

**2017 TEXAS POA-PERTINENT BILLS - ACTIVE REPORT #7** by Sharon Reuler  
~ PERTAINING TO COMMON INTEREST COMMUNITIES (aka POAs, HOAs, Condos, Townhomes, Subdivisions) ~

**AS OF 4/28/17 3 BILLS ARE SCHEDULED FOR FIRST HEARINGS DURING FIRST WEEK OF MAY**

**NUMERICAL ORDER OF BILLS** ~ POSTED ONLINE THROUGH 4/28/17

2017 ACTIVE HOUSE BILLS - POA-PERTINENT			
Bill #	Author	Companion	Sharon's Topic Classification
HB 522	Schofield	SB 1609	USES - Religious Display
HB 561	Murphy		USES - Golf Carts
HB 755	Parker		SALES - Transfer Fee
HB 923	Shaheen		ASSESS - Fines
HB 1470	Villalba	SB 1405	ASSESS - Foreclose [Proceeds] <b>Rpt #4</b>
<b>HB 1572</b>	<b>Workman</b>		<b>USES - Tree Removal</b>
HB 1767	Collier	SB 2167	ASSESS - Collection by 3rd Parties
<b>HB 1792</b>	<b>Swanson</b>		<b>LAND USE - Affordable Housing</b>
HB 1964	Murphy	SB 873	UTILITIES - Submetered Water & Sewer
HB 1966	Paul		USES - Guns
HB 2320	Fallon		GOVERN - Declarant Control
HB 2508	Kuempel		USES - Towing
HB 2551	Parker	SB 451	LEASING - Short-Term
HB 2827	Oliveira	SB 1518	GOVERN - Voting
HB 3528	Vo	SB 2234	► OMNIBUS HOA <u>Collections</u> Bill - 6 LAWS
HB 3868	Smithee		LEASING - Criminal History
HB 3974	Ashby		ASSESS - Condition of Purchase
<b>HB 4012</b>	<b>Paul</b>		<b>UTILITIES - Water Shut-Off</b>
HB 4026	Roberts		GOVERN - Board Qualifications
HB 4107	Neave		ASSESS - Foreclose (Expedited)

2017 ACTIVE SENATE BILLS - POA-PERTINENT			
Bill #	Author	Companion	Sharon's Topic Classification
SB 451	Hancock	HB 2551	LEASING - Short-Term
SB 873	Creighton	HB 1964	UTILITIES - Submetered Water & Sewer
SB 1228	Menendez		ARCHITECTURAL - Damage Repair
SB 1405	Creighton	HB 1470	ASSESS - Foreclose [Proceeds] <b>Rpt #4</b>
SB 1488	West	HB 3502	CORRECTION - Duplicate Property Code Secs
SB 1518	Hancock	HB 2827	GOVERN - Voting
SB 1620	Taylor		USES - Chickens <b>Rpt #5</b>
SB 1943	Hughes		USES - Guns

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

**► OMNIBUS BILLS**

**TWO ►Omnibus** HOA Bills were filed in 2017. Both apply to "Chapter 209" subdivisions (not condos). An Omnibus Bill is a compilation of independent law changes that share the same bill number, which means each law change gets less scrutiny. As of 4/28/17, the Omnibus "Collections" bill (HB 3528) is an Active Bill, whereas the Omnibus "Governance" (HB 1341) is Inactive.

For number crunchers. Although this Report #7 covers 28 active bills, 4 of the 28 are companions (twins) of active bills - essentially the same bill has a House number and a Senate number. Discounting the companions, there are 24 active bills. But . . . one of those - the Omnibus Bill - is the equivalent of 6 bills. In short, numbers lie. :)

