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## 2019 TEXAS HOA LAW LEGISLATIVE UPDATE

On May 27, 2019, the Texas Legislature concluded the 2019 legislative session. Although there were a significant number of bills filed that could have had a dramatic effect on the laws governing Texas Homeowners Associations, only a few bills were ultimately enacted by the 2019 Texas Legislature. Such new statutory laws are summarized as follows:

### HOUSE BILL 234

House Bill 234 adds Section 202.020 to the Texas Property Code, which prohibits a property owners association that administers a subdivision development from enforcing any restrictive covenant that would restrict a child under the age of 18 from occasionally operating a lemonade stand (or a stand that sells other non-alcoholic beverages) on real property located in the subdivision development, provided the child has the permission of the owner of such real property.

### HOUSE BILL 302

House Bill 302 adds Section 82.121 to the Texas Property Code, which restricts the ability of a condominium association to regulate the possession of firearms and/or ammunition on common element property. More specifically, Section 82.121 provides that unless possession of a firearm or ammunition on condominium property is prohibited by state or federal law, a condominium association cannot restrict a unit owner, or his or her tenant or guest, from lawfully possessing, carrying, transporting, or storing a firearm or ammunition in the unit owner's unit; in a vehicle located in a common element parking area; or in any other common element area as necessary to enter or exit the condominium, enter or exit the unit owner's unit; or enter or exit a vehicle parked on the common element parking area.

### HOUSE BILL 1025

House Bill 1025 amends Section 209.00591 of the Texas Property Code, which governs membership on a Board of Directors for a property owners association that administers a subdivision development. As amended, Section 209.00591 now permits a property owners association that governs a subdivision

development comprised of multiple sections to specify Board positions that must be elected from a designated section of the subdivision development and to require each Board member representing a section to reside in that section.

Section 209.00591 also now prohibits a person who lives at the same primary residence with a current Board member from also serving on the Board of Directors at the same time. Such new rule, however, does not apply to a property owners association that governs a subdivision development with fewer than 10 residences or to a person who lives at the same primary residence with a developer of a subdivision development during the developer control period.

### **HOUSE BILL 2554**

House Bill 2554 adds a new Chapter 259 to the Texas Election Code, which now governs the placement and display of political signs. House Bill 2554 also recodifies Section 202.009 of the Texas Property Code (which imposes restrictions against the enforcement of restrictive covenants that prohibit the display of political signs) as Section 259.002 of the Texas Election Code. Other than changing the location of the statute from the Texas Property Code to the Texas Election Code, there were no other substantive modifications to the statute.

### **HOUSE BILL 2569**

House Bill 2569 amends Section 82.059 of the Texas Property Code, which governs the requirements of a condominium declaration. As amended, Section 82.059 now waives the requirement to identify the horizontal boundary of a unit on the plats and plans attached to a condominium declaration if the horizontal unit boundaries are described in the condominium declaration itself.

### **SENATE BILL 741**

Senate Bill 741 adds Section 202.020 to the Texas Property Code, which provides that all Texas homeowners associations may not include or enforce a provision in a dedicatory instrument that prohibits, restricts, or has the effect of prohibiting or restricting any person who is otherwise authorized from: (1) lawfully possessing, transporting, or storing a firearm, any part of a firearm, or firearm ammunition; or (2) lawfully discharging a firearm.

### **SENATE BILL 1845**

Senate Bill 1845 adds Chapter 214 to the Texas Property Code, which creates a new statutory procedure for amending dedicatory instruments applicable to non-residential "mixed-use real estate developments" located in the City of Houston. Such new statutory procedure now authorizes a declaration for a mixed-use real estate development to be amended by a vote of a majority of the total votes

allocated to property owners in the mixed-use real estate development entitled to vote on the declaration amendment.

### **SENATE BILL 1969**

Senate Bill 1969 adds Subchapter J to Chapter 22 of the Texas Business Organizations Code (also known as the “Nonprofit Corporation Law”), which establishes procedures for the ratification of void or voidable acts of a nonprofit corporation that are modeled on provisions of the Texas Business Organizations Code applicable to for-profit corporations and similar provisions of the Model Nonprofit Corporation Act.

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