

LEGISLATIVE UPDATE

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Strasburger & Price

State Bar of Texas
37th ANNUAL
ADVANCED REAL ESTATE LAW
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CHAPTER 25



**LEGISLATIVE UPDATE:
SIGNIFICANT BILLS OF THE 84TH TEXAS LEGISLATURE, REGULAR SESSION
AFFECTING REAL ESTATE, LENDING
AND OTHER COMMERCIAL MATTERS**

REAL ESTATE LEGISLATIVE AFFAIRS COMMITTEE
REAL ESTATE, PROBATE AND TRUST LAW SECTION
STATE BAR OF TEXAS
FINAL REPORT

JUNE 25, 2015



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Richard A. Crow maintains a real estate and finance practice, with a focus on the financing, development, acquisition, sale and leasing of commercial properties. He represents lenders in workouts and foreclosures of distressed assets and has worked extensively with nationally recognized nonprofit corporations in the development of supported and low-income, multi-family housing.

PROFESSIONAL AFFILIATIONS

- Admitted, Texas
- State Bar of Texas – Real Estate, Probate and Trust Law Sections
- The College of the State Bar of Texas (2010-present)
- Houston Bar Association – Real Estate Section
- The Houston Economics Club
- Texas Association of Bank Counsel
- Urban Land Institute
- NAIOP

EDUCATION

- University of Houston Law Center, J.D., 1998
- Wright State University, M.S., 1995
- Ambassador University, B.A., 1991

EXPERIENCE

- Represented an out of state investment group in the acquisition and leasing of a large shopping center project in the Houston area.
- Represented a national nonprofit corporation in the financing, development and construction of a Houston area multi-family project.

- Represented a local charter school in the financing and development of a major campus expansion.
- Represented an out-of-state mortgage lender in the foreclosure of a partially constructed shopping center project.
- Represented developer in acquisition through foreclosure of partially completed multi-million dollar residential development in Houston area.

PUBLICATIONS

- *Real Estate Law Update: Texas Assignment of Rents Act (TARA)*, Texas Lawyer (December 2011)
- *Real Law Estate Update*, Texas Bar Journal (September 2009)
- *2009 Residential Landlord-Tenant Law Update: Making Texas (a Little) Less Safe for Landlords*, Client Alert (July 2009)

SPEAKING ENGAGEMENTS

- *Legislative Update, Advanced Real Estate Strategies Course*, Texas Bar CLE (October 2011)
- Co-presenter, Justin V. Switzer, *Real Estate Law Legislative Update*, State Bar of Texas Annual Meeting (June 2011)
- *Real Law Estate Update*, Texas Bar Journal (September 2009)
- *Law Of Mineral Interests: Ranchers, Guns, Oil & Gas and Rigs in the Skyline*, Texas Law of Land Surveying Continuing Education Seminar (April 2009)
- *Distinguished Real Estate Attorneys: A Day in the Life Of...*, Real Estate Law Society, South Texas College of Law (October 2008)

COMMUNITY

- Real Estate Legislative Affairs Committee, Real Estate, Probate and Trust Law Section (REPTL), State Bar of Texas, 83rd Legislative Session, Chair, 2013
- Real Estate Legislative Affairs Committee, Real Estate, Probate and Trust Law Section (REPTL), State Bar of Texas, 82nd Legislative Session, Vice Chair, 2011
- Real Estate Legislative Affairs Committee, Real Estate, Probate and Trust Law Section (REPTL), State Bar of Texas, 81st Legislative Session, Member, 2009

RECOGNITION

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	EFFECTIVE DATES	1
III.	INTERNET RESOURCES	1
IV.	ACKNOWLEDGMENTS	2
V.	SUMMARIES OF NEW LEGISLATION	3
	AGRICULTURE CODE	3
	ALCOHOLIC BEVERAGE CODE	3
	BUSINESS AND COMMERCE CODE	3
	BUSINESS ORGANIZATIONS CODE	4
	CIVIL PRACTICE AND REMEDIES CODE	5
	CONSTITUTION	6
	FAMILY CODE	7
	FINANCE CODE	7
	GOVERNMENT CODE	8
	HEALTH AND SAFETY CODE	13
	INSURANCE CODE	13
	LOCAL GOVERNMENT CODE	15
	NATURAL RESOURCES CODE	16
	OCCUPATIONS CODE	17
	PARKS & WILDLIFE CODE	19
	PENAL CODE	19
	PROBATE CODE	19
	PROPERTY CODE	20
	SECURITIES ACT	29
	TAX CODE	29
	TRANSPORTATION CODE	32
	WATER CODE	33
VI.	REAL ESTATE LEGISLATIVE AFFAIRS COMMITTEE ROSTER	37

I. INTRODUCTION

This is the final report of the Real Estate Legislative Affairs Committee of the Real Estate, Probate and Trust Law Section of the State Bar of Texas (“**RELACs**”). This report summarizes significant bills passed during the Regular Session of the 84TH Texas Legislature affecting real estate, mortgage lending, and other business and commercial issues of interest to Texas real estate law practitioners.

During the Session, Texans’ elected representatives introduced 6,476 bills. Among those bills, RELACs identified over 2,241 to track throughout the Session. From among the bills that were being tracked and passed, RELACs chose for inclusion in this report 119 bills that were believed would be of general interest to practitioners of Texas real estate law.

This report categorizes bill summaries by code in alphabetical order. Some bills may be broad enough in scope to justify placement under multiple codes and/or under multiple titles within a code; however, in the interest of brevity, each bill summary appears in this report only once, under the primarily affected code and title. Consequently, we encourage the reader to carefully review the entire report to ensure recognition of every bill of relevance to a particular topic.

Bill captions in this report are copied from the actual legislation. However, neither the bill caption, nor RELACs’ general summary can address all relevant aspects of each bill. Rather, this report serves only to alert the reader to each bill’s general scope and effect. The reader must choose which bills, if any, merit closer scrutiny for their potential effect on his or her practice.

II. EFFECTIVE DATES

Pursuant to Section 39, Article III, of the Texas Constitution, the effective date of acts without specific effective dates (and without provisions for immediate effect) passed by the Legislature in regular session is ninety-one days after adjournment of the regular session. For the 84TH Legislature’s Regular Session this date is Monday, August 31, 2015. If, however, a bill

has a provision for immediate effect and is passed by a two-thirds majority in each of the House and Senate, then the bill becomes law immediately upon: (a) the date the Governor signs it, (b) the date the Governor files it with the Secretary of State (with neither signature, nor veto), (c) in the absence of signing or filing, the date the deadline for gubernatorial action expires, or (d) if the Governor vetoes the bill, the date the Legislature overrides the veto.

To reduce the potential for confusion and uncertainty as to effective dates, this report states the earliest effective date for each summarized bill as reported by the Texas Legislative Service on its website. RELACs advises the reader to review these effective dates because a substantial number of bills included in this report have effective dates prior to August 31, 2015. Note as well that different portions of a bill may have different effective dates and the summaries in this report do not necessarily indicate all effective dates within a bill.

III. INTERNET RESOURCES

Bills from the 84th Texas Legislature can be accessed the official website for the Texas legislature at:

<http://www.capitol.state.tx.us>.

Additionally, this report hyperlinks each bill summary to the final, enrolled version of the bill as posted on the Texas Legislature’s website. Simply right-click on the bill number, choose “Open Hyperlink” from the drop-down menu, and the enrolled bill will appear in your web browser.

IV. ACKNOWLEDGMENTS

RELACs is almost entirely dependent on volunteer efforts from real estate lawyers across the State. Without these lawyers' collective efforts, this report would not be feasible.

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V. SUMMARIES OF NEW LEGISLATION**AGRICULTURE CODE****Title 4. Agricultural Organizations****House Bill 2350**

Relating to the amount that may be used to guarantee loans under the Texas Agricultural Finance Authority's agricultural loan guarantee program.

Amends Agriculture Code, Section 58.052(c)

Author: Anderson Sponsor: Kolkhorst

Increases the aggregate amount of loans that the Texas Agricultural Finance Authority may guarantee from three-fourths of the amount in its Loan Guarantee Fund to three times such amount.

Effective Date: September 1, 2015

Title 6. Production, Processing, and Sale of Horticultural Products**House Bill 942**

Relating to the storage of certain hazardous chemicals.

Amends Chapter 63 of the Agriculture Code, Chapter 417 of the Government Code, Chapters 505, 506 and 507 of the Health and Safety Code, and Chapter 7 of the Water Code, and repeals certain provisions of Chapters 505 to 507 of the Health and Safety Code

Author: Kacal Sponsor: Birdwell

Enhances safety oversight of ammonium nitrate storage facilities by permitting entry by local or state fire authorities. Provides for enhanced storage requirements for ammonium nitrate. Provides for local and state fire marshal inspections, reporting and enforcement authority with respect to hazardous chemical storage. A storage facility must update its reports (on "tier two" forms) in response to changes in amount of substances or stored and deficiency notices from the inspecting fire marshal or fire department. Transfers regulatory oversight from the Health

and Human Services Commission to the Texas Commission for Environmental Quality (TCEQ) and enhances its enforcement authority including rule-making authority and the ability to assess penalties, fines and order corrective actions.

Effective Date: Immediate

ALCOHOLIC BEVERAGE CODE**Title 5. Regulatory and Penal Provisions****House Bill 2533**

Relating to the repeal of an offense prohibiting offensive noise on a premises covered by an alcoholic beverage license or permit.

Repeals Alcoholic Beverage Code, Section 101.62

Author: Goldman Sponsor: Seliger

Clarifies that an items (e.g., televisions and speakers) projecting sounds outside of a bar or other premises covered by a TABC license are not prohibited by law, per se.

Effective Date: September 1, 2015

BUSINESS AND COMMERCE CODE**Title 1. Uniform Commercial Code****Senate Bill 1077**

Relating to the definition of "person" under the Uniform Commercial Code.

Amends Business & Commerce Code, Section 1.201(b)(27)

Author: Eltife Sponsor: Parker

Amends the definition of "person" to include "a particular series of a for-profit entity."

Effective Date: Immediate

Title 2. Competition and Trade Practices

House Bill 2573

Relating to a deceptive trade practice related to the use of certain words to imply that a person who is not an attorney is authorized to practice law and the prosecution of a cause of action arising from that practice.

Amends Business & Commerce Code, Section 17.46(b)

Author: Johnson Sponsor: Lucio

Adds to violations of the Texas DTPA a person translating words such as "attorney," "lawyer," "licensed" and "notary" into foreign languages on advertisements for the purpose of implying that someone is authorized to practice law in the United States who is in fact not authorized to do so. Prohibits using such words on advertisements, websites, letterhead or business cards.

Effective Date: September 1, 2015

Title 3. Insolvency, Fraudulent Transfers, and Fraud

House Bill 2590

Relating to providing a remedy for fraud committed in certain real estate transactions.

Amends Business & Commerce Code, Chapter 27

Author: Johnson Sponsor: West

Includes real estate title transfer fraud as a violation of the Texas DTPA. Allows city attorneys to prosecute an action under this section and requires 75% of any collection of fees by city, county or district attorney to be deposited "in the general fund of the county or municipality in which the violation occurred."

Effective Date: September 1, 2015

BUSINESS ORGANIZATIONS CODE

Title 1. General Provisions

Senate Bill 860

Relating to corporations and fundamental business transactions.re

Amends Business Organizations Code, Chapters 1, 2, 10, 20 and 21

Author: Eltife Sponsor: Oliveira

Provides that certificates of amendment to for-profit corporation certificates of formation may be signed by officers of the corporation, or, if none, the directors named in the certificate. Specifies that certain mergers of Texas Business Organizations Code entities may not occur if they create personal liability on behalf of owner of shares or interests in a merging entity. Provides that plans of merger, exchange or conversion may incorporate other facts not specifically stated in such plans as long as the impact or use of such facts is clearly provided in the plans. Provides that plans may also refer to or attach to the plans certificates of amendment or restated certificates of formation for involved parties. Specifies notices that a merging entity must give to dissenting shareholders. Provides for a 10-year time limit on corporate shareholder agreements, unless the agreements provide otherwise. Adopts additional provisions that bylaws may include regarding expense reimbursements in proxy matters and shareholder consents with respect to merger events. Provides means for subsequent ratification of corporate actions which were defective when adopted including with respect to the issuance of shares; specifies director and shareholder steps to approve resolutions that ratify such acts.

