

**SUMMARY OF THE 2013 TEXAS HOA LAW REFORMS
 ENACTED BY THE TEXAS LEGISLATURE**

DESCRIPTION OF CHANGE IN LAW	AFFECTED STATUTE OR CODE	BILL NO. (EFFECTIVE DATE)
<p>Residential Use of Adjacent Lots – A Subdivision HOA cannot enforce or adopt a restrictive covenant that restricts a Homeowner from using an adjacent lot owned by such Homeowner for residential purposes, including using the adjacent lot for the location of buildings, structures or other improvements customarily appurtenant to a residence, such as a garage, sidewalk, driveway, parking area, children's swing or playscape, fence, septic system, swimming pool, utility line, water well and/or, if permitted by the applicable Declaration, the parking or storage of a recreational vehicle. The Homeowner must still obtain advance approval from the architectural committee (or HOA, as applicable) if required by the Declaration and the HOA may still enforce reasonable restrictions in the Declaration regarding size, location, shielding, and aesthetics.</p>	<p>Texas Prop. Code - Chapter 209: adds § 209.015</p>	<p>HB 35 (9/1/2013)</p>
<p>Contracts between Subdivision HOAs and Directors – A Subdivision HOA may only enter into a contract with a current Director, a person related to a current Director, or a company owned by a current Director or a person related to a current Director if: (1) the Subdivision Association has received at least 2 other competitive bids for the contract from persons not associated with the Director, relative, or company (if reasonably available); (2) the applicable Director is not given access to the other bids, does not participate in any Board of Directors' discussion regarding the contract, and does not vote on the award of the contract; (3) the relationship concerning the applicable Director is disclosed to or known by the Board of Directors and the Board of Directors, in good faith and with ordinary care, authorizes the contract by affirmative vote of the majority of the Directors who do not have a conflict of interest; and (4) the Board of Directors certifies by a resolution that the requirements of Section 209.0052 have been met.</p>	<p>Texas Prop. Code - Chapter 209: adds § 209.0052</p>	<p>HB 503 (9/1/2013)</p>
<p>Location of a Flagpole in the Front Yard or attached to a Home – In 2011, the Texas Legislature enacted Section 202.011 of the Texas Property Code, which restricts the enforcement of restrictive covenants that would prohibit a Homeowner from flying the flags of the United States, Texas or a branch of the United States military, but which still allowed a HOA to adopt and/or enforce provisions in its Dedicatory Instruments that would regulate the size, number, and/or location of flags, flag poles and lights used to illuminate flags. In 2013, the Legislature modified Section 202.011 to make clear that an HOA's regulation of the location of flags cannot restrict a Homeowner from erecting at least one flagpole that is located in the front yard of the property or is attached to any portion of the Homeowner's home.</p>	<p>Texas Prop. Code - Chapter 202: modifies § 202.001 and § 202.011</p>	<p>HB 680 (when signed by the Governor)</p>

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<p>Authority of Condominium Associations to Borrow Money– Condominium Associations are now expressly authorized to borrow money and assign as collateral for the loan, the Condominium Association’s right to future income and assessments and its lien rights. If a Condominium Association’s Declaration requires Unit Owner approval for the Condominium Association to borrow money or assign future income, assessments or lien rights, then the vote may be conducted electronically, by absentee ballot, in person or by proxy at a meeting or by written consent, and the approval requirement is the lower of the threshold established by the Declaration or 67%.</p>	<p>Texas Prop. Code - Chapter 82: modifies § 82.102</p>	<p>HB 2075 (9/1/2013)</p>
<p>Obligation of Condominium Associations to Use Insurance Proceeds to Repair or Rebuild and Assessment of Insurance Deductible Expense – An election to not repair or rebuild after the occurrence of a casualty event covered by insurance by at least 80% of the unit owners no longer requires that such election also be approved by each owner of a unit or assigned limited common that will not be repaired or rebuilt and such vote may be conducted electronically or by written ballot without a meeting being held. In addition, if the cost of repair to a unit or common element is less than the insurance deductible, then the party who would be responsible for the repair in the absence of insurance must pay for such costs of repairs. The Board of Directors is now authorized to assess the expense of its insurance deductible as provided by the Declaration, or in the absence thereof, in accordance with a resolution governing the assessment of an insurance deductible expense that is recorded in the local Official Public Records. If the damage to a unit or the common elements was caused by a unit owner or his or her guest or invitee, the Condominium Association may assess the insurance deductible expense and any other expense in excess of the insurance proceeds against such unit owner.</p>	<p>Texas Prop. Code - Chapter 82: modifies § 82.111</p>	<p>HB 2075 (9/1/2013)</p>
<p>Redemption of a Foreclosed Unit – Prior to 2013, if a Condominium Association foreclosed its assessment lien against a unit, such foreclosed unit was subject to a right of redemption by the unit owner only if the unit was purchased by the Condominium Association at the foreclosure sale. Now, a foreclosed unit is subject to a unit owner’s right of redemption regardless of who purchases the unit at an assessment lien foreclosure sale.</p>	<p>Texas Prop. Code - Chapter 82: modifies § 82.113</p>	<p>HB 2075 (9/1/2013)</p>
<p>Authority of Courts to Order Mediation in Expedited Foreclosure Proceedings – In 2011, the Texas Legislature enacted a new law that requires Subdivision Associations to obtain a court order through an expedited foreclosure proceeding before it can non-judicially foreclose its assessment lien. A court in which an expedited foreclosure proceeding is pending may now order the parties to mediate under certain limited circumstances.</p>	<p>Texas Civil Practice and Remedies Code - Chapter 154: adds § 154.0028</p>	<p>HB 2978 (when signed by the Governor)</p>

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<p>Appointment of New Director to Fill a Vacancy – In 2011, the Texas Legislature enacted Section 209.00593, which restricted a Subdivision Association’s Board of Directors from appointing a person to fill a vacancy on the Board unless the vacancy was caused by a resignation, death, or disability. The 2013 Texas Legislature amended Section 209.00593 so as to authorize the Board of Directors to now appoint a person to fill a mid-term vacancy on the Board caused by any reason.</p>	<p>Texas Prop. Code - Chapter 209: modifies § 209.00593</p>	<p>HB 3176 (when signed by the Governor)</p>
<p>Protection of Drought-Resistant Landscaping and Water-Conserving Natural Turf - HOAs cannot enforce a provision of a Dedicatory Instrument that prohibits or restricts a Homeowner from using drought-resistant landscaping or water-conserving natural turf. A HOA may still require a Homeowner to obtain pre-approval of such landscaping or turf from the HOA to ensure, to the extent practicable, maximum aesthetic compatibility with other landscaping in the subdivision, but a HOA’s approval may not be unreasonably denied or withheld.</p>	<p>Texas Prop. Code - Chapter 202: modifies § 202.007</p>	<p>SB 198 (9/1/2013)</p>
<p>Rerecording of Management Certificates – All Texas County Clerks are now required to index management certificates recorded by Subdivision and Condominium Associations as either a “Property Owners’ Association Management Certificate” or a “Condominium Association Management Certificate.” In order to ensure that all management certificates are recorded and indexed appropriately, all Subdivision and Condominium Associations are required to record a new management certificate with the local County Clerk sometime between September 1, 2013, and January 1, 2014.</p>	<p>Texas Prop. Code - Chapters 82 and 209: modifies § 82.116 and § 209.004</p>	<p>HB 2075 and HB 3800 (9/1/2013)</p>

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