# ACTIVE REPORT #7 - with ► Omnibus Bill Integrated

## 2017 TEXAS POA-PERTINENT 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-PERTINENT BILLS ~ POSTED ONLINE THROUGH 4/28/17 (in alpha order of topic assigned by Sharon Reuler) 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 4/28/17
<b>SB 1228</b> Menendez	<b>ARCHITECTURAL - DAMAGE REPAIR.</b> 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. <b>News Flash!</b> Every HOA in Texas does not require HOA approval to replace a hail-damaged roof. This bill may inadvertently change that. <b>Unintended Consequences.</b> [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. <b>Issues:</b> [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, <b>THUMBS DOWN</b> for bill's vague wording and unintended consequences.]	TPC Ch 209 adds §209.018	SF	<b>#2 S B&amp;C</b> <b>PENDING</b> heard 4/6
<b>HB 1767</b> Collier	<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." 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	<b>#2 H Invest</b> <b>PENDING</b> heard 4/18
<b>HB 3528</b> ► O-SEC 1	<b>ASSESS - COLLECTION COSTS.</b> 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. [ <b>THUMBS DOWN</b> ] [Companion SB 2234]	TPC Ch 209 adds §209.0061	SF	

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 Guv.

# ACTIVE REPORT #7 - with ► Omnibus Bill Integrated

## 2017 TEXAS POA-PERTINENT 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-PERTINENT BILLS ~ POSTED ONLINE THROUGH 4/28/17 (in alpha order of topic assigned by Sharon Reuler) 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 4/28/17
HB 3974 Ashby	<b>ASSESS - CONDITION OF PURCHASE.</b> <u>HOME BUILDERS, MORTGAGE LENDERS, INVESTORS &amp; TITLE INSURERS, BEWARE.</u> 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? [ <b>THUMBS DOWN</b> . DEVIL'S IN THE DETAILS.]	TPC Ch 209 adds §209.0065	SF	<b>#2</b> H B&I <b>PENDING</b> heard 4/24
HB 3528 ► O-SEC 1	<b>ASSESS - DEMAND LETTER.</b> (1) Required contents for delinquency demand letter that HOA must send to owner before HOA can add attorneys fees to owner's account. (2) Letter must "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. Companion SB 2234.	TPC Ch 209 adds §209.00611	SF	<b>#2</b> H B&I <b>PENDING</b> heard 4/24
HB 923 Shaheen	<b>ASSESS - FINES.</b> Status. Moving. H Committee heard bill 3/6, approved substitute (revised) version 4/3, and sent to H Calendars 4/7. Waiting to be scheduled for H vote. 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. <u>Sidenote.</u> 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. [ <b>THUMBS UP</b> FOR A REASONABLE IDEA.]	TPC Ch 209, adds §209.0061	SF	<b>#3</b>
HB 3528 ► O-SEC 5	<b>ASSESS - FORECLOSE (AMOUNT).</b> 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. [ <b>THUMBS DOWN</b> ] Companion SB 2234.	TPC Ch 209 amends §209.009	SF	<b>#2</b> H B&I <b>PENDING</b> heard 4/24
HB 4107 Neave	<b>ASSESS - FORECLOSE (EXPEDITED).</b> Not POA-specific. Status. Moving. H Committee heard bill 4/11, approved substitute (revised) version 4/27. Poised to be sent to H Calendars. Amends the TCPRC Section titled "Mediation Following Application for Expedited Foreclosure" to address the loss mitigation application. Substitute version not posted as of 4/28/17.	CivPrac&Rem Code §154.028	SF	<b>#3</b>