Effective Date: September 1, 2015

House Bill 2891

Relating to certain filing and reporting requirements for taxable entities.

Amends Business Organizations Code, Sections 4.156, 153.01 and 302.012(a); amends Tax Code, Section 171.203

Author: Otto Sponsor: Perry

Eliminates the fee for filing an annual statement by foreign professional associations. Clarifies that the secretary of state may only require limited partnerships to file a report every four years if they do not also file an annual public information report. Expands the requirement for filing an annual report with the comptroller to include limited partnerships and professional associations that pay franchise taxes and requires such reports to include names of affiliated entities, i.e., owners of more than 10% in the filing entity.

Effective Date: January 1, 2016

Senate Bill 1313

Relating to the names of certain businesses.

Amends Business Organizations Code, Sections 5.053(b), 5.102(b) and 5.153(b)

Author: Watson Sponsor: Villalba

Requires a notarized written statement by a person holding a reserved or registered entity name who has agreed to the use or reservation of a similar name by another person or entity.

Effective Date: Immediate

Title 4. Partnerships

Senate Bill 859

Relating to partnerships and limited liability companies.

Amends Business Organizations Code, Sections 4.158, 152.002(b), 152.802, 152.806, 153.051(a), 154.204 and 402.001(c); adds Business Organizations Code, Section 101.055; repeals Business Organizations Code 101.351 and 152.802(g)

Author: Eltife Sponsor: Oliveira

Clarifies that the day of counting the number of partners in a limited liability partnership for purposes of paying the annual report filing fee is the date of filing the report. Defines the requirements of a power of attorney granted to a limited liability company or a limited liability partnership by its members or prospective

member with respect to organizational, internal or termination matters. Requires a limited liability partnership to file an application for registration and expands the presumptive life of a limited liability partnership's registration to the time it is withdrawn or terminated. Adds a requirement for annual reports for a limited liability partnership and the information to be included. Provides that if such report does not get filed, the limited liability partnership's registration is terminated.

Effective Date: September 1, 2015

CIVIL PRACTICE AND REMEDIES CODE

Title 2. Trial, Judgment, and Appeal

House Bill 2067

Relating to the rescission or waiver of an acceleration of the maturity date of certain debt secured by a lien on real property.

Adds Civil Practice and Remedies Code Section 16.038, Subchapter B, Chapter 16,

Author: Oliveira Sponsor: Zaffirini

Provides that if the maturity date of a note is accelerated and subsequently rescinded or waived in accordance with the requirements of Section 16.038 before the limitations period expires, then the acceleration is deemed rescinded and waived and the note is governed by Civil Practices & Remedies Code Section 16.035 as if no acceleration had occurred. A notice served under Section 16.038 does not affect a lienholder's right to accelerate the maturity date of the debt in the future or waive past defaults. Section 16.038 does not create an exclusive method for waiver and rescission of acceleration or affect the accrual of a cause of action and the running of the related limitations period under Civil Practices & Remedies Code Section 16.035(e) on any subsequent maturity date, accelerated or otherwise, of the note. Applies to a maturity date accelerated before, on, or after the effective date of the Act, as well as any notice of a rescission or waiver of an accelerated maturity date served before, on, or after such effective date.

Effective Date: Immediate

Title 4. Liability in Tort

House Bill 262

Relating to liability of an owner, lessee, or occupant of land that allows land to be used as a community garden.

Adds Section 75.0025; amends Section 75.003(b) of the Civil Practice and Remedies Code

Author: Miles Sponsor: Creighton

Act relates to both “community gardens” and agricultural land.

Provides that an owner, lessee, or occupant of land who gives permission to another person to enter and use the land as a “community garden” is not required to ensure that the premises are safe or assume responsibility or incur any liability for bodily injury or death or property damage, or acts of third parties. Clarifies that the doctrine of attractive nuisance does not apply to a claim that is subject to this section. “Community garden” is defined as premises used for recreational gardening by a group of people residing in a neighborhood or community for the purpose of providing fresh produce for their benefit. Requires warning sign containing the following language:

WARNING TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE) LIMITS THE LIABILITY OF THE LANDOWNER, LESSEE, OR OCCUPANT FOR DAMAGES ARISING FROM THE USE OF THIS PROPERTY AS A COMMUNITY GARDEN.

Applies only to causes of action accruing on or after the effective date of the Act.

Effective Date: September 1, 2015

House Bill 2303

Relating to a landowner's liability for injuries incurred during certain recreational activities.

Amends Civil Practice and Remedies Code Section 75.001(3),

Author: Kuempel Sponsor: Huffman

Adds “recreational off-highway vehicles” to the list of “recreation” activities for which an owner, lessee or occupant of land is not deemed to: (i) assure that premises are safe, (ii) owe a greater degree of care than is owed to a trespasser, or (iii) assume responsibility or incur liability for any bodily injury or property damage with respect to the person engaged in the activity. Applies only to causes of action accruing on or after the effective date of the Act.

Effective Date: Immediate

CONSTITUTION

House Joint Resolution 75

Proposing a constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a 100 percent or totally disabled veteran who died before the law authorizing a residence homestead exemption for such veteran took effect.

Amends Article VIII, Section 1-b of the Texas Constitution by adding subsection (j-1); would amend subsection (k) of Article VIII, Section 1-b of the Texas Constitution.

Author: Bonnen Sponsor: Taylor

Provides property tax relief to additional surviving spouses of disabled veterans. Expands the number of eligible surviving spouses who may take advantage of the disabled veteran's homestead exemption by permitting the surviving spouse of a deceased disabled veteran who was deceased prior to the creation of the applicable veteran's exemption to take advantage of the veteran's residential homestead exemption.

Effective date: January 1, 2016, if constitutional amendment approved by voters.

Senate Joint Resolution 1

Proposing a constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes and providing for a reduction of the limitation on the total amount of ad valorem taxes that may be imposed for those purposes on the homestead of an elderly or disabled person to reflect the increased exemption amount, authorizing the legislature to prohibit a political subdivision that has adopted an optional residence homestead exemption from ad valorem taxation from reducing the amount or repealing the exemption, and prohibiting the enactment of a law that imposes a transfer tax on a transaction that conveys fee simple title to real property.

Amends various sections of Article VIII, Texas Constitution

Author: Nelson Sponsor: Bonnen

Increases the mandatory school-tax homestead exemption from \$15,000 to \$25,000 effective for the 2015 property tax year. Allows the legislature to prohibit a political subdivision that exempts a percentage of market value from taxation from reducing or repealing such exemption. Prohibits transfer or conveyance taxes on sales of fee simple interests in real property, which are often utilized to generate tax revenue in other states, i.e., the legislature will be prohibited from imposing such taxes without another constitutional referendum.

Effective Date: If constitutional amendment approved by voters, effective upon certification of the election results by the governor, which typically occurs in late November or early December.

Senate Joint Resolution 17

Proposing a constitutional amendment relating to private road work by certain counties.

Amends Article III, Section 52(f), Texas Constitution

Author: Drew Sponsor: Springer

Increases the maximum county size that may construct and maintain private roads to 7,500 from 5,000 to reflect population growth in Texas.

Effective Date: If constitutional amendment approved by voters, effective upon certification of the election results by the governor, which typically occurs in late November or early December.

FAMILY CODE

Title 1. The Marriage Relationship

Senate Bill 815

Relating to a temporary restraining order for preservation of property and protection of the parties in a suit for the dissolution of marriage.

Amends Family Code, Section 6.501(a)

Author: Rodriguez Sponsor: Thompson

Expands the laundry list of activities that a court may prohibit by a temporary restraining order to include the transfer, assignment, mortgage, encumbrance, or alienation of any real property of the parties to a dissolution of marriage without the prior authorization of the court.

Effective Date: September 1, 2015

FINANCE CODE

Title 3. Financial Institutions and Businesses

House Bill 2394

Relating to the compelled production of certain customer records by a financial institution.

Amends Finance Code, Section 59.006

Author: Darby Sponsor: Creighton

Prohibits a court from ordering a financial institution to produce a record requested in discovery if the party requesting such record has not paid the financial institution's costs or posted a cost bond.

Effective Date: September 1, 2015

Senate Bill 1203

Relating to exemptions from the applicability of the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009 and other laws applicable to residential mortgage loan originators.

Amends Finance Code, Sections 156.202(a-1), 157.0121(c) and 180.003(a)

Author: Rodríguez Sponsor: Pickett

Expands exemption from licensing and registration under the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009 to include 501(c)(3) non-profit organizations originating mortgage loans for borrowers who have "provided at least 200 labor hours or 65 percent of the labor to construct the dwelling securing the loan."

Effective Date: September 1, 2015

**Title 4. Regulation of Interest, Loans, and
Financed Transactions**

House Bill 1626

Relating to the designation of certain areas as banking or credit union development districts to encourage the establishment of branches of banks or credit unions in those areas.

Amends Finance Code by adding Chapter 279

Author: Johnson Sponsor: West

Authorizes designation of "banking development districts" and "credit union development districts" to encourage new branch banks and credit unions in areas where "there is

a demonstrated need" for their services. Provides for applications by local governments "in conjunction with" banks or credit unions. Authorizes deposits of local and state funds earning interest below posted rates.

Effective Date: Immediate

House Bill 831

Relating to disclosure of home mortgage information to a surviving spouse.

Amends Finance Code, Chapter 343

Authors: Giddings Sponsor: West

Requires residential mortgage servicer to provide to the surviving spouse of mortgagor the loan number, the current balance, whether any amounts are delinquent and what amount, if any, is held in escrow, within 30 days of receiving a request for said information. Requires request from surviving spouse to include specific language referenced in the statute, a death certificate of the mortgagor, an affidavit from a disinterested party in a form similar to an Affidavit of Heirship as set forth in Estates Code Section 203.002, and an affidavit from the surviving spouse stating the property is the surviving spouse's primary residence.

Effective Date: September 1, 2015

GOVERNMENT CODE

Title 2. Judicial Branch

Senate Bill 478

Relating to the promulgation of certain forms for use in landlord-tenant matters.

Adds Government Code Section 22.019

Author: Zaffirini Sponsor: Thompson

Requires the Texas Supreme Court to promulgate "plain language" (in English and Spanish) forms and instructions for use by individuals representing themselves in residential landlord-tenant matters. Forms are to be made available by the court clerk free of charge. The Spanish language-translated form is

to be used solely for the purpose of assisting in understanding the form and may not be submitted to the court (only the English version of the form must be submitted to the court). Requires a court to accept a form promulgated by the Texas Supreme Court unless the form has been completed in a manner that causes a substantive defect that cannot be cured.

Effective Date: September 1, 2015

[House Bill 2536](#)

Relating to jurisdiction in an eminent domain proceeding in Harris County.

Amends Government Code Section 25.1032(c), and creates a new subsection (d) from a provision in subsection (c)

Author: Harless Sponsor: Whitmire

Under the Act, a county civil court at law has exclusive jurisdiction in Harris County of “eminent domain proceedings, both statutory and inverse,” if the amount in controversy in a “statutory proceeding” does not exceed \$200,000 (excluding interest and attorney's fees and costs) which is the amount provided by Section 25.0003(c) of the Gov’t Code in civil cases. Prior to the Act, the amount in controversy was unlimited.

Notwithstanding Section 21.013, Property Code, a party initiating a condemnation proceeding in Harris County may file a petition with the district clerk when the amount in controversy exceeds the amount provided by Section 25.0003(c), Gov’t Code. Clarifies that the amount in controversy is the amount of the bona fide offer made by the entity with eminent domain authority to acquire the property from the property owner voluntarily.

Note: There is some ambiguity whether the new limit applies to inverse proceedings, because although the words “both statutory and inverse” are used in the descriptive first part of the first three sentences in the Act, only the words “statutory proceeding” are used in the limiting second part of the first sentence in the Act.

Effective Date: September 1, 2015 for an eminent domain proceeding for which a petition is filed on or after September 1, 2015.

[Senate Bill 1876](#)

Relating to the appointment of attorneys ad litem, guardians ad litem, mediators and guardians in certain counties.

