

22 Legislative Changes Affecting HOA's in Texas

(Senate Bill 1588 & the Texas Property Code)

Effective September 1, 2021

The Texas Legislature concluded the 2021 legislative session enacting, among others, Senate Bill 1588 which contained 27 separate sections (the majority of which are summarized below) that either add or modify three chapters of the Texas Property Code. The new and/or modified statutes are summarized below, but such descriptions are not comprehensive of all changes that may directly or indirectly affect certain Home Owner's Associations and nothing contained herein shall be construed as a legal opinion or legal advice. The summary points below are given solely for general informational purposes:

- FEE CAP of \$375 for delivery of subdivision information and \$75 for updates.
- TREC to establish a system for electronic filings of management certificates.
- HOA who has previously filed a management certificate, must refile with TREC no later than June 1, 2022.
- HOA may not collect regular assessments if dedicatory authorization to do so is not filed.
- Remedies of owner if HOA fails to timely deliver subdivision information after the 5th business day after the second request made by certified mail.
- HOA may request contact and lease term information regarding leased property within the subdivision.
- HOA may not adopt a dedicatory instrument prohibiting religious displays on owner's property, unless patently offensive.
- HOA notice requirements to property owner's at least 144 hours prior to board meetings and at least 72 hours prior to a special board meeting.
- Provides for owner's to bring action against an HOA for violating the statutes.
- HOA may not prohibit or restrict installation of pool enclosures, other than by appearance.
- HOA must solicit bids for contracts for services which exceeds \$50,000.00
- HOA contracts for services entered into on or after September 1, 2021 are subject to these statutes.
- HOA may not prohibit security measures on owner's property, other than by appearance.
- Requires HOA to notify owner via certified mail prior to reporting to credit bureaus.
- HOA fines, fees or assessments that become due after September 1, 2021 are subject to these statutes.
- Requires HOA to give owner 45 days to cure delinquencies prior to engaging a debt collection service & passing along fees.
- Allows HOA to use payments received, in priority order, to apply to reasonable attorney's fees.
- HOA must record a management certificate detailing contact information, website, transfer fees, etc. of the company. Requires notice to TREC within 7 days of the filing of management certificates or amendments.
- HOA must post current dedicatory instruments online if using a management company or if subdivision has 60 or more lots.
- Requires HOA to provide certain documentation to owner 10 business days prior to a hearing regarding a violation of a restriction.
- HOA Architectural Review Authority denial notice requirements and provisions to request a hearing within 30 days of notice of denial. Applies if the subdivision has 40 or more lots, but not during development period.
- Restricts HOA from reporting disputed payments to credit bureaus and requires 30 business days notice prior to reporting. Reporting Fees cannot be charged to owner.

**Access Senate Bill 1588 online:
<https://capitol.texas.gov>*