

BILL REVIEW REPORT – 88TH TEXAS LEGISLATIVE SESSION

Bill Number	Author	Caption	Position & Analysis
HB 92	Landgraf	Relating to the authority of a municipality, county, or property owners' association to prohibit or regulate certain activities on residence homestead property.	<p>Position: Opposed</p> <p>Summary: This bill amends Chapter 202 of the Property and prevents POAs from adopting or enforcing a restrictive covenant that prohibits growing of fruits and vegetables, raising or keeping six or fewer domestic fowl or adult rabbits, or installing a solar or wind-powered device, rain barrel or rain harvesting system, standby electric generator, or producing food at a cottage food production operation (Sec. 437.001 Health and Safety Code).</p> <p>While the bill authorizes POAs to adopt reasonable restrictions, they are not adequate as they cannot prohibit these activities. Additionally, rain barrels, solar devices, and generators are already adequately addressed in Chapter 202.</p> <p>Concerns: Restricts POAs from adequately regulating potential nuisances in their communities.</p>
HB 207	Murr, Andrew	Relating to the exclusion of certain conveyances from classification as sham or pretended sales.	<p>Position: Neutral</p> <p>Summary: This bill amends Subchapter A, Chapter 41 of Property code by adding Section 41.0022, which further defines exclusions of certain conveyances from classification as sham or pretended sales.</p>

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			<p>Concerns: None. This bill has no direct application to HOAs.</p>
HB 276	Cortez	Relating to the regulation by a municipality or property owners' association of food production on single-family residential lots.	<p>Position: Opposed</p> <p>Summary: Similar to HB 92, this bill amends Chapter 202 of the Property Code adding a new subsection that prevents POAs from adopting or enforcing a restrictive covenant that prohibits growing of fruits and vegetables, raising or keeping six or fewer domestic fowl or adult rabbits, or producing food at a cottage food production operation (Sec. 437.001 Health and Safety Code).</p> <p>While the bill authorizes POAs to adopt reasonable restrictions, they are not adequate as they cannot prohibit these activities. Additionally, rain barrels, solar devices, and generators are already adequately addressed in Chapter 202.</p> <p>Concerns: Restricts POAs from adequately regulating potential nuisances in their communities.</p>
HB 287	Johnson, Julie	Relating to payment of the replacement cost of damaged property under a homeowner's, renter's, or condominium owner's insurance policy.	<p>Position: Neutral</p> <p>Summary: This bill adds a new section to Chapter 2002 of the Insurance Code requiring homeowners', renters, or condominium insurers to pay at least 80 percent of an estimated repair</p>

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			<p>cost (minus the deductible) for damage claims. The insurer must make the remaining 20 percent payment following receipt of documentation that the repair or replacement has been completed. Insurers are not required to pay more than costs for like kind and quality.</p> <p>Concerns: This does not directly impact POAs but has the potential to inflate policy premiums.</p>
<p>HB 328 HB 329 Duplicate</p>	Cortez	Relating to the regulation by a property owners' association of the installation of solar roof tiles.	<p>Position: Neutral</p> <p>Summary: This bill adds solar roof tile to the definition of “solar energy device” in Sec. 202.010(a)(2) of the Property Code.</p> <p>Concerns: In relation to community associations, this amendment may affect restrictions on solar tiles.</p>
<p>HB 330</p>	Goodwin	Relating the regulation of residential wind power facilities by property owners' associations.	<p>Position: Opposed</p> <p>Summary: This bill adds a new subsection to Chapter 202 of the Property Code that prevents a POA from including or enforcing a deed restriction that prohibits or restricts a property owner from installing a wind power facility of an “appropriate residential scale.”</p> <p>POAs may prohibit a wind facility that: is determined by a court to violate a law or threaten public health and safety; is located on POA-owned property or a common area; is in an area on the owner’s property not approved by the</p>