Adds Government Code, Chapter 37

Author: Zaffirini Sponsor: Smithee

Establishes requirements for the appointment of attorneys ad litem, guardians ad litem, mediators and guardians in counties with a population over 25,000, subject to exceptions for ADR mediations under Chapter 152, Civil Practices and Remedies Code, guardian ad litem appointed under certain provisions of the Family Code, and persons appointed under a domestic relations office established pursuant to the Family Code. Requires local administrative judge to create a list or lists of all qualified attorneys and other qualified persons who may serve as attorneys ad litem, guardians ad litem, mediators and guardians, which lists must be posted at the courthouse and on the Internet. Courts must use a rotating system and appoint the next person appearing on the applicable list. Allows court to appoint others not on if the list if the parties to a case agree or a matter requires special expertise; provided, however, any person who is skipped in the appointment process must remain on the top of the list for the next appointment.

Effective Date: September 1, 2015

[Senate Bill 1116](#)

Relating to a notice or document sent by mail or electronic mail by a court, justice, judge, magistrate, or clerk of a judicial court.

Adds Government Code, Chapter 80

Author: West Sponsor: Smithee

Act authorizes a court, justice, judge, magistrate, or clerk to send any notice or document using “mail” or electronic mail. Applies to all civil and criminal statutes requiring delivery of a

notice or document. “Mail” means regular U.S. regular mail, without any method of signature, receipt or delivery confirmation and certified, Registered, and Express mail are expressly excluded from the definition. FedEx, etc. and hand-delivery are also excluded. If email is used, and the recipient is registered with the court’s electronic filing system, the email address on file with the system is to be used; and if the recipient is not registered with the court’s electronic filing system or the court does not use an electronic filing system, the court, justice, judge, magistrate, or clerk must use the email address provided by the recipient.

Effective Date: September 1, 2015

Senate Bill 534

Relating to the oath of a person admitted to practice law in the State of Texas.

Amends Government Code Section 82.0137(a)

Author: Watson Sponsor: Smithee

Updates the required oath for lawyers seeking admission to practice law by (i) removing male-oriented language so as make the oath more inclusive and reflective of the gender diversity presently in the practice of law and (ii) adding the statement that the they swear to conduct themselves with “integrity and civility in dealing and communicating with the court and all parties.”

Effective Date: Immediate

Title 3. Legislative Branch

Senate Bill 523

Relating to the sunset review of river authorities.

Adds Government Code Section 325.025

Author: Birdwell Sponsor: Keffer

Adds Section 325.025 to the Government Code and makes conforming amendments to provide for sunset review of following river authorities:

Angelina and Neches River Authority;

Bandera County River Authority and Groundwater District;
Brazos River Authority;
Central Colorado River Authority;
Guadalupe-Blanco River Authority;
Lavaca-Navidad River Authority;
Lower Colorado River Authority;
Lower Neches Valley Authority;
Nueces River Authority;
Palo Duro River Authority of Texas;
Red River Authority of Texas;
Sabine River Authority of Texas;
San Antonio River Authority;
San Jacinto River Authority;
Sulphur River Basin Authority;
Trinity River Authority of Texas;
Upper Colorado River Authority; and
Upper Guadalupe River Authority.

Effective Date: Immediate

Title 4. Executive Branch

House Bill 1683

Relating to an identifying number assigned to a notary public by the secretary of state.

Amends Government Code, Chapter 406, Section 406.001

Author: Bohac Sponsor: Huffman

Requires the Secretary of State to assign an identifying number to each notary public and to keep a record of it. Adds the identifying number to the notary public’s seal.

Effective Date: January 1, 2016

House Bill 2235

Relating to the eligibility requirements of a notary public.

Amends Government Code, Chapter 406, Sections 406.004 and 406.009

Author: Anderson Sponsor: Birdwell

Provides that the Secretary of State must reject an applicant to be a notary public or revoke the notary public’s commission if the Secretary of State discovers that the notary public is not

eligible to serve. Clarifies that Secretary of State does not have discretion with respect to applicants or licensees convicted of a crime of moral turpitude by removing language providing that such conviction is “good cause” to reject an application or suspend or revoke a license, but retaining the requirement that applicants and licensees may not be convicted of a crime of moral turpitude.

Effective Date: September 1, 2015

House Bill 910

Relating to the authority of a person who is licensed to carry a handgun to openly carry a holstered handgun; creating criminal offenses.

Repeals Government Code, Section 411.171(3) and amends Government Code, Subchapter H

Author: Phillips

Sponsor: Estes

Provides for the licensing of persons to openly carry handguns and for the open carry of handguns by licensed persons in a concealed manner or in a shoulder or belt holster. Amends numerous code sections tangential to concealed handgun license carry limitations and signage by deleting the word “concealed” to allow for the change in law permitting open carry.

Effective Date: January 1, 2016

Title 5. Open Government; Ethics

Senate Bill 46

Relating to the confidentiality of certain property tax appraisal photographs.

Amends Government Code, Chapter 552, adding Section 552.155; amends Government Code, Chapter 552, Section 552.22, amending Subsection (a) and adding Subsection (c-1)

Author: Zaffirini

Sponsor: Raymond

Excepts from public information laws interior photographs of an improvement to property taken by the chief appraiser or authorized representative of an appraisal district for property appraisal purposes. Provides that a governmental body shall disclose such a

photograph to a requestor who had an ownership interest in such improvement on the date the photograph was taken. Provides that, subject to confidentiality, the images may be used as evidence in a property tax protest and appeal if the same are relevant to the determination of a matter protested or appealed. Under limited circumstances, the statute permits the images to be utilized to make a determination as to the location of equipment used in the production or transmittal of oil or gas for taxation purposes.

Effective Date: September 1, 2015

Title 10. General Government

Senate Bill 1812

Relating to transparency in the reporting and public availability of information regarding eminent domain authority; providing a civil penalty.

Adds Government Code, Chapter 2206, Subchapter D

Author: Kolkhorst

Sponsor: Geren

Requires the comptroller to create an eminent domain database including the name, address, and representative of each entity authorized by the state to exercise the power of eminent domain. Requires that the database identify the scope of eminent domain granted to the entity, among other information including the entity’s website address and whether or not the entity exercised its eminent domain authority in the past year. Requires entities with the power of eminent domain to submit an annual report to the comptroller in order to update the information database, including whether or not the entity exercised its eminent domain authority in the past year. Provides for a civil penalty for entities with eminent domain power who fail to submit the annual reports to the comptroller. Comptroller must create public website for database by September 1, 2016. Improves landowner access to entities that have eminent domain powers and is noteworthy for energy industry attorneys, especially those of companies with eminent domain powers for pipelines, who will now be subject to the reporting requirements of the bill.

Effective Date: September 1, 2015

House Bill 3576

Relating to restrictions on the use, transfer, and sale of housing developments that have received certain financial assistance administered by the Texas Department of Housing and Community Affairs.

Amends various sections of Government Code, Chapter 2306

Author: Alvarado Sponsor: Menendez

Requires the Department of Housing and Community Affairs to develop rules to provide for amendment of land use restriction agreements. Clarifies that certain transfers of a development that has received housing tax credits will not be subject to a right of first refusal if the entity to which the transfer occurs meets certain requirements, including that the entity's primary purpose be to facilitate the financing of the rehabilitation of the development. Clarifies that the right of first refusal created under the chapter does not apply after a certain time period. In doing so, lessens the burden on transfer restrictions on certain types of property and endeavors to ensure that entities can be created to rehabilitate properties receiving tax credits for low-income housing without losing property rights.

Effective Date: September 1, 2015

House Bill 1428

Relating to the administration of housing funds set aside for persons with disabilities through the homebuyer assistance program.

Adds Government Code, Section 2306.11(c-3)

Author: Raymond Sponsor: Zaffirini

Prohibits Department of Housing and Community Affairs from requiring disabled persons seeking to obtain funds through the homebuyer assistance program to execute a contract for purchase of a home before applying for such funds. Requires the Department to implement a preapproval process so eligible

disabled persons may take advantage of the program by December 31, 2015.

Effective Date: September 1, 2015

House Bill 3311

Relating to the scoring criteria for an application for a low-income housing tax credit and the allocation of those credits to developments reserved for elderly persons.

Amends Government Code, Chapter 2306, Sections 2306.6710, 2306.6711 and 2306.6725

Author: Alvarado Sponsor: Nichols

Modifies scoring criteria TDHCA must use to judge competing applications for low-income housing tax credits, especially regarding elderly housing and support from local political subdivisions (and their commitments of development funding). Adds a formula to allocate tax credits for elderly housing to urban subregions. Contains other provisions.

Effective Date: September 1, 2015

Senate Bill 1989

Relating to the underwriting standards for evaluating applications for low-income housing tax credits.

Amends Government Code, Sections 2306.148 and 185

Author: Menendez Sponsor: Anderson

Imposes underwriting requirements for the use of housing tax credits for low-income housing developments by the Texas Department of Housing and Community Affairs. Requires that the Department determine the feasibility of a development that may receive housing tax credits by examination of the actual net operating income of the development and a maximum debt coverage ratio of 1.50 or higher as adopted by department rule. Requires that the Department consider private equity partner requirements as documented in loans for the construction of the project to make a determination of feasibility.

Effective Date: September 1, 2015

House Bill 74

Relating to certain financial assistance administered by the Texas Department of Housing and Community Affairs in certain rural areas.

Adds Government Code, Section 2306.6702(a)(12) and (17); adds Government Code, Section 2306.6740

Author: Gonzalez Sponsor: Zaffirini

Permits the Texas Department of Housing and Community Affairs to designate certain areas as a “rural area” for purposes of receiving housing tax credits. Provides that rules adopted by the Department under Section 2306.6740 must (i) include procedures for applying for a rural designation; (ii) provide guidelines for designating an area as a rural area; and (iii) ensure that any housing tax credits designated for a rural area comply with applicable federal requirements.

Effective Date: September 1, 2015

House Bill 3535

Relating to low-income housing credits awarded for certain developments.

Adds Government Code, Section 6711(g)

Author: Collier Sponsor: Menendez

Requires that housing tax credits in Fort Worth, Houston, Dallas, and San Antonio (technically housing credits in a municipality of 500,000 or more in a county with a population of 1.7 million or more) be allocated to the highest scoring development that is part of an urban revitalization plan. Intended to lower risk of litigation for large cities seeing to utilize housing credits to boost urban revitalization plans.

Effective Date: September 1, 2015

HEALTH AND SAFETY CODE

Title 4. Health Facilities

House Bill 2559

Relating to leases and other agreements relating to real property entered into by certain hospital districts.

Amends Health and Safety Code, Sections 281.050(b) and 281.0511

Author: Zerwas Sponsors: Watson

Allows the board of a hospital district in a county with more than 191,000 inhabitants to enter into “a lease with an option to purchase, an installment purchase agreement, an installment sale agreement, or any other type of agreement that relates to real property considered appropriate by the board.” Such agreements may be for the development, improvement, leasing or management of developed or undeveloped land.

Effective Date: Immediate

INSURANCE CODE

Title 4. Regulation of Solvency

Senate Bill 1008

Relating to the authority of certain domestic life, health, and accident insurance companies to make investments in mezzanine real estate loans.

Amends Insurance Code, Section 425.1185

Author: Eltife Sponsor: Frullo

Permits an insurance company with more than \$10 billion in “admitted assets” to invest in a mezzanine real estate loan. Requires that the insurance company’s cumulative investment in such loans may not exceed three percent of its admitted assets. Prohibits the sum of the first mortgage on the real estate and the mezzanine real estate loan from exceeding 100 percent of the value of the current appraised value of the real estate. Requires that the loan documents include various special purpose entity (SPE) and bankruptcy remoteness provisions.

Effective Date: September 1, 2015

Title 5. Protection of Consumer Interests**Senate Bill 956**

Relating to the delivery of personal automobile and residential property insurance policies; adding provisions that may be subject to a criminal penalty.

Adds Insurance Code, Chapter 525

Author: Eltife

Sponsor: Muñoz

Establishes deadlines for policy delivery based on length of policy term: (1) within 30 days, for terms greater than 30 days; (2) within 10 days, for terms greater than 10 days and less than 31 days; (3) within the policy period, for terms of 10 days or less; and (4) within 15 days of a policyholder's request for delivery, regardless of policy term.

Effective Date: September 1, 2015

Title 10. Property and Casualty Insurance**Senate Bill 498**

Relating to building code requirements for residential property insured by the Texas Windstorm Insurance Association.

