

**REPORT #1 - with Omnibus Bill Integrated
2017 TEXAS POA BILLS** 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.

► O=Omnibus Bill ■ SB=Senate Bill ■ HB=House Bill ■ TPC=Texas Property Code ■ SF = POA/HOA that's not condo

BILL NO. AUTHOR	POA-SPECIFIC BILLS ~ POSTED ONLINE THROUGH 2/5/17 <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 2/5/17
HB 923 Shaheen	ASSESS - FINES. HB 923 requires HOA fines to be reasonable viz-a-viz (1) nature of violation, (2) frequency of violation, and (3) violation's effect on the entire subdivision. Also, HOA must cap fines for continuing violations. HB 923 challenges the one-fine-fits-all system favored by many HOAs because it's easy to administer. Fining is a peculiar process. Some HOAs charge huge fines that are often waived for contrite owners. Expect opponents to claim that HB 923 is difficult to administer because it requires evaluation. [THUMBS UP FOR TRYING TO DO THE RIGHT THING]	TPC Ch 209, adds §209.0061	SF	F
HB 1341 Munoz, Jr. ► O-SEC 3	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]	TPC §209.014 - amends (a)	SF	F
HB 1341 Munoz, Jr. ► O-SEC 2	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]	TPC §209.0051 amends (d)	SF	F
HB 1341 Munoz, Jr. ► O-SEC 2	GOVERN - BOARD MEETING. IMHO, this is the worst bill so far. It threatens to turn board meetings into homeowner gripefests. HB 1341 allows <u>every owner</u> to speak for at least 30(!) minutes at <u>every board meeting</u> . Whoa! The purpose of a board meeting is for directors to thoughtfully deliberate and conduct 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. (That's the norm for government meetings, too.) No matter how well intentioned, the State can't force volunteer directors to listen to long-winded monologues from disgruntled owners. Who would serve?!?! [THUMBS DOWN FOR DYSFUNCTIONALITY.]	TPC §209.0051 adds (f-1)	SF	F
HB 1341 Munoz, Jr. ► O-SEC 1	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]	TPC §209.005 - amends (e)	SF	F

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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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HB 1341 Munoz, Jr. ► O-SEC 1	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.]	TPC §209.005 - adds (I-1)	SF	F
HB 1341 Munoz, Jr. ► O-SEC 4	LAW ENFORCEMENT - BY STATE. Authorizes State action against the HOA for violations of Chapter 209. Invites Texas attorney general, district attorney, or county attorney to sue the HOA for violating Chapter 209. HOA may be dinged with penalty up to \$25K for violating Chapter 209 - paid to the State. Court-ordered pre-trial mediation may resolve most issues. Wish it required notice of intent to file suit to give the HOA one more chance to do the right thing. Would some public officials refuse HOA issues? Could be the start of a reasonable consumer protection. Doesn't affect condos. [THUMBS UP FOR IDEA WITH POTENTIAL]	TPC Ch 209 adds §209.017	SF	F
HB 755 Parker	SALES - TRANSFER FEE. The 2011 Texas legislature closed loopholes in the "private transfer fee" statute which subdivision developers might have used to collect fees on every future home resale. K'ching! (The clever practice was migrating to Texas.) Problem, the 2011 law change also cut off private transfer fees dedicated to some educational and cultural programs. HB 755 allows private transfer fees to fund educational activities in a school that serves the subdivision that collects the fees. Bill doesn't say "public" school - possibly implied from use of "attendance zone". If public schools are intended, best to say so. [THUMBS UP]	TPC §5.202 amends (c)	Condo & SF	F
HB 522 Schofield	USES - RELIGIOUS DISPLAY. In 2011 Texas adopted the "mezuzah law" that allows residents of condo units and homes to put a small religious symbol on the front door or door frame. (Mezuzah on doorpost is a tenet of Judaism.) The law originated for residents of a high-rise condo with front doors opening to common hallways. HB 522 completely eliminates the size and location requirements - for condos and subdivisions. It permits "any religious item the display of which is motivated by a person's sincere religious belief." No HOA or ACC control. If this becomes law, we may see front yard altars and shrines. Could a front yard cross-burning be defended under this bill? Does Fair Housing apply if private front yards near the subdivision entrance signal that only a certain religion is welcome in the subdivision? [THUMBS DOWN - TOO BROAD]	TPC Ch 202 - amends §202.018	Condo & SF	F

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OVERVIEW OF HB 1341 BY MUNOZ, JR.

SECTION-BY-SECTION REPORT OF 6 LAW CHANGES IN ONE 3-PAGE "OMNIBUS" 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.

BILL SECTION	SUBJECT - IN NUMERICAL ORDER OF BILL'S SECTIONS	Single or Multi-Purpose SECTION	TX PROPERTY CODE SECTION AFFECTED	Bracketed or Statewide	Property Type
1	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]	Multi	§209.005 - amends (e)	State	SF only
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