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			<p>POA unless the alternate location increases the annual energy production by more than 10 percent; as installed, voids warranties; or was installed without approval.</p> <p>POAs may not withhold approval of a wind facility if the applicable provisions in the dedicatory instrument are met and exceeded unless it determines in writing that the facility proposed by the owner “constitutes a condition that substantially interferes with the use and enjoyment of the land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities.” Written approval by owners of adjacent property is prima facie evidence to support installation.</p> <p>During development of a property of fewer than 51 units, the declarant may prohibit or restrict installation.</p> <p>Concerns: Problems with this bill start with the lack of definitions for “appropriate residential scale” or “persons of ordinary sensibilities,” and it also creates unnecessary challenges for associations to self-govern. Finally, as to aesthetics, this bill could turn communities into visibly unappealing “wind farms” which will affect home sales.</p>
HB 378 (refiling)	Bucy	Relating to the authority of certain entities and individuals to prevent individuals from accessing	Position: Neutral

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		private property for the purpose of registering voters or communicating political messages.	<p>Summary: This bill adds a new section to Chapter 276 of the Election Code that prohibits POAs, HOAs, or property managers from preventing people from knocking on doors or leaving written communication to assist in voter registration or communicating support or opposition to a candidate, political party, or measure. Associations may adopt and enforce reasonable restrictions on the time, place, or manner. A peace officer may not prevent this activity unless it poses a threat or is a violation of a law, ordinance, order, rule, or policy.</p> <p>Concerns: While this bill does pose some concerns with limiting access for electioneering, this is not an issue we should actively oppose. Minor concern about excess trash/debris/paper flying in the neighborhood if door-knockers are allowed to leave material at every door.</p>
HB 614	Shaheen	Relating to property owners' association fines.	<p>Position: Neutral</p> <p>Summary: This bill adds a new section to Chapter 209 of the Property Code requiring POA boards to adopt an enforcement policy that includes: each category of restrictive covenants for which fines may be assessed including property maintenance and repair, individual misconduct, and matters affecting health and safety; a schedule of fines for each category of violation; and information regarding the hearing provide for under Sec. 209.007. The policy may reserve the board's authority to levy fines</p>

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			<p>according to the schedule on a case-by-case basis.</p> <p>Each POA is required to: file a copy of the policy (and any amendment) with the county clerk of each county where it is a located; provide a copy of the policy to each owner by posting on the association’s website accessible by members, or sending a copy annually by hand delivery, first class mail, or e-mail; and making the policy available on any public website maintained by the association or its manager.</p> <p>Concerns: This bill is unnecessary as fine policies and fine amounts are already available to owners upon request. There is no compelling reason for requiring the cost and inconvenience of public filing of these policies and providing yearly copies to all Owners. Additionally, fine amounts must already be provided to Owners in accordance with Section 209.0051(h)(1) which requires fine amounts be voted on during the open session portion of a properly noticed Board Meeting.</p> <p>Finally, levying fines on a case-by-case basis can increase Association liability for failure to be consistent in fine levies.</p>
HB 622	Shaheen, Matt	Relating to the publication of required notice by a political subdivision by alternative media.	<p>Position: Neutral</p> <p>Summary: This bill amends the Government Code, Chapter 2051 by adding Subchapter C-1,</p>

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			<p>which will provide notice by publication in media other than newspaper for a political subdivision.</p> <p>Concerns: None. It gives Political Subdivisions more options for providing notice and this could be a good change. You would reach more people with social media or HOA newsletters than with a normal newspaper.</p>
HB 739	Gonzalez, Jessica	Relating to provisions applicable to affordable housing located in a reinvestment zone in certain areas of the state.	<p>Position: Neutral</p> <p>Summary: This bill amends the Tax Code Section 311.003 by adding subsection (e), which will provide additional notice and development requirement provisions applicable to affordable housing located in a reinvestment zone in certain areas of the state.</p> <p>Concerns: None. This will increase the reporting requirements for affordable housing inside reinvestment zones. There are additional requirements for residential housing developments in the reinvestment zone to set aside 20 percent of the dwellings as affordable housing or pay a fee to the municipality in an affordable housing fund.</p>
HB 743	Dean, J	Relating to the authority of a municipality or county to regulate the use of an appliance, system, or component that is fueled by natural gas or propane.	<p>Position: Neutral</p> <p>Summary: This bill amends the Texas Local Government Code by adding Section 250.0914 to the, which limits the ability of a municipality or county to prohibit or restrict the use of an</p>