Amends Insurance Code, Section 2210.251(f)

Author: Taylor

Sponsor: Bonnen

Eliminates the scheduled December 31, 2015, expiration of the subsection authorizing the Texas Windstorm Insurance Association to insure, under certain circumstances, a residential structure that was built, remodeled or repaired on or after June 19, 2009, but not in compliance with applicable building codes.

Effective Date: Immediate

Senate Bill 900

Relating to the operation of the Texas Windstorm Insurance Association.

Amends, adds, and repeals various sections of Insurance Code, Chapter 2210

Author: Taylor Sponsor: Bonnen

Omnibus Texas Windstorm Insurance Association (TWIA) bill, dealing primarily with TWIA's administration, operation, governance, and financial structure.

Effective Date: September 1, 2015

Title 11. Title Insurance**House Bill 2491**

Relating to licensing and appointment of title insurance escrow officers; changing the limit applicable to a fee; authorizing a fee.

Amends various sections of Insurance Code, Chapter 2652; adds Insurance Code, Sections 2652.058(g), 2652.1511, and 2652.203(e); repeals Insurance Code, Sections 2652.057(b) and 2652.152

Author: Pickett

Sponsor: Eltife

Shifts the responsibility for obtaining and maintaining an escrow officer license from the title agency (or agencies) employing an escrow officer to the escrow officer herself (or himself). Eliminates the requirement that an escrow officer hold a separate license for each employing agency, and in its place creates a process by which an escrow officer must be appointed by each employing agency and record of said appointment must be provided to the Texas Department of Insurance. Revises the escrow officer surety bond or deposit requirement such that the escrow officer must be covered by a bond or deposit, but is no longer required to personally maintain same.

Effective Date: September 1, 2015

Title 13. Regulation of Professionals**Senate Bill 1060**

Relating to the regulation of public insurance adjusters.

Amends Insurance Code, Sections 4102.051(a), 4102.066(a)-(b), 4102.104(d), 4102.158(a) and 4102.160; adds Insurance Code, Sections 4102.103, 4102.158(d)-(f) and 4102.164; repeals Insurance Code, Section 4102.069

Author: Hinojosa Sponsor: Thompson

Repeals the registration requirement for adjuster trainees, and eliminates the corresponding adjuster trainee temporary certificate. Prohibits a licensed public insurance adjuster to contract with an insured and collect commission without intending to perform services customarily performed by a public insurance adjuster, including for the primary purpose of referring an insured to an attorney. Restricts a licensed public insurance adjuster from receiving any direct or indirect financial benefit from any business benefitting from a claim the adjuster is associated with. Prohibits adjusters from accepting referral payments from any entity involved with a claim, such as a construction company, attorney, or appraiser.

Effective Date: September 1, 2015

LOCAL GOVERNMENT CODE

Title 2. Organization of Municipal Government

House Bill 1949

Relating to the annexation of certain roads and areas adjacent to those roads.

Amends Local Government Code, Chapter 43, Sections 43.028 and 43.106

Author: Springer Sponsor: Taylor

Allows municipality considering an owner-petitioned annexation to include within the annexation “a public right-of-way of a road or highway” to make the owner’s land contiguous to city limits. Requires municipality annexing a county road (or land abutting the road) to “annex the entire width of the county road and the adjacent right-of-way on both sides of the county road.” Specifies that county controls access to an annexed county road (from un-annexed abutting property), if the annexed road is a gravel road.

Effective Date: September 1, 2015

House Bill 274

Relating to the enforcement of municipal rules, ordinances, or police regulations prohibiting illegal dumping; increasing a penalty.

Amends Local Government Code, Chapter 54, Section 54.001; Government Code, Chapter 29 Section 29.003; Code of Criminal Procedure, Chapter 4, Section 4.14

Author: Miles Sponsor: Lucio

Raises the maximum fine for violating “a rule, ordinance, or police regulation that governs the dumping of refuse” from \$2,000 to \$4,000 (highest of all municipal fines).

Effective Date: September 1, 2015

Title 6. Records

Senate Bill 584

Relating to the indexing of correction instruments in a county index to real property records.

Amends Local Government Code, Chapter 193, Section 193.003

Author: Uresti Sponsor: Simmons

Requires county clerks to index correction instruments in the real property records, by grantor and grantee.

Effective Date: September 1, 2015

Title 7. Regulation of Land Use, Structures, Businesses, and Related Activities

House Bill 2162

Relating to municipal regulation of the use of alarm systems; authorizing a municipal fee.

Amends Local Government Code, Chapter 214 by adding Section 214.1915 and Subchapter F-1 (Sections 214.201, et seq.)

Author: Simmons Sponsor: Campbell

Adds restrictions to certain municipal authorities (i.e., cities with populations below 100,000

located in counties with populations below 500,000) regulating alarm systems. Tightens limits on alarm permit fees, false alarm fees and some penalties and exempts alarm companies from some penalties. Allows property owners to “elect to exclude the municipality from receiving an alarm signal by an alarm system located on the owner’s property,” in which case municipality could not ordinarily impose an alarm permit fee. Exempts a municipality from the changes in the law for so long as it has a “contract with a third party to provide alarm system services,” including amendments.

Effective Date: September 1, 2015

House Bill 2033

Relating to authorizing counties to require the submission of digital maps in connection with the county plat approval process.

Amends Local Government Code, Chapter 232, Sections 232.001, 232.023 and 232.072

Author: Raymond Sponsor: Zaffirini

Authorizes counties to require that plat applications include a digital map meeting certain criteria. Requires exemption if the necessary “digital mapping technology” is not “reasonably accessible.”

Effective Date: September 1, 2015

Senate Bill 267

Relating to the regulation by a municipality or county of the rental or leasing of housing accommodations.

Adds Local Government Code, Chapter 250, Section 250.007

Author: Perry Sponsor: Huberty

Forbids cities and counties from prohibiting housing discrimination against a person “because the person’s lawful source of income to pay rent includes funding from a federal housing assistance program.” Does not apply to ordinances or regulations protecting veterans from discrimination. Does not affect an “incentive, contract commitment, density bonus,

or other voluntary program” to encourage acceptance of housing vouchers.

Effective Date: September 1, 2015

Title 8. Acquisition, Sale, or Lease of Property

House Bill 3244

Relating to authorizing broker agreements for the sale of real property held in trust by home-rule municipalities.

Amends Local Government Code, Chapter 253, Section 253.014

Author: Burkett Sponsor: Hall

Authorizes home-rule municipality to contract with a broker to sell a tract of real property it holds in trust and has the authority to sell (in addition to property it owns).

Effective Date: Immediate

NATURAL RESOURCES CODE

Title 3. Oil and Gas

House Bill 40

Relating to the exclusive jurisdiction of this state to regulate oil and gas operations in this state and the express preemption of local regulation of those operations.

Adds Natural Resources Code Section 81.0523

Author: Darby Sponsor: Fraser

Confirms the authority of the state of Texas to regulate all oil and gas operations within the state. Act is intended to expressly preempt the regulation of such operations by municipalities and other political subdivisions. Applies to exploration and production of oil and gas, processing and transporting oil and gas (including by pipelines), drilling activities, hydraulic fracturing operations (“fracking”), general exploration and development activities, disposal activities, plugging, secondary recovery, and remediation activities. Provides that the municipality’s authority to regulate oil

and gas operations is expressly preempted except to regulate above ground operations (such as regulations regarding fire safety and protection, emergency response, traffic, lights or noise, and reasonable set back requirements) provided the regulation is commercially reasonable, does not effectively prohibit and oil and gas operation conducted by a reasonably prudent operator, and is not otherwise preempted by federal or state law. If the municipality's ordinance has been in effect for five years or more and has allowed the oil and gas operations in question, it is presumed to be commercially reasonable. Statute sets a very high bar for any local regulatory activity that will affect oil and gas operators.

Effective Date: Immediate

OCCUPATIONS CODE

Title 6. Regulation of Engineering, Architecture, Land Surveying, and Related Practices

[House Bill 2439](#)

Relating to inspections and other activities conducted by engineers in connection with the issuance of certain windstorm and hail insurance; authorizing a fee.

Amends Insurance Code, Section 83.002(c); amends various sections of Insurance Code, Chapter 2210; adds Insurance Code, Sections 2210.2515 and 2210.2551(f); repeals various sections of Insurance Code, Chapter 2210; repeals Occupations Code, Sections 1001.651-.653

Author: Smith Sponsor: Eltife

Eliminates the appointment process for professional engineers to be qualified inspectors, and thereby expands the pool of qualified inspectors to include all professional engineers. Establishes the process to apply for and receive a certificate of compliance for pre-construction, post-construction or ongoing improvement applicants. The process includes the payment of applicable fees for certain projects, and compliance with: (i) written notice requirements; (ii) design and evaluation requirements; (iii)

inspection requirements; and (iv) applicable building codes. The foregoing requirements are dependent upon the stage of construction at the time the written notice is provided to the department. Shifts the Texas Windstorm Insurance Association plan of operation compliance focus upstream from the inspection phase to the design phase.

Effective Date: September 1, 2015

Title 7. Practices and Professions Related to Real Property and Housing

[Senate Bill 699](#)

Relating to the Texas Real Estate Commission and the regulation of certain real estate professionals.

Adds, amends, and repeals various sections of Occupations Code, Chapter 1101

Author: Eltife Sponsor: Kuempel

Omnibus bill affecting The Real Estate License Act (TRELA). Includes short sale advice within the laundry list of acts a broker performs. Replaces the term "salesperson" to "sales agent" and defines a sales agent as a person being "sponsored" by a licensed broker, as opposed to the former definition requiring mere association with a licensed broker. Delineates activities that are not considered brokerage activities, even if performed by a licensed broker. Broadens the applicability of TRELA to include attorneys-in-fact authorized under a power of attorney who conduct more than three (3) real estate transactions annually. Sets forth an increase in the amount of the additional broker's license fee, revises both substantive and administrative provisions pertaining to broker education, and repeals the re-examination requirement for the renewal of licenses expired in excess of six months. Establishes a two-year waiting period following the revocation or surrender of a license for the purposes of reapplication. Provides for various administrative changes within the Texas Real Estate Commission (TREC), and expands TREC's disciplinary authority with regard to real estate inspectors. Imposes a confidentiality requirement in connection with TREC complaint investigation

information and materials, barring the same from disclosure in the absence of any applicable exception. Makes procedural changes in connection with real estate trust account claims for the aggrieved, as well as to claims against brokers or their business entities.

Effective Date: January 1, 2016

Senate Bill 1007

Relating to the practices and professions regulated by the Texas Appraiser Licensing and Certification Board.

Adds and amends various sections of Occupations Code, Chapter 1103; repeals Occupations Code, Sections 1103.005, 1103.2015, and 1103.457

Author: Eltife Sponsor: Kuempel

Omnibus bill revising the Texas Appraiser Licensing and Certification Act. Defines certain terms as related to the Act. Allows a foreign appraiser to review an appraisal of Texas real property, provided that the foreign appraiser's does not provide a value opinion. Requires an appointee to the Texas Appraiser Licensing and Certification Board ("TALCB") to complete a specified training program prior to engaging in certain official duties of the appointment. Increases the term of appointment to the TALCB to six (6) years, and provides for vacancies to be filled vis-a-vis gubernatorial appointment. Revises provisions regarding applications and eligibility for appraiser certification and licensure. Revises the complaint process, including but not limited to, review & investigation, peer review, consent orders and agreements, and subjects any information or material prepared or compiled during a TALCB investigation to confidentiality. Requires appraiser supervision as opposed to appraiser sponsorship of applicants. Extends the sunset date of the TALCB to September 1, 2019.

Effective Date: January 1, 2016

Senate Bill 1264

Relating to the regulation of certain industrialized housing and industrialized buildings.

Amends Occupations Code, Sections 1202.002(c) and 1202.003(d)

Author: Eltife Sponsor: Kuempel

Revises the definition of industrialized housing to exclude residential structures in excess of four (4) stories or sixty (60) feet in height, and revises the definition of industrialized building to exclude commercial structures exceeding four (4) stories or sixty (60) feet in height.

Effective Date: September 1, 2015

Title 11. Regulation of Sales and Solicitation

House Bill 2481

Relating to the licensing and regulation of auctioneers, associate auctioneers, and auctions; requiring an occupational license; requiring a fee.