# ACTIVE REPORT #7 - with ► Omnibus Bill Integrated

## 2017 TEXAS POA-PERTINENT 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-PERTINENT BILLS ~ POSTED ONLINE THROUGH 4/28/17 (in alpha order of topic assigned by Sharon Reuler) 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 4/28/17
HB 1470 Villalba	<b>ASSESS - FORECLOSE (PROCEEDS).</b> Status. <b>MOVING FAST. BAD FOR HOAs- UNINTENDED CONSEQUENCES.</b> H passed bill 4/13 with no floor amendments. Expect speedy Senate processing. Sponsored by Barrett Daffin et al law firm as a bill that concerns only mortgage servicers and trustees, HB 1470 hasn't attracted any attention. Cleverly marketed as an "after-foreclosure" bill for contested excess sale proceeds, HB 1470's problems are so legalistic, you'll snooze reading this thumbnail. Bill drafters <u>wrongly assume</u> that only trustees handle foreclosures, that HOA "trustees" aren't true trustees, and that assessment liens aren't contract liens. Unintended consequences for HOAs include: [1] Caps what a trustee or his attorney get paid for handling competing claims on excess sale proceeds. [2] Perpetuates lousy definition of "residential real property" that <u>excludes</u> townhomes in rows of 5 or more. [3] Long list of IDs that high bidder must provide may chill bidding or necessitate re-posting. As part of its strategy to avoid detection, the bill isn't with the other foreclosure laws in the Property Code. Instead, it hides in a different code where bidders and people foreclosing HOA liens wouldn't think to look for it. <b>Tsk. Tsk.</b> Also: Residential only. Doesn't affect true judicial foreclosure resulting in sheriff's sale, and possibly not condo statutory lien foreclosure. Senate is last hope of stopping it or getting a carve-out for HOAs. <b>[THUMBS DOWN]</b> [Companion to SB 1405]	Bus & Com Code adds Ch 22; also Amends Occup Code §1802.001 & 1802.002	Condo & SF	<b>#4</b>
SB 1405 Creighton	<b>ASSESS - FORECLOSE (PROCEEDS).</b> See description of companion HB 1470. Senate Bill is pending in S B&C Committee, after hearing on 4/18.	Bus & Com Code; Occup Code	Condo & SF	<b>#2</b>
HB 3528 ► O-SEC 1	<b>ASSESS - LAWSUIT.</b> 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. Companion SB 2234.	adds §209.00612	SF	<b>#2 H B&amp;I PENDING</b> heard 4/24
HB 3528 ► O-SEC 4	<b>ASSESS - PAYMENT.</b> HOA may not refuse partial payments or block payment portals, even under payment plan. <b>[OK]</b> Companion SB 2234.	§209.0063 adds (c)	SF	<b>#2 H B&amp;I PENDING</b> heard 4/24

PAGE 3 OF 10

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 Guv.

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)

i:\...TX POA Bills - Rpt 6-ACTIVE - thru 4-28-17\_v1 rd=4/30/17 =4/30/17

# ACTIVE REPORT #7 - with ► Omnibus Bill Integrated

## 2017 TEXAS POA-PERTINENT 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-PERTINENT BILLS ~ POSTED ONLINE THROUGH 4/28/17 (in alpha order of topic assigned by Sharon Reuler) 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 4/28/17
<b>HB 3528</b> ► O-SEC 2	<b>ASSESS - PAYMENT PLAN.</b> 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. <b>[Thumbs Up]</b> Companion SB 2234.	TPC §209.0062 amends (a) & adds (a-1)	SF	<b>#2</b> H B&I <b>PENDING</b> heard 4/24
<b>SB 1488</b> West	<b>CORRECTION - DUPLICATE PROPERTY CODE SECTIONS.</b> Status. Moving. S passed bill 4/19, waiting to be assigned to H committee for public hearing. The 2015 Session enacted bills containing very-similar provisions with the same section numbers. This 305-page omnibus corrections bill does clean-up for many State laws, including one chapter of the Property Code - 209. See SECTION 16.001 on Pg 122. [Companion to HB 3502.]	TPC Ch 209 - §209.00592(a-1) eliminates one	SF	<b>#4</b>
<b>HB 4026</b> Roberts	<b>GOVERN - BOARD QUALIFICATIONS.</b> Status. Moving. H Committee heard bill 4/27, approved substitute (revised) version 4/19, and sent to be calendared for H floor vote - on Consent Calendar! This "Pillow-Talk" bill 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. <b>One size does not fit all.</b> What sounds healthy for a large HOA with a pool of board candidates is toxic for a super-small or apathetic HOA. <b>History lesson!</b> 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. <b>[THUMBS DOWN.]</b> [No "substitute" version found on State website as of 4/29.]	TPC §209.00591 adds (d)	SF	<b>#3</b>

PAGE 4 OF 10

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 Guv.