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			<p>appliance, system, or component that is fueled by natural gas or propane in the construction, renovation, maintenance or alteration of a residential or commercial building.</p> <p>Concerns: None. This bill has no application to HOAs.</p>
<p>HB 796</p> <p>Companions: HB 3890</p>	<p>Button</p>	<p>Relating to the creation and maintenance by an appraisal district of a publicly available Internet database of information regarding protest hearings conducted by the appraisal review board established for the district.</p>	<p>Position: Neutral</p> <p>Summary: This bill amends the Texas Tax Code by adding Section 41.13, which will require appraisal districts to make information regarding protest hearings publicly available on the internet, including: (1) the name of each appraisal review board member who attended the hearing; (2) the date and time of the hearing; (3) the account number and category for the property that was the subject of the hearing; (4) the appraised value according to the appraisal district and the property owner's asserted value of the property that was the subject of the hearing; and (5) the appraisal review board's determination of the protest, including the board's determination of the value of the property if the hearing was to consider a protest regarding appraised value.</p> <p>Concerns: None. This bill has no application to HOAs.</p>
<p>HB 860</p>	<p>Gates, Gary</p>	<p>Relating to municipal and county permitting requirements to conduct certain repairs on residential buildings.</p>	<p>Position: Neutral</p> <p>Summary: This bill amends the Local Government Code, Subchapter Z, Chapter 214</p>

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			<p>by adding Section 214.908, which limits the ability of municipality or county permitting requirements to delay the owner to conduct certain repairs on residential buildings.</p> <p>Concerns: None. It gives residential owners the ability to make emergency repairs without unnecessary delays for permitting. If the County or Municipality prohibits the owner from conducting the repairs unnecessarily, the owner can take legal action and recover legal fees.</p>
HB 866	Oliverson, Tom	Relating to approval of certain land development applications by a municipality or county.	<p>Position: Neutral</p> <p>Summary: This bill amends the Local Government Code, Section 212.009 and Section 232.00285 by adding Subsection (a-1), which limits the ability of a municipality or county to deny applications of certain land development projects.</p> <p>Concerns: None. This bill has no direct impact on HOAs. It limits the authority of a municipality or county for land development projects.</p>
HB 886	Shaheen, Matt	Relating to requirements to file a property owners' association assessment lien.	<p>Position: Opposed</p> <p>Summary: This bill amends the Property Code, Section 209.0094 by adding Subsection (c) and (d) which adds three additional monthly notice requirements and a 180 day waiting period after the date of the third notice before an association</p>

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			<p>can file an assessment lien for delinquent assessments.</p> <p>Concerns: This bill will substantially increase the time it takes to file an assessment lien or notice of lien by approximately 9 months, and will cost the HOA and property owner(s) more in postage and reproduction for additional certified notices that would be required. The bill also fails to take into consideration the fact that most association assessment liens are initially recorded and perfected when the DCCRs are recorded. The imposition of a 9 month delay on recording lien notices may cause problems for title companies and adversely impact real estate transactions. Because the definition of “assessment lien” is broad this could also be interpreted to include lis pendens and abstracts of judgment, and would potentially conflict with the statutory provisions regarding same, and deny associations the right to timely record a lis pendens and/or abstract of judgment.</p>
HB 1148	Rosenthal	<p>Relating to the repeal of the prohibition against certain municipal or county regulation of the rental or leasing of housing accommodations.</p>	<p>Position: Neutral</p> <p>Summary: This bill proposes to repeal Sec. 250.007 of the Local Government Code which was enacted in 2015 (and amended in 2017) to permit a property owner/lessor/manager to refuse to rent to someone whose qualifying income includes federal housing assistance. This is in reaction to the instances in Denton</p>