Amends various sections of Occupations Code, Chapter 1802; amends Occupations Code, Section 2301.362(a); adds Occupations Code, Sections 1802.001(2), 1802.004, 1802.051(d), 1802.053, and 2301.362(c)(d); repeals Occupations Code, Sections 1802.001(12) and 1802.051(b)

Author: Smith Sponsor: Eltife

Provides for the licensing of associate auctioneers and establishes the applicable licensing requirements for the same. Clarifies certain defined terms applicable to auctions and auctioneers. Broadens applicability of Chapter 1802 to include persons selling their own property at auction, but excludes internet auctions. Allows the Texas Commission of Licensing and Regulation to adopt standards for advertisement of auctions. Provides for waiver of examination requirement under certain circumstances.

Effective Date: September 1, 2015

PARKS & WILDLIFE CODE**Title 2. Parks and Wild Life Department****House Bill 801**

Relating to planning for the use of and liability resulting from prescribed burns by the Parks and Wildlife Department.

Adds Chapter 11, Subchapter M to the Parks & Wildlife Code

Author: King

Sponsor: Eltife

Creates framework for prescribed burns conducted by the Texas Department of Parks & Wildlife on state land owned by the Department. Requires burns on such properties to be done in accordance with both a General Plan and a Site Specific Plan. Such plans must be in accordance with rules set by the Department, which is now empowered to set the rules. Plans are also subject to review by the Department of Agriculture. Site specific plans must include information concerning utilities, a map, the burn manager's contact information, and a description of the burn method. Requires advance notice be given to nearby landowners. Waives state immunity from lawsuits to the extent the burn improperly causes damage to private owners. Amount of damages is limited to the amount of insurance carried for the purpose.

Effective Date: Immediate

PENAL CODE**Title 5. Offenses Against the Person****House Bill 207**

Relating to creating the offense of voyeurism; providing a penalty.

Amends Chapter 21 of the Penal Code by adding Section 21.16

Author: Leach

Sponsor: Whitmire

Makes it a criminal offense if the person with the intent to arouse or gratify sexual desire observes another person without permission or consent while the other person is in a dwelling

or structure with the reasonable expectation of privacy.

Effective Date: September 1, 2015

PROBATE/ESTATES CODE**Title 1. General Provisions****House Bill 2419**

Relating to the relationship between the Estates Code and the former Texas Probate Code.

Amends the Estates Code, Section 21.002

Author: Wray

Sponsor: Rodriguez

Provides that the Estates Code and the Probate Code constitute a single statute and that all for purposes of any document that refers to the Probate Code, the Estates Code shall be considered an amendment to the Probate Code.

Effective Date: Immediate

**Title 2. Estates of Decedents;
Durable Powers of Attorney****Senate Bill 462**

Relating to authorizing a revocable deed that transfers real property at the transferor's death.

Amends the Estates Code, Subtitle C, Title 2 by adding Chapter 114

Author: Huffman

Sponsor: Farrar

Creates the Texas Real Property Transfer on Death Act. Permits an individual to transfer its interest in real property to one or more beneficiaries at the transferor's death by using a transfer on death deed ("TOD") without the necessity of probate. To be effective, the TOD must: (i) contain the same legal requirements as a recordable deed, (ii) state that the transfer of interest in real property to the designated beneficiary shall upon the transferor's death and (iii) be recorded in the applicable real property records prior to the transferor's death. A TOD cannot be revoked by a will. A TOD can be revoked in several ways, including: (i) the recording of an instrument by the transferor

specifically revoking the TOD, (ii) the recording of a subsequent TOD and (iii) the recording of a judgment for divorce after a TOD has been recorded, if the transferor and transferee are spouses, and a TOD can be rendered void if the transferor, prior to its death, conveys all of the transferor's interest in the real property to another party. In addition, the last surviving joint owner of real property with right of survivorship subject to a TOD executed by all joint owners can revoke the TOD. Section 114.101 provides that during the transferor's life, a TOD will not, among other things: (i) preclude a transferor from transferring or encumbering the subject real property, (ii) constitute a "due on sale" clause, (iii) affect the rights of any creditor of the transferor, or (iv) create any legal or equitable interests in the designated beneficiary. Section 114.103 describes the effect of the TOD at the transferor's death and addresses situations involving multiple beneficiaries and multiple transferors. Section 114.104 provides that the beneficiary of a TOD takes title to the real property subject to all matters of record and other interests existing at the time of the transferor's death and addresses the rights of lienholders of the real property that is subject to the TOD to elect to treat their claims as a matured, secured claim or preferred debt and lien claim. For the purposes of evaluating creditor's claims, a TOD is deemed to have been recorded at the transferor's death, regardless of when it is actually recorded. Section 114.106 addresses situations where the transferor's estate is insufficient to pay claims or expenses and the right to a personal representative of the estate to enforce liability against the real property subject to a TOD. Section 114.151 provides a sample form of TOD. Chapter 114 applies to a TOD recorded at any time by a transferor who dies on or after September 1, 2015.

Effective Date: September 1, 2015

[House Bill 3316](#)

Relating to the time for recording a durable power of attorney for certain real property transactions.

Amends the Estates Code, Section 751.151

Author: Miller Sponsor: Hancock

The execution and recording of an instrument required in connection with a durable power of attorney for a real property transaction must be recorded with the applicable office of the county clerk not later than 30 days after the date the instrument is filed for recording.

Effective Date: September 1, 2015

PROPERTY CODE

Title 2. Conveyances

[House Bill 1665](#)

Relating to notice of water level fluctuations to purchasers of real property adjoining an impoundment of water.

Adds Property Code, Chapter 5, Section 5.019

Author: Bonnen Sponsor: Kolkhorst

Requires sellers of residential or commercial property adjoining a large impoundment of water (having a normal operating level of 5,000 acre-feet or more) to provide purchasers with notice concerning water level fluctuations in a form in substantial conformance with the form delineated within the statute. Failure to deliver the written notice on or before the effective date of the contract for sale, provides purchaser with the right to terminate the contract within seven days after the (i) receipt of the notice from the seller, or (ii) receipt of information described by the notice from another person. Provides purchaser with a cause of action for misrepresentation where a seller with actual knowledge of water level fluctuations fails to provide the requisite notice.

Effective Date: September 1, 2015

[House Bill 311](#)

Relating to an executory contract for the conveyance of real property; providing a civil penalty.

Amends various sections of Property Code, Chapter 5

Author: Canales Sponsor: Lucio

Describes certain effects of recording an executory contract for the conveyance of residential real property, including: (i) prohibiting seller's ability to rescind or exercise forfeiture and acceleration remedies; (ii) permitting the power of sale by seller as described in Section 5.066(a); (iii) relieving seller of any requirement to insure the property; and (iv) in the absence of any other warranty of title in the contract, the treatment of the recorded contract as a general warranty deed with vendor's lien. Provides that a seller who fails to record an executory residential contract as required by Section 7.076 is liable to the purchaser for certain damages, not to exceed \$500 per calendar year of non-compliance. Requires a seller to provide the purchaser under an executory contract with an annual accounting statement. Clarifies that: (i) recording the executory contract does not prohibit the purchaser from converting the contract to recorded legal title, as described in Section 5.081 of the Property Code; and (ii) the purchaser's right to convert the contract to recorded legal title does not limit the purchaser's legal interest in the property or other rights of the purchaser under Chapter 5, Subchapter D of the Property Code.

Effective Date: September 1, 2015

[House Bill 1221](#)

Relating to sellers disclosures in connection with residential real property subject to groundwater regulation.

Amends Property Code, Chapter 5, Section 5.008(b)

Author: Lucio

Sponsor: Estes

Amends the form of seller's disclosure for sales of certain residential real property to include a statement as to whether or not the seller is aware that any portion of the property is in a groundwater conservation district or a subsidence district. Requires a seller to disclose that the property is in a groundwater conservation district or a subsidence district only if the seller has actual knowledge that the property is located within such a district. The

seller has no duty to investigate in order to determine whether the property lies within such a district.

Effective Date: January 1, 2016

Title 4. Actions and Remedies

[House Bill 1334](#)

Relating to the appeal of a residential eviction suit.

Adds Property Code, Chapter 24, Sections 24.00511 and 24.00512; amends Property Code, Chapter 24, Sections 24.00521 and 24.0053

Author: Clardy

Sponsor: Menendez

Clarifies the requirements pertaining to the filing and contesting of appeal bonds in residential eviction suits. Requires the justice court to state the amount of an appeal bond in its judgment. The amount or form of the bond, or the ability of the surety to pay the bond may be contested by the opposing party upon the filing and service of written notice within five (5) days of the filing of the appeal bond. Requires a hearing on the contest in the justice court on a date not later than five (5) days following the filing of the contest by the opposing party. Should the justice court disapprove of the appeal bond, the statute permits appellant to (i) perfect the appeal by making a timely cash deposit in the amount of the bond or by timely filing an Affidavit of Inability to Pay to continue the appeal; or (ii) pursue a de novo appeal in county court. Should the county court disapprove of the appeal bond, the statute permits an appellant to perfect the appeal by (i) making a timely cash deposit with the justice court in an amount determined by the county court; (ii) timely filing an Affidavit of Inability to Pay with the justice court. Provides that the failure to perfect the appeal will result in a finalized justice court judgment, and if a tenant is the appealing party, a writ of possession or other enforcement actions will be issued upon payment of the requisite fees.

Effective Date: January 1, 2016

House Bill 1853

Relating to the removal of a tenant's personal property after a writ of possession has been issued in an eviction suit.

Amends Property Code, Chapter 24, Section 24.0061

Author: Button Sponsor: Huffines

Clarifies that a writ of possession shall not order the officer executing the writ to place a tenant's removed property at a nearby location if a municipality provides a portable closed container to store the personal property at no charge to the landlord or the personal property owner. Permits a municipality to remove the container and dispose of the contents if the owner does not collect the contents within a reasonable time after the personal property is placed in the container.

Effective Date: September 1, 2015

House Bill 3364

Relating to the appeal of a judgment in an eviction suit.

Amends Property Code, Chapter 24, Section 24.007

Author: Schofield Sponsor: Bettencourt

Prohibits the appeal of a county court eviction suit on the issue of possession unless the premises made the subject of the eviction suit are used for residential purposes only.

Effective Date: January 1, 2016

House Bill 2486

Relating to the right of a person to enter the person's residence or former residence accompanied by a peace officer to recover certain personal property; creating an offense.

Adds Property Code, Chapter 24A

Author: Keffer Sponsor: Hinojosa

Establishes a process to obtain a court order permitting the entry into a residential property

and the retrieval of personal property items. The statutory requirements include the submittal of an application, a bond, proper notice and a hearing. If the justice court finds sufficient evidence of urgency and potential harm to the health and safety of any person, the court may order the applicant be permitted to enter the property accompanied by a peace officer to retrieve personal property detailed within the application. The statute specifies the duties of the peace officer during the entry, and prohibits the imposition of civil or criminal liability with regard to the officer in connection with allegations of applicant's wrongful appropriation of any personal property. The statute likewise prohibits the imposition of civil or criminal liability for a landlord or landlord's agent that permits or facilitates the entry pursuant to the order. The statute provides the occupant of the premises with ten (10) days from the date of entry to file a complaint for the improper appropriation of the occupant's property by the applicant. Interference with the court ordered entry is a Class B misdemeanor.

Effective Date: September 1, 2015

Title 5. Exempt Property and Liens**House Bill 2066**

Relating to the rescission of nonjudicial foreclosure sales.

Adds Property Code, Chapter 51, Section 51.016

Author: Oliveira Sponsor: Watson

Expands a trustee's ability to rescind nonjudicial foreclosures of residential property. Grounds for rescission include, inter alia, failure to satisfy statutory requirements for the sale and the default having been cured before the sale. Provides process for rescission, including notice requirements, but does not prohibit rescission pursuant to an agreement of the affected parties or a suit to rescind sale. Requires rescissions under the statute to be completed within 15-days after the date of the foreclosure sale. Sets limits on lender liability and bars commencement of civil actions challenging the effectiveness of the

rescission after 30-days from the filing of the rescission notice.

Effective Date: September 1, 2015

House Bill 2063

Relating to the recording and effective date of certain paper documents relating to nonjudicial foreclosure sales.