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)

i:\ . . \TX POA Bills - Rpt 6-ACTIVE - thru 4-28-17\_v1 rd=4/30/17 =4/30/17



# ACTIVE REPORT #7 - with ► Omnibus Bill Integrated

## 2017 TEXAS POA-PERTINENT 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-PERTINENT BILLS ~ POSTED ONLINE THROUGH 4/28/17 (in alpha order of topic assigned by Sharon Reuler) 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 4/28/17
HB 2320 Fallon	<b>GOVERN - DECLARANT CONTROL. YIKES! Developers &amp; homebuilders. STOP THIS BILL.</b> 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, <u>1/3 of the board</u> is elected by homeowners when subdivision is <u>only 50% built and sold</u> . At 75% homeowners elect <u>a majority of the directors</u> . HB 2320 also requires that board meetings be held <u>within 10 miles of the subdivision</u> during declarant control. [ <b>THUMBS DOWN</b> . IMPRACTICAL, CUMBERSOME, COSTLY, CONTENTIOUS.]	TPC §209.0051 & §209.00591	SF	<b>#2</b> H B&I <b>PENDING</b> heard 4/24
HB 2827 Oliveira	<b>GOVERN - VOTING.</b> Status. Moving. H Committee heard bill 4/17, approved substitute (revised) version 4/19, and sent to H Consent Calendars. See description of companion SB 1518.	Bus.Org.Code - many sections	Condo & SF	<b>#3</b>
SB 1518 Hancock	<b>GOVERN - VOTING.</b> Status. Moving. S passed bill 4/19 without floor amendment, waiting to be assigned to H committee for public hearing. This bill newly allows <u>vote-splitting</u> by co-owners [such as spouses] who are divided on an issue - only in POAs that are incorporated (most are). Incorporated POAs often have governing docs that prohibit vote-splitting or disqualify votes of feuding co-owners. Vote-splitting is one of the changes to the Corporation Laws in this 33-page Omnibus bill amending many parts of the Texas Business Organizations Code. POA governance is complicated by colliding authorities - the HOA Docs, the Property Code, and the Business Organizations Code - all of which have governance specifications. 8 SECTIONS of 33-page bill pertain to nonprofit corporations or unincorporated nonprofit associations. <u>SEcs 3, 28, 29 &amp; 30 are particularly pertinent to POAs</u> . There was no substantive testimony on this "technical modifications" bill at its 4/4 hearing. In each Chamber, the bill is authored by the Chair of the Committee that hears the bill. Expect passage. [Companion to HB 2827]	Bus.Org.Code - many secs	Condo & SF	<b>#4</b>
HB 1792 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. [ <b>THUMBS DOWN</b> ]	Govt Code - amends Ch 2306	Condo & SF	<b>#1</b> H UrbanAff <b>HEARING</b> <b>5/2</b>

PAGE 5 OF 10

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 Guv.

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)

i:\...TX POA Bills - Rpt 6-ACTIVE - thru 4-28-17\_v1 rd=4/30/17 =4/30/17

# ACTIVE REPORT #7 - with ► Omnibus Bill Integrated

## 2017 TEXAS POA-PERTINENT 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-PERTINENT BILLS ~ POSTED ONLINE THROUGH 4/28/17 (in alpha order of topic assigned by Sharon Reuler) 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 4/28/17
HB 3868 Smithee	<b>LEASING - CRIMINAL HISTORY.</b> Status. Moving. H Committee heard bill 4/24, approved 4/25, and sent to be calendared for H floor vote. 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. <b>BAD.</b> Criminal check may trigger fair housing investigation. See <a href="#">HUD Policy issued 4/4/16</a> . Another <b>BAD</b> - a "majority of owners" is different than owners of a majority of the lots or owners holding a majority of the votes. Also <b>BAD</b> - approval procedure in HB 3868 overrides all other approval procedures. That's a slippery slope. Sadly, no substantive testimony at hearing. [ <b>THUMBS DOWN</b> - RISKY & SLIPPERY]	TPC Ch 209 - adds §209.018	SF	<b>#3</b>
HB 2551 Parker	<b>LEASING - SHORT TERM.</b> See description of companion SB 451. House Bill is pending in House Committee on Urban Affairs, following a long hearing on 4/18.	LocalGovtCode - adds §250.008	Condo & SF	<b>#2</b>
SB 451 Hancock	<b>LEASING - SHORT TERM.</b> Status. Moving. S passed bill on 4/18 with 4 floor amendments (3 others failed), H received 4/19, waiting to be assigned to H committee. 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. Bill states that it <b>does not affect regulation by a POA</b> - which is correctly defined in the substitute version. (Thanks for the fix!) [Companion to HB 2551]	LocalGovtCode - adds §250.008	Condo & SF	<b>#4</b>
HB 755 Parker	<b>SALES - TRANSFER FEE.</b> Not POA-specific. Status. Moving. H passed bill 4/20. Senate still ahead. What started as a statewide bill is now "BRACKETED" for Denton County, only. This "transfer fee" is not the one paid to HOA managers. It does interest <u>developers</u> of large master-planned and mixed-use developments who sometimes use "transfer fees" to fund cultural, educational, and recreational activities for the communities they create. This "transfer fee" is created by a recorded covenant that obligates every future purchaser of a property to pay into a dedicated fund - separate from the POA, but serving same population. In a rush to close a potentially abusive loophole in the statute, the 2011 Legislature severely tightened permitted uses of transfer fees. HB 755 slightly loosens one of the reins for educational activities - but only in Denton county. The Transfer Fee section of the Property Code needs fixing. This bill doesn't do it. [ <b>THUMBS UP FOR EDUCATION &amp; DENTON COUNTY.</b> GROANS FOR THE REST OF TEXAS.]	TPC §5.202 amends (c)  [Bracketed to Denton County]	Condo & SF	<b>#4</b>

