIBUS **HOA GOVERNANCE** BILL OVERVIEW - HB 1341 by Munoz, Jr.

## SECTION-BY-SECTION REPORT OF 6 INDEPENDENT LAWS IN A 3-PAGE BILL

An omnibus bill packages together several independent measures under a single bill number. Each part of an omnibus bill stands alone ~ could be a separate bill.

Sharing a bill number means each part gets less scrutiny. Although "omnibus" sounds like a comprehensive treatment of a single topic, it's the opposite.

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BILL SECTION	TOPIC - IN NUMERICAL ORDER OF BILL'S SECTIONS	TX PROPERTY CODE SECTION AFFECTED	Property Type
1	<p><b>GOVERN - OPEN RECORDS.</b> 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. <b>[THUMBS DOWN - OK FOR SOME, NOT FOR ALL]</b></p>	§209.005 - amends (e)	SF only
1	<p><b>GOVERN - OPEN RECORDS.</b> 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? <b>[NEUTRAL - DON'T KNOW ENOUGH ABOUT.]</b></p>	§209.005 - adds (l-1)	SF only
2	<p><b>GOVERN - BOARD MEETING.</b> 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? <b>[THUMBS DOWN - TOO BIG A BURDEN ON EVERY SUBDIVISION HOA IN TEXAS FOR QUESTIONABLE BENEFIT]</b></p>	§209.0051 amends (d)	SF only
2	<p><b>GOVERN - BOARD MEETING.</b> This is a contender for the <b>Worst Idea Award</b>. It threatens to turn board meetings into gripefests. HB 1341 allows <b>every owner</b> to speak for at least <b>30(!) minutes</b> at <b>every board meeting</b>. 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. <b>[THUMBS DOWN FOR DYSFUNCTIONALITY.]</b></p>	§209.0051 adds (f-1)	SF only
3	<p><b>GOVERN - ANNUAL MEETING.</b> 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. <b>[NEUTRAL]</b></p>	§209.014 - amends (a)	SF only
4	<p><b>LAW ENFORCEMENT - BY STATE.</b> 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. <b>[THUMBS UP FOR FRESH IDEA]</b></p>	Ch 209 adds §209.017	SF only