Adds Property Code, Chapter 12, Section 12.0012; adds Property Code, Chapter 51, Section 51.0076

Author: Oliveira Sponsor: Zaffirini

Requires county clerks to record certain documents pertaining to nonjudicial foreclosure sales if the documents are attached to a trustee's deed or a trustee's affidavit, and that the recording of the documents serves as notice of the matter of the document. The documents that must be recorded include an appointment or authorization of trustee or substitute trustee, notice of sale, notice of default, military status of the debtor, statement of facts regarding the sale, and proof of service of any notice related to the sale. Clarifies that an appointment of a substitute trustee made in a notice of sale may be effective as of the date of the notice if the notice complies with the statute's requirements, including a specific boldface statement that the instrument appoints the substitute trustee.

Effective Date: September 1, 2015

House Bill 2207

Relating to the foreclosure sale of property subject to oil or gas lease.

Adds Property Code, Chapter 66

Author: Keffer Sponsor: Eltife

Provides that an oil or gas lease covering real property subject to a security interest that was filed and recorded prior to a foreclosure sale is not extinguished by the foreclosure sale. However, the surface rights of the lessee under any such lease will be terminated at the time the property is purchased at the foreclosure sale. Specifies that any interest in the leases, including royalty or other payments shall be paid

to the purchaser of the foreclosed real property to the extent that the security instrument had priority over the oil and gas lease. Provides that a subordination agreement controls over any conflicting provision of the statute.

Effective Date: January 1, 2016

Title 7. Condominiums

House Bill 1455

Relating to procedures required before certain condominium associations file a suit or initiate an arbitration proceeding for a defect or design claim.

Adds Property Code, Chapter 82, Sections 82.119 and 82.120

Author: King Sponsor: Creighton

Imposes certain requirements that must be satisfied before a condominium owners' association with more than eight (8) units may initiate litigation or arbitration with respect to a construction or design defect claim. Requires association to obtain, inter alia, (i) a written third party report by a licensed professional engineer, and (ii) the approval of more than 50% of the total allocated votes of unit owners at a meeting called in accordance with the association bylaws or declaration. Requires that the professional engineer's report identify the units or common elements forming the basis of the claim, and describe the present condition of each, as well as any modifications, maintenance or repairs performed by the owners or the association. Establishes a period of 90-days from the date of completion of the engineer's report for any party subject to the claim to inspect and correct the conditions identified within the report. Sets forth notice requirements in connection with the inspection of the alleged construction or design defect by any engineer, as well as notice requirements in connection with the owners' approval meeting. Provides for limited tolling of the limitations period for litigation and arbitration if the procedures set forth in the statute are initiated during the final year of the applicable statute of limitations. If the tolling provision is applicable, the limitations period is tolled until the first anniversary of the

date the procedures are initiated by the association.

Effective Date: September 1, 2015

Title 8. Landlord and Tenant

House Bill 1293

Relating to the confidentiality of identifying information of victims of stalking; creating a criminal offense.

Amends Property Code, Chapter 92, and Section 92.0161 (c-1) and adds Code of Criminal Procedure, Chapter 57A

Author: Alvarado Sponsor: Huffman

Requires a stalking victim, or parent or guardian of a stalking victim, to furnish landlord with a copy of a pseudonym form prescribed by Chapter 57 of the Code of Criminal Procedure when documentation of stalking merely identifies the victim by pseudonym.

Effective Date: September 1, 2015

House Bill 1510

Relating to liability of persons who lease dwellings to persons with criminal records.

Adds Property Code, Section 92.025

Author: Thompson Sponsor: Garcia

Bars a cause of action against a landlord, or its manager or agent, solely for leasing residential property to a tenant convicted, arrested, or placed on deferred adjudication for an offense. However, the bill does not prevent a tenant from asserting a cause of action for negligent leasing against a landlord, or its manager or agent, if any such party leases a dwelling to a criminal convicted or adjudicated of one or more offenses in a laundry list of offenses set forth in Texas Code of Criminal Procedure 42.1273(3)(g) and the party knew or should have known of the conviction or adjudication.

Effective Date: January 1, 2016

House Bill 2404

Relating to certain security devices for residential tenancies.

Amends Property Code, Sections 92.156, 92.157(a), 92.1641

Author: Anderson Sponsor: Eltife

Creates an exception to the landlord's duty to re-key residential premises at landlord's expense, allowing landlord to recover the cost of re-keying a security device when the tenant vacates the premises in violation of a written lease that includes an underlined or boldface provision permitting the deduction of such costs from tenant's security deposit.

Effective Date: January 1, 2016

Title 11. Restrictive Covenants

Senate Bill 1168

Relating to the operation of certain property owners' associations, condominium unit owners' associations, and councils of owners.

Amends Property Code, Sections 82.157; 207.001, 207.002, 209.002, 209.003, 209.0041, 209.0042, 209.0051, 209.0056, 209.0057, 209.0058, 209.059, 209.00591, 209.00592, 209.00593, 209.00594, 209.006, 209.0062, 209.0064, 209.009, 209.0091, and 209.0092; adds Section 209.0042 and Chapter 213; and repeals 209.0041(a)

Author: West Sponsor: Villalba

Revises Chapter 82 of the Property Code to require that additional information be included in a resale certificate issued by a condominium unit owner's association to an owner, other than a declarant, in anticipation of a contract or execution of a conveyance of the unit. The additional information is to include the association's balance sheet, current operating budget, and a statement of the fees that will be payable to the association upon the transfer of ownership whether the same are to be paid directly to the association or to an agent of the association.

Amends Chapter 207 of the Property Code to define “dedicatory instrument,” “property owners’ association,” and “restrictive covenant” by referencing the meanings provided in Section 209.002 of the Property Code and specifies that Chapter 207 does not apply to a condominium council of owners governed by Chapter 81 or a condominium unit owners’ association governed by Chapter 82 of the Property Code.

Amends Chapter 209 of the Property Code to define “verified mail.” Provides that Chapter 209 of the Property Code does not apply to a condominium as defined by Chapter 82 of the Property Code.

Amends the percentage of property owners necessary to amend a declaration to the lower of 67% of the total votes allocated to property owners entitled to vote on the amendment of the declaration or the percentage contained in the declaration. Provides that if the declaration is silent as to voting rights for an amendment, the declaration may be amended by a vote of owners owning 67% of the lots subject to the declaration.

Permits the board of a property owners’ association to meet by electronic or telephonic means and allows property owners’ association boards to “take action outside of a meeting” without unanimous written consent subject to specific restrictions as to the action that may be taken outside of a meeting. Imposes deadlines on the notice requirements for property owners’ associations elections and votes with the deadlines being dependent upon whether said election or vote will occur at or outside of a meeting. Requires an owner demanding a vote recount to pay for the costs of performing the recount. Provides five (5) instances in which a vote by a member of a property owners’ association must be in writing and signed by the member, and sets forth the guidelines by which the association may engage in secret ballot voting.

Allows a property owners’ association’s bylaws to require one or more board members to reside in the subdivision as a condition to serving on the association’s board, but prohibits any

requirement that all board members reside within the subdivision.

Establishes that a declarant’s sale of vacant lots to a homebuilder does not trigger the requirement that 1/3 of the board must consist of elected owners other than the declarant.

Provides that, in the absence of the dedicatory instrument requirement to the contrary, a property owners’ association does not have to provide an owner with more than one voting method.

Sets forth specific notice, solicitation and ballot requirements in connection with board member elections for property owners’ associations with 100 or more lots. Prohibits the person who tabulates votes from disclosing to any other person how any particular individual voted.

Establishes additional procedures to be followed by a property owners’ association prior to taking any enforcement action in connection with an owner’s violation of rules, restrictions or bylaws, which includes, but is not limited to notice and cure provisions.

Provides that property owners’ association must provide owners with notice and an opportunity to be heard before filing an application for an expedited court order authorizing foreclosure of the association’s assessment lien or a petition for judicial foreclosure of the association’s assessment lien.

Grants the power of sale to POAs whose dedicatory instruments include the right of foreclosure. Provides that POAs may elect to judicially foreclose assessment liens using the expedited procedure adopted by the Texas Supreme Court pursuant to Govt. Code Section 74.024 or under a court judgement pursuant to Texas Rules of Civil Procedure 309 and 646a, i.e., POAs are not required to foreclose using only the Supreme Court’s expedited procedure.

Adds Chapter 213 to the Property Code to provide a procedural option for the modification or termination of a restriction on the use of an amenity property, such as a golf course or country club.

Effective Date: September 1, 2015

Senate Bill 864

Relating to secret ballots in a property owners' association election or vote.

Amends Texas Property Code, Section 209.0058

Author: Birdwell Sponsor: Keffer

Provides an exception to the requirement that any vote cast in an election or vote by a member of a property owners' association must be in writing and signed by the member. Permits associations to adopt rules to allow members of the association to vote by secret ballot if the association takes measures to reasonably ensure that a member cannot cast more than their allotted vote(s), and counts every vote cast by members eligible to vote.

Effective Date: Immediate

House Bill 1072

Relating to the eligibility of certain persons to serve on the board of a property owners' association.

Amends Texas Property Code, Section 209.00591(b)

Author: Thompson Sponsor: Ellis

Provides that a property owner is prohibited from holding a position on the board of a property owners' association if the owner was convicted of either a felony or crime of moral turpitude not more than 20 years prior to the date the board is presented with documented written evidence from governmental databases or authorities of such a conviction. If a board member is deemed ineligible to serve on the property owners' association board, the board member is automatically removed and prohibited from serving on the board in the future.

Effective Date: September 1, 2015

Senate Bill 862

Relating to voting methods in a property owners' association election or vote.

Amends Texas Property Code, Section 209.00592

Author: Birdwell Sponsor: Keffer

Provides that a property owners' association does not have to provide an owner with more than one method to vote, unless a dedicatory instrument of the association provides otherwise, as long as an owner may vote vis-a-vis absentee ballot or proxy.

Effective Date: September 1, 2015

Senate Bill 1626

Relating to the regulation by a developer of the installation of solar energy devices in a residential subdivision.

Amends Property Code, Section 202.010(a) and 202.010(f)

Author: Rodriguez Sponsor: Dukes

Adds definition of "residential unit" to mean a structure or part of a structure intended for use as a single residence and that is (A) a single-family house; or (B) a separate living unit in a duplex, a triplex, or a quadplex. Limits the size of a development in which a declarant may prohibit or restrict the installation of a solar energy device during the development period to a development with less than 51 planned residential units.

Effective Date: September 1, 2015

House Bill 939

Relating to unenforceable restrictive covenants regarding standby electric generators affecting residential homes.

Adds Property Code, Section 202.019

Authors: Dale Sponsor: Taylor

Defines "standby electric generator." Permits property owners' associations to adopt or enforce certain dedicatory instrument provisions regulating the operation and installation of standby electric generators if the provisions are reasonably applied and enforced. Prohibits any

such provision from increasing the installation cost of a generator by more than 10% or increasing the cost of installation and connection to electrical and fuel by more than 20%. Prohibits a property owners' association from withholding approval of a standby electric generator where the proposed installation of the generator meets or exceeds the dedicatory instrument provisions authorized by the statute. Prohibits the association from requiring more information pertaining to the standby electric generator than that information the association requires for any other external residential improvement. Places the burden of proof in a hearing, action or proceeding concerning a provisions noncompliance with the statute on the party asserting the same. Provides that Section 202.019 of the Property Code applies to a dedicatory instrument adopted before, on, or after the effective date of the Act.

Effective Date: Immediate

House Bill 2489

Relating to regulation by a property owner's association of residential leases or rental agreements.

Adds Property Code, Section 209.016

Author: Leach Sponsor: Eltife

Provides that a property owners' association may not adopt or enforce a provision in a dedicatory instrument (i) requiring the submittal of a lease or rental applicant or tenant to a property owners' association for approval; or (ii) requiring a lease or rental applicant or current tenant to submit to a property owners' association: (a) a consumer report or credit report, or (b) a lease or rental application submitted to the property owner. Authorizes tenant to redact any sensitive personal information if a property owners' association requires a copy of a lease or rental agreement to be submitted to the association. Clarifies that Section 209.016 of the Property Code does not prohibit the adoption or enforcement of dedicatory instrument provisions establishing a restriction relating to occupancy or leasing.

Effective Date: Immediate

Senate Bill 1852

Relating to the adoption of an amendment procedure for restrictive covenants affecting real property in certain residential subdivisions.