PAGE 6 OF 10

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 Guv.

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)

i:\ . . \TX POA Bills - Rpt 6-ACTIVE - thru 4-28-17\_v1 rd=4/30/17 =4/30/17

# ACTIVE REPORT #7 - with Omnibus Bill Integrated

## 2017 TEXAS POA-PERTINENT 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-PERTINENT BILLS ~ POSTED ONLINE THROUGH 4/28/17 (in alpha order of topic assigned by Sharon Reuler) 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 4/28/17
<b>SB 1620</b> Taylor	<b>USES - CHICKENS.</b> Not POA-specific. Status. <b>New &amp; Moving.</b> S passed bill 4/5, waiting to be assigned to House committee for public hearing. This bill endorses everyman's right to raise chickens by voiding <u>government</u> prohibitions against 6 or fewer chickens per . . . <u>individual</u> . Alarms. [1] <b>HOAs &amp; Developers</b> - <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] No limit on maximum chickens per lot - 5 people sharing a house could keep 30 chickens. [3] Not tied to residential use. [4] Not tied to property ownership. <b>Side issue:</b> 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. <u>NOBODY testified against SB 1620 at 3/29 hearing.</u> Being noncontroversial, SB 1620 slid through Senate on Intent Calendar.	Agri Code, adds §251.007 titled "Six Chickens Allowed"	Condo & SF	<b>#4</b>
<b>HB 561</b> Murphy	<b>USES - DELIVERY VEHICLES.</b> Status. Moving. H passed substitute bill 4/27 without amendments, waiting to be assigned to S committee for hearing. HB 561 addresses special State licensing of certain types of delivery vehicles and allows local governments and HOAs to regulate the use of those specially-licensed vehicles. Transportation Code refers to Property Code for the HOA-type definitions. <u>[THUMBS UP FOR DEFINITIONS]</u>	Trans Code	Condo & SF	<b>#4</b>
<b>HB 1966</b> Paul	<b>USES - GUNS.</b> Status. Moving. H Committee heard bill 4/17, approved 4/19, and sent to H Calendars 4/24 to be scheduled for H floor vote. Bill prevents HOA from prohibiting concealed handguns going to or from unit or car. Although bill seems to aim at multifamily residential property, its applicability to "condos" means it applies to detached as well as attached units, and nonresidential as well as residential. [16 authors]	TPC Ch 82 adds §82.121 and Ch 92 adds §92.026	Condo only	<b>#3</b>
<b>SB 1943</b> Hughes	<b>USES - GUNS.</b> Status. Moving. S passed bill 4/19 without amendment, waiting to be assigned to H committee for public hearing. POA can't prevent lawful possession, transportation, storage, or discharge of firearms or ammo.	TPC Ch 202 adds §202.020	Condo & SF	<b>#4</b>

PAGE 7 OF 10

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 Guv.