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			<p>County related to Section 8 lessors losing their leases in POAs.</p> <p>Concerns: While this statutory section (and bill) does not directly impact the operation or management of POAs in Texas, it could impact the decision-making of owners/lessors living in POAs. Anticipate strong opposition from the Texas Municipal League (TML) and Texas Association of Counties (TAC).</p>
HB 1191	Cain	Relating to the regulation of raising or keeping six or fewer chickens by a political subdivision or property owners' association.	<p>Position: Opposed</p> <p>Summary: Similar to provisions in HB 92 and HB 276, this bill prohibits a POA from adopting and enforcing a restriction after 9/1/23 that prohibits the raising or keeping six or fewer chickens on a single-family residential lot. While it does provide authority for HOAs to impose reasonable restrictions against more than six chickens, breeding, roosters, and distance between a coop and another lot, those restrictions may not prohibit chickens.</p> <p>The bill also amends the Agriculture Code to prohibit a political subdivision from imposing a requirement that prohibits the raising or keeping of six or fewer chickens.</p> <p>Concerns: Restricts POAs from adequately regulating potential nuisances in their communities.</p>
HB 1193	Turner	Relating to prohibiting housing discrimination by a property owners' association against a residential tenant based on the tenant's method of payment.	<p>Position: Opposed as written, recommend changes to bill language.</p>

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HJR 29 (refiling)	Schofield	Proposing a constitutional amendment providing that a residence homestead is not subject to seizure or sale for delinquent ad valorem taxes.	<p>Position: Neutral</p> <p>Summary: This bill amends Article 8 of the Texas Constitution eliminating a residence homestead from property that can be seized or foreclosed for delinquent taxes or penalties.</p>

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			<p>Concerns: None as of filing but monitor to ensure it's not amended to impact POA foreclosure authority. Additionally, if this bill becomes law, it could affect future legislative sessions for POA foreclosure authority.</p>
<p>HJR 9</p> <p>Companions: HJR 43</p>	Landgraf	Proposing a constitutional amendment relating to the right of a property owner to conduct activities necessary to secure basic human needs.	<p>Position: Neutral</p> <p>Summary: This resolution would create a constitutional right to conduct activities on an individual's homestead property to secure access to food, water, electric power, and shelter, subject to laws protecting public health and safety.</p> <p>Concerns: This constitutional right is too vague and broad. However, constitutional rights protect citizens from infringement of such rights by governmental entities. Established constitutional rights are not generally applicable to private contractual obligations that regulate land use, such as restrictive covenants. No concerns regarding this bill as it affects HOAs as currently drafted but should monitor it.</p>
<p>SB 149</p> <p>Companions: HB 3790 Shaheen</p>	Springer	Relating to the authority of a municipality to regulate statewide commerce.	<p>Position: Neutral</p> <p>Summary: This bill amends Chapter 51 of the Texas Local Government Code by adding Section 51.004, which restricts municipalities from adopting or enforcing an ordinance, regulation, or other measure that imposes a</p>

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			<p>restriction, condition, or regulation on commercial activity, including any action that impairs the free flow of commerce across the state of Texas and is inconsistent with the general law of the state of Texas.</p> <p>Concerns: None. This bill has no application to HOAs.</p>
SB 259	Springer, Drew	Relating to procedures applicable to municipal consideration of building permits, plats, and certain land development plans.	<p>Position: Neutral</p> <p>Summary: This bill amends the Local Government Code, Section 212.009 by adding Subsection (a-1) and Section 214.904 by amending Subsections (b) and (d) and adding Subsection (e), which limits the ability of a municipality to deny applications of building permits, plats, and certain land development plans.</p> <p>Concerns: None. This bill has no direct impact on HOAs. It limits the authority of the municipality on consideration of building permits, plats, and certain land development plans.</p>