Amends Property Code, Section 211.002 (a), (b), and (b-1)

Author: Nichols Sponsors: White

Adds a provision expanding the application of Chapter 211 of the Property Code to all or part of a residential real estate subdivision or any unit or parcel of a subdivision located within a county bordering Lake Livingston with a population of less than 50,000. Requires that the express terms of an instrument creating restrictions for property subject to Chapter 211 may not be amended without a written instrument that is signed by at least a majority of the owners of the lots in the subdivision and filed in the real property records of each county in which all or part of the subdivision is located. Extends the expiration date of Subsection (b-1) to Section 211.002 from September 1, 2015, to September 1, 2019.

Effective Date: Immediate

Title 12. Miscellaneous Shared Real Property Interests

House Bill 2261

Relating to the transfer or termination of certain timeshare interests.

Adds Subchapter J to Chapter 221 of the Property Code

Author: Villalba Sponsor: Hinojosa

Amends the Texas Timeshare Act regarding service agreements to transfer or terminate timeshare interests. Regulates specialized entities that solicit agreements from timeshare owners to transfer or terminate their timeshare interests. Exempts from regulation real estate professionals, brokers, title companies, and lawyers. Requires specialized entities to make general set of disclosures, including contact information about the entity seeking to effect the termination or transfer. Additional requirements

include: specification of the timeshare interest involved; the method by which transfer or termination will be effected; an itemized statement of the amounts the timeshare owner must pay for the service and who will receive them; an estimated date for completion; and a written statement when the transfer or termination is done. If timeshare is to be used in the meantime, that too must be described. Requires special notices and statements pledging good faith in carrying out the services in a commercially reasonable manner must also be made in 14 point type. Specifies actions in these transactions that fall under the Deceptive Trade Practices Act.

Effective Date: September 1, 2015

House Bill 2428

Relating to the adoption of the Texas Uniform Disclaimer of Property Interests Act.

Amends the Estates Code, Business & Commerce Code, Government Code, Insurance Code, and Property Code provisions regarding disclaimers of property with the addition of Property Code, Title 13, Chapter 240, named the Texas Uniform Disclaimer of Property Interest Act (UDPIA)

Author: Wray

Sponsor: Rodriguez

Applies to disclaimers of any interest in or power over property, whenever created. Section 240.006 provides that a person other than a fiduciary may disclaim any interest in or power over property, including a power of appointment, even if the creator of the interest or power imposed a spendthrift provision or similar restriction on the right to transfer or disclaim.

Clarifies the ability of a person acting in a fiduciary role to disclaim property. Section 240.008 provides that a person serving as a fiduciary may disclaim any property held in a fiduciary capacity except when the rights of the fiduciary are expressly limited by law or by the instrument creating the fiduciary relationship. A disclaimer by a fiduciary must be compatible with the fiduciary's obligations in that role.

To be effective, a disclaimer must: (i) be in writing, (ii) declare that it is a disclaimer, (iii) describe the disclaimed power or interest, (iv) be signed by the person making the disclaimer, and (v) be filed or delivered as required. Partial disclaimers may be described in fractions, percentages, term of years, monetary amounts, or any other interest or estate in the property. If an instrument transferring an interest in property is required by law to be filed of record, the disclaimer may serve as that instrument.

Subchapter B explains different types of disclaimers and their effects; more specifically it describes general disclaimers of property, and disclaimers of property that passed as a result of: (i) the death of a decedent, (ii) an event not related to the death of a decedent, (iii) according to the instrument creating the interest, (iv) intestacy, (v) and survivorship property. Describes disclaimers of power such as: (i) the power of appointment in a will or trust, (ii) powers held in a fiduciary capacity, (iii) and disclaimers by appointees.

Subchapter C describes delivery, notification and filing requirements of disclaimers of interests in property passed to the disclaimant by: (i) intestacy or a will, (ii) a testamentary trust, (iii) an inter vivos trust, (iv) a beneficiary designation, (v) and survivorship property. It also describes the disclaimer requirements under certain relationships including appointees, fiduciaries, and agency.

Subchapter D provides the circumstances in which disclaimer of a property interest is barred or limited. Limits the disclaimer of an interest in property when a disclaimant: (i) accepts the interest sought to be disclaimed; (ii) voluntarily assigns conveys, encumbers, pledges, or transfers the interest; (iii) is a child support obligor when that interest could be applied to satisfy child support obligations; (iv) or when the interest is sold by a judicial sale.

The Act applies to an interest in or power over property existing on or after the effective date. If the time for delivering notice or filing an assignment of a disclaimer under the former law has elapsed prior to the effective date, the former law of the Estates and Property Codes applies.

Effective Date: September 1, 2015

SECURITIES ACT

House Bill 1629

Relating to crowdfunding portal regulations for small business development.

Amends Vernons Texas Civil Statutes, Securities Act, Article 581

Author: Johnson Sponsor: West

Requires State Securities Board to adopt rules related to intrastate crowdfunding for specific “authorized small business development entities” and to allow crowdfunding for these specific small businesses to be handled by a third party. Requires rules to allow affected small businesses to list on their websites offerings of security for issuers located within the small business’s service area and to list those offerings of security in which the small business is financially interested without offering investment advice.

Effective Date: September 1, 2015

TAX CODE

Title 1. Property Tax Code

Senate Bill 1

Relating to certain restrictions on the imposition of ad valorem taxes and to the duty of the state to reimburse certain political subdivisions for certain revenue loss; making conforming changes.

Amends Tax Code, Section 11.13

Author: Nelson Sponsor: Bonnen

Increases the homestead exemption to \$25,000 from \$15,000, including taxable value of homesteads of the elderly and disabled. Requires the tax assessor-collector to prepare tax bills as though the bill and constitutional amendment passed. If the constitutional amendment does not pass, the assessor will mail a supplemental bill accounting for the difference in tax due. Applies beginning with the 2015 tax

year. Provides for the State to reimburse school districts for certain revenue loss that occurs as a result of such increase in the homestead exemption.

See, also, Senate Joint Resolution 1.

Effective Date: If constitutional amendment approved by voters, effective upon certification of the election results by the governor, which typically occurs in late November or early December.

House Bill 992

Relating to the exemption from ad valorem taxation of the total appraised value of the residence homestead of the surviving spouse of a 100% or totally disabled veteran.

Amends Tax Code, Section 11.131(c)

Author: Bonnen Sponsor: Taylor

Expands the scope of exemption from residential property tax for the surviving spouse of a disabled veteran if the disabled veteran would have qualified for an exemption from residential property taxation if the exemption had been in effect on the date the disabled veteran died.

Effective Date: January 1, 2016, subject to approval by voters of constitutional amendment

House Bill 1022

Relating to the eligibility for an exemption from ad valorem taxation of the residence homestead of certain persons with a life estate in the homestead property.

Amends Tax Code, Section 11.13(j)(1)

Author: Moody Sponsor: Rodriguez

Expands the meaning of residence homestead exemption from ad valorem taxation to include an owner’s surviving spouse who has a life estate in the property.

Effective Date: January 1, 2016

House Bill 1463

Relating to the procedure for canceling an exemption from ad valorem taxation of the residence homestead of an individual who is 65 years of age or older.

Amends Tax Code, Section 1.07(d); adds Tax Code, Section 11.43(q)

Author: Raymond Sponsor: Uresti

Prevents the chief appraiser from cancelling an over-65 property tax exemption if the person was previously allowed the exemption without giving such owner written notice of cancellation, allows a notice period, mandates that the chief appraiser make a reasonable effort to locate the individual and determine whether the person is qualified to receive the exemption, and provides for what constitutes reasonable effort.

Effective Date: September 1, 2015

Senate Bill 833

Relating to the continuation of a residence homestead exemption from ad valorem taxation while the owner is temporarily absent because of military service.

Amends Tax Code, Section 11.13(1)

Author: Campbell Sponsor: King

Extends eligibility for the residence homestead exemption from ad valorem taxes for persons serving in the military inside of the United States.

Effective Date: Immediate

House Bill 2083

Relating to the determination of the appraised value of property for purposes of an ad valorem tax protest or appeal.

Adds Tax Code, Sections 23.01(f) and (g)

Author: Darby Sponsor: Hancock

Provides for the selection of comparable properties and adjustments thereto to be based on generally accepted appraisal methods.

Allows property owners representing themselves in tax protests to offer an opinion of market and appraised value or the inequality of appraisal of the owner's property.

Effective Date: January 1, 2016

House Bill 1464

Relating to the procedure for determining that certain land is no longer eligible for appraisal for ad valorem tax purposes as agricultural or open-space land.

Amends Tax Code, Sections 1.07(d) and 23.43(d); adds Tax Code, Sections 23.43(f) and 23.551

Author: Raymond Sponsor: Zaffirini

Prevents the chief appraiser from making a determination that land previously designated for agricultural use and owned by an individual at least 65 years old has been diverted to a nonagricultural use without first providing a written notice to the owner, allows a notice period, mandates that the chief appraiser make a reasonable effort to locate the individual and determine whether the owner remains entitled to have the land designated for agricultural use, and provides what constitutes reasonable effort. Provides that if land appraised for agricultural use is owned by an individual at least 65 years of age, the chief appraiser must provide additional notice that the chief appraiser believes a change of use in land may have occurred, provides the form of notice, a notice period, and defines the reasonable effort that the chief appraiser must make.

Effective Date: September 1, 2015

House Bill 1933

Relating to installment payments of ad valorem taxes.

Amends Tax Code, Sections 31.031(a-1), (a-2) and (b), 31.032(b) and (c), 33.011(d) and (i), 33.02(a) and (b-1); adds Tax Code, Sections 33.02(a-1) and (f)

Author: Darby Sponsor: Hinojosa

Defines the regime for installment payments for residence homesteads and provides that the collector of a taxing unit must provide written notice of default prior to seizure and sale or filing suit for delinquent taxes.

Effective Date: September 1, 2015

House Bill 2710

Relating to the duty of an attorney ad litem to locate and represent a defendant in a suit to collect a delinquent ad valorem tax.

Adds Tax Code, Section 33.475

Author: Thompson Sponsor: Zaffirini

Requires an attorney ad litem appointed by the court to represent the interests of a defendant served with process by publication or posting to submit a report describing the actions taken by the ad litem to locate and represent the interests of the defendant; and provides that the court may not approve attorney fees for the ad litem until the report is submitted and the court determines that the ad litem's actions were sufficient to discharge the attorney's duties to the defendant.

Effective Date: September 1, 2015

Senate Bill 1452

Relating to the power of a commissioners court to authorize ad valorem tax sales of real property to be conducted by means of online auctions.

Adds Tax Code, Section 34.01(a-1); amends Tax Code, Section 34.01(r)

Author: Bettencourt Sponsor: Huberty

Allows the commissioners court to authorize property sold at tax sales using online bidding and sale processes and to adopt procedures for such online sales.

Effective Date: Immediate

House Bill 3951

Relating to the eligibility of persons to participate in an ad valorem tax sale of real property; creating a criminal offense.

Adds Tax Code, Section 34.011

Author: Huberty Sponsor: Bettencourt

Allows commissioners' courts to require that bidders for the sale of real property at tax sales be registered with the county assessor-collector.

Effective Date: January 1, 2016

Senate Bill 593

Relating to pretrial settlement discussions during ad valorem tax appeals.

Adds Tax Code, Section 42.227

Author: Watson Sponsor: Darby

Provides that a party to an appeal of an appraised value may request an informal settlement conference or form of ADR; and the court, upon motion by either party, shall enter orders to implement said procedure. Provides that within 120 days following the written request the parties shall attend the settlement conference; and if the appraisal district is unable to attend, the deadline to designate experts is 60 days before trial for parties seeking affirmative relief and 30 days for all other experts. Provides that if a property owner is unable to attend the settlement conference, Section 42.23(d), relating to designation of experts, does not apply.

Effective Date: Immediate

Title 2. State Taxation

House Bill 32

Relating to the computation and rates of the franchise tax; decreasing tax rates.

Amends Tax Code, Sections 171.002 and Section 171.1016

Author: Bonnen Sponsor: Nelson

Known as the Franchise Tax Reduction Act of 2015. Reduces the franchise tax rate to .75% of the taxable margin and reduces the franchise tax rate to .375% for entities primarily engaged in retail or wholesale trade. Provides that entities whose annual total business revenue is less than

\$20 million may elect to be taxed under Section 171.1016(a), which calculates franchise taxes by determining the entity's total revenue per Section 171.1011 of the Tax Code, calculating the amount of margin to be apportioned to the state under Section 171.106 of the Tax Code and multiplying the apportioned total revenue by a reduced rate of 0.331 percent. Requires that on or before September 30, 2016, the Comptroller of Public Accounts conduct a comprehensive study to identify the effects of economic growth on future revenues and report the results to the governor and Legislative Budget Board.