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)

i:\... \TX POA Bills - Rpt 6-ACTIVE - thru 4-28-17\_v1 rd=4/30/17 =4/30/17



# ACTIVE REPORT #7 - with ► Omnibus Bill Integrated

## 2017 TEXAS POA-PERTINENT 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	<b>POA-PERTINENT BILLS</b> ~ POSTED ONLINE THROUGH 4/28/17 <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 4/28/17
<b>HB 522</b> Schofield	<b>USES - RELIGIOUS DISPLAY.</b> Status. Moving. H Committee heard bill 3/6, approved substitute (revised) version 4/3, and sent 4/7 to H Calendars for H floor vote. 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, HB 522 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 <u>political signs</u> . 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 HB 522 is complicated, convoluted, and confusing as heck. I'm trying hard to find something to like about HB 522 because anything cloaked as religious freedom is likely to pass, even a mucky bill. HB 522 has 25 co-authors in the House and 2 (so far) in the Senate. <b>[THUMBS DOWN]</b> [Companion to SB 1609, referred to S Business & Commerce Comm.]	TPC Ch 202 - amends §202.018	Condo & SF	<b>#3</b>
<b>HB 2508</b> Kuempel	<b>USES - TOWING.</b> Status. Moving. H Committee heard bill 4/3, approved substitute (revised) version 4/20, soon to be en route to H Calendars. 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.) [Substitute not posted as of 4/21]	Adds Title 16 §§401.001 et seq to Property Code	Condo & SF	<b>#3</b>
<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; LocalGovt Code adds 250.008	Condo & SF	<div style="border: 2px solid red; padding: 5px; text-align: center;"> <b>#1 H B&amp;I HEARING 5/1</b> </div>

PAGE 8 OF 10

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 Guv.

# ACTIVE REPORT #7 - with ► Omnibus Bill Integrated

## 2017 TEXAS POA-PERTINENT 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-PERTINENT BILLS ~ POSTED ONLINE THROUGH 4/28/17 (in alpha order of topic assigned by Sharon Reuler) 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 4/28/17
HB 4012 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 HEARING 5/3
HB 1964 Murphy	<b>UTILITIES - SUBMETERED &amp; MASTER METERED WATER &amp; SEWER.</b> Status. Moving. H Committee heard bill 3/29, approved substitute (revised) version 4/19, and sent to H Calendars 4/27 to be scheduled for H floor vote. [See description of companion SB 873]	Water Code Ch 13 - multi sections	Condo	#3
SB 873 Creighton	<b>UTILITIES - SUBMETERED &amp; MASTER METERED WATER &amp; SEWER.</b> Status. Moving. S passed bill 4/20, waiting to be assigned to H committee for public hearing. 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 - forces tenants to use PUD administrative processes before filing lawsuit. Substitute (revised version) adds new definition - "manager of a condominium" = the condominium HOA. (A paving stone to future lawmaking that equates professional management with the HOA board? May be an interesting precedent.) [THUMBS UP] [Companion to HB 1964]	Water Code Ch 13 - multi sections	Condo	#4

(End of 8-page Active Report of POA-Pertinent Bills)

Next page is SECTION-by-SECTION overviews of ► Omnibus HOA Collections Bill (HB 3528 by Vo, SB 2234 by Menendez)

➤ **OMNIBUS HOA COLLECTIONS BILL OVERVIEW**

**Companions: HB 3528 by Vo and SB 2234 by Menendez**

**SECTION-BY-SECTION REPORT OF 6 NEARLY-INDEPENDENT LAWS IN AN 8-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.

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

BILL SECTION	TOPIC - IN NUMERICAL ORDER OF BILL'S SECTIONS	SECTION OF TX PROPERTY CODE CHAPTER 209 AFFECTED	Property Type
1	<b>ASSESS - COLLECTION COSTS.</b> 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. <b>[THUMBS DOWN]</b>	adds §209.0061	SF only
1	<b>ASSESS - DEMAND LETTER.</b> (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.	adds §209.00611	SF only
1	<b>ASSESS - LAWSUIT.</b> 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.	adds §209.00612	SF only
2	<b>ASSESS - PAYMENT PLAN.</b> 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. <b>[Thumbs Up]</b>	§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	<b>ASSESS - PAYMENT.</b> HOA may not refuse partial payments or block payment portals, even under payment plan. <b>[OK]</b>	§209.0063 adds (c)	SF only
5	<b>ASSESS - FORECLOSURE.</b> 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. <b>[THUMBS DOWN]</b>	amends §209.009	SF only