Effective Date: January 1, 2016

Senate Bill 1049

Relating to an exemption from the franchise tax and certain filing fees for certain businesses owned by veterans during an initial period of operation in the State.

Amends Tax Code, Sections 171.001(4) and 171.063(g); adds Tax Code, Sections 171.0005, 171.001(d) and 171.204(d); amends Business Organizations Code, Section 12.005

Author: Campbell Sponsor: Sheets

Defines a new veteran-owned business as a new business in which each owner (who must be a natural person) provides verification that he/she served in and was honorably discharged from a branch of the US armed forces. Provides that franchise tax is not imposed on a new veteran-owned business until the "beginning date," which for a new veteran-owned business, is the earlier of five (5) years after the date that the entity begins doing business or the date it ceases to qualify as a veteran-owned business. The Comptroller may require a new veteran-owned business that qualifies for the franchise tax exemption to file an information report stating its beginning date and any other necessary information but the comptroller may not require such entity to report or compute its margins. Provides that all filing fees charged by the Texas Secretary of State in connection with the formation of an entity are not applicable to a new veteran-owned businesses until the earlier of the fifth anniversary of the date the entity was formed or the date it ceases to qualify as a new

veteran-owned business. Most of the amendments effectuated by SB 1049 are automatically repealed on January 1, 2020.

Effective Date: January 1, 2016

House Bill 3230

Relating to the determination of eligible costs and expenses for purposes of the franchise tax credit for the rehabilitation of historic structures.

Amends Tax Code, Section 171.901(4)

Author: Rodriguez Sponsor: Campbell

Amends the definition of "eligible costs and expenses" related to the rehabilitation of historic buildings that would qualify for franchise tax credit by providing that the depreciation and tax-exempt components set forth in the definition of "qualified rehabilitation expenditures" under Section 47(c)(2) of the Internal Revenue Code are not required for entities that are exempt from paying the franchise tax under Section 171.063 of the Tax Code.

Effective Date: January 1, 2016

TRANSPORTATION CODE

Title 6. Roadways

House Bill 20

Relating to the operations of and transportation planning and expenditures by the Texas Department of Transportation and planning organizations.

Amends Transportation Code, Chapters 201, 222 and 223 (various sections)

Author: Simmons Sponsor: Nichols

Overhauls transportation planning and funding laws. Disallows further use of dedicated highway funds for DPS activities like policing highways, traffic enforcement, etc. (est. \$561 million per year). Requires TxDOT to develop and implement "a performance-based planning and programming process" and "performance metrics and performance measures" (with reviews and reporting). Mandates a 10-year

transportation plan for state funding allocated to each region and requires each metropolitan planning organization to develop its own “recommendation criteria” for “connectivity or new capacity roadway” projects – but criteria must include statutory factors (congestion, safety, availability of funds, environment, etc.). Requires TxDOT to “establish a performance-based process for setting funding levels” for project categories in its unified transportation program, also a “scoring system for prioritizing projects” for funding, but allows TxDOT to make “discretionary funding decisions” for up to 10% of TxDOT’s biennial budget. For design-build highway projects: (i) raises the minimum size from \$50 million to \$150 million, (ii) abolishes the current limit of three per year and (iii) allows inclusion of 5-year maintenance agreements (subject to renewal at TxDOT’s option). Establishes two select committees on transportation (House and Senate) to “review, study, and evaluate” needed revenues, funding allocation, project selection criteria, alternative financing, “performance metrics and measurement tools,” TxDOT’s collaboration (with state and local officials, government trade associations, etc.), zero-based budgeting principles, etc. Requires select committees to submit a report by November 1, 2016. Contains many other provisions, some uncoded.

Effective Date: Immediate

[House Bill 565](#)

Relating to powers of private toll project entities.

Amends Transportation Code, Chapter 362; amends Section 362.102; adds Sections 362.105 and 362.106

Author: Burkett Sponsor: Kolkhorst

Withdraws eminent domain authority from certain private toll road corporations with powers under 1991-era law. Requires TxDOT, before approving a private turnpike or toll project, to hold a “public meeting” in the region where the project would be located. Authorizes private toll project entities to make agreements with public toll project entities “to finance, construct, maintain, or operate a toll road.”

Effective Date: Immediate

[House Bill 745](#)

Relating to the installation of solar-powered stop signs by a property owners’ association.

Amends Transportation Code, Chapter 430, Section 430.002

Author: Bohac Sponsor: Taylor

Allows a property owners’ association to install “a solar-powered light-emitting diode (LED) stop sign” on a road, highway or street in its jurisdiction, subject to governmental approval.

Effective Date: Immediate

WATER CODE

Title 2. Water Administration

[House Bill 1902](#)

Relating to the regulation and use of graywater and alternative onsite water.

Amends Health and Safety Code, Chapters 341 and 366, Sections 341.039 and 366.012(a); amends Water Code, Chapter 26, Section 26.0311

Author: Howard Sponsor: Zaffirini

Expands the allowable uses of graywater and “alternative onsite water,” and requires the adoption of standards for indoor and outdoor use of alternative onsite water and treated graywater. Defines “alternative onsite water” to mean rainwater, air conditioner condensate, foundation drain water, storm water, cooling tower blowdown, swimming pool backwash and drain water, reverse osmosis reject water, or any other source of water considered appropriate by the TCEQ. Encourages builders to install plumbing in new housing that provides the capacity to collect graywater or alternative onsite water from all allowable sources. Provides for an adjustment of the required size of an on-site sewage disposal system if the system is used in conjunction with a graywater

system, and permits the use of graywater for toilet and urinal flushing.

Effective Date: Immediate

House Bill 2179

Relating to hearings that concern the issuance of permits by a groundwater conservation district.

Amends various sections of Chapter 36 of the Water Code and adds Section 36.4051

Author: Lucio Sponsor: Perry

Provides for public hearings in connection with permits and permit amendments. Allows the board to render a determination on uncontested applications at public hearings and requires the board to schedule preliminary hearings in connection with contested cases. Gives more latitude regarding who may conduct a hearing and places the burden upon the board to make a determination as to standing and justicability. Requires the submittal of a proposal for decision to the board, and permits the submittal of written exceptions by any party. Sets forth final hearing procedures limiting the presentation of evidence and oral argument. Provides for the apportionment amongst the parties of the costs related to a contract for the services of a presiding officer and the preparation of the official hearing record.

Effective Date: Immediate

House Bill 3163

Relating to civil suits filed against board members of a groundwater conservation district and the liability of a member for certain action taken by the board.

Amends Water Code, Chapter 36, Sections 36.060 and 36.066(a)

Author: Cyrier Sponsor: Watson

Provides immunity to board members from liability for official votes and official actions, and recognizes directors as district employees pursuant to Chapter 101 of the Texas Civil Practice and Remedies Code.

Effective Date: Immediate

House Bill 4112

Relating to the rights of an owner of groundwater.

Amends Water Code, Chapter 36, Section 36.002

Author: Burns Sponsor: Perry

Provides that a landowner has all groundwater rights recognized under common law.

Effective Date: Immediate

Senate Bill 854

Relating to the renewal or amendment of certain permits issued by groundwater conservation districts.

Amends various sections of Water Code, Chapter 36

Author: Zaffirini Sponsor: Lucio III

Provides that a district shall renew or approve a timely renewal application for an “operating permit,” as that term is newly defined within the statute, if the required fees have been paid and there are no changes to the permit. However, the district is not required to renew the permit if the applicant (i) is delinquent in paying any fee; (ii) is subject to a pending enforcement action for a substantive violation of a permit, order, or rule that has not been settled; (iii) has not paid a civil penalty; or (iv) has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order, or rule. Provides that the district or the permit holder may request a change requiring the permit to be amended. In such an instance, the original permit remains in effect until the latter of: (i) the conclusion of the permit amendment, or renewal process; or (ii) a final determination as to whether an amendment is required. If the amendment is denied the, original permit shall be renewed.

Effective Date: September 1, 2015

Senate Bill 1148

Relating to the functions of the Public Utility Commission of Texas in relation to the economic regulation of water and sewer service.

Amends Water Code, Chapter 5, Sections 5.315 and 5.507; Amends various sections of Chapter 13; and repeals Water Code Section 5.508

Author: Watson Sponsor: Geren

Provides that a municipally owned utility shall disclose the number of ratepayers residing outside the city limits to any person who requests such information. In the absence of a request for confidentiality, a municipally owned utility must provide to any person, on request, the names and addresses of ratepayers who reside outside the city limits. The municipally owned utility may not charge a fee for disclosing the information. Provides that the Public Utility Commission may delegate to the State Office of Administrative Hearings the responsibility to give notice of a hearing on proposed rate changes. Provides procedures for obtaining an emergency order.

Effective Date: September 1, 2015

House Bill 280

Relating to the information required to be posted by the Texas Water Development Board on the board's Internet website regarding the use of the state water implementation fund for Texas.

Amends Water Code, Chapter 15, Section 15.440(b)

Author: Simmons Sponsor: Perry

Expands the laundry list of information the Texas Water Development Board is required to post and update on its website regarding the use of the state water implementation fund.

Effective Date: September 1, 2015

House Bill 949

Relating to the obligation of certain retail public utilities to mitigate their system water loss.

Amends Water Code, Chapter 16, Section 16.0121(g)

Author: Lucio Sponsor: Perry

Allows the Texas Water Development Board to waive the requirement that a retail public utility that receives a loan from the board use some proceeds to mitigate water loss if the utility can demonstrate it is satisfactorily addressing water loss.

Effective Date: May 28, 2015

House Bill 30

Relating to the development of seawater and brackish groundwater.

Amends Water Code, Chapter 16, Sections 16.053(e) and 16.060

Author: Larson Sponsor: Perry

Requires each regional water planning group's regional water plan to set forth the opportunities for and the benefits of developing large-scale desalination facilities for seawater or brackish groundwater serving local or regional brackish groundwater production zones. Provides that the Texas Water Development Board shall identify and designate within its biennial progress report local or regional brackish groundwater production zones in areas of the state having moderate to high availability and productivity of brackish meeting the various criteria set forth within the statute.

Effective Date: Immediate

House Bill 163

Relating to interstate cooperation to address regional water issues.

Amends various sections of Water Code, Chapter 8

Author: Larson Sponsor: Perry

Changes the name of the Multi-State Water Resources Planning Commission to the Southwestern States Water Commission. Modifies the composition of the Commission

from seven (7) to three (3), and provides that the Commission is to be composed of the governor or governor's designee, and two governor appointees: (i) a member of the standing committee of the House that has jurisdiction over natural resources, and (ii) a member of the standing committee of the Senate that has jurisdiction over water issues. Charges the Commission with the facilitation of interstate cooperation to help resolve regional water issues.

Effective Date: September 1, 2015

House Bill 200

Relating to the regulation of groundwater.

Amends various sections of Water Code, Chapter 36

Author: Keffer Sponsor: Perry

Provides that groundwater conservation districts will use the "best available science," as that term is newly defined within the statute, in the development and conservation of groundwater. Broadens the data that a district may consider in establishing desired future conditions. Provides for an appeal process and an alternative dispute resolution period in connection with challenges by an affected person to the district's adoption of a desired future condition. Provides for appeal of a final district order to the district court having jurisdiction of any part of the territory of the district issuing the order. Provides for the award of attorneys' fees to the District in litigation wherein the District prevails on some, but not all, issues. Places the burden to segregate fees upon the district.

Effective Date: September 1, 2015

Title 4. General Law Districts

House Bill 1716

Relating to the term for a lease of land owned by certain navigation districts.

Amends Water Code, Chapter 60, Sections 60.039(a), 60.040, 60.041, and 60.042

Author: Oliveira Sponsor: Lucio

Increases the maximum term for which the navigation and canal commission may lease the surface of land to 50 years, and prohibits a lease from being extended beyond the 50-year term. Applies to leases entered into on or subsequent to the effective date.

Effective Date: September 1, 2015

END OF REPORT

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