

# HIGHLIGHTS OF 2011 HOA REFORM LAWS FOR TEXAS

~ SOMETHING FOR EVERYONE † ~

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for "New Day for Texas HOAs: Overview of 2011 Reform Legislation For Condos and Owners Associations"  
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## HOA MEMBERS ~ HOMEOWNERS

- ▶ Open records & open board meetings
- ▶ Guaranteed right to vote in HOA elections and on matters affecting the owner
- ▶ Payments applied to "dues" first - delinquent and current
- ▶ Payment plans when delinquent
- ▶ Notices to protect active military
- ▶ Okay to have flags, solar panels, roof shingles, rain barrels, and religious door markers

## REAL ESTATE LAWYERS, TITLE COMPANIES & COUNTY CLERKS

- ▶ To be enforceable, HOA's governing documents must be recorded
- ▶ End of hard-to-amend Declarations - max of 67% of votes to amend
- ▶ Notice must be recorded every 3 years to sustain a grandfathered private transfer fee

## HOA ATTORNEYS

- ▶ Limits on contingency fee agreements
- ▶ New foreclosure procedures
- ▶ Lien notices must be prepared by lawyer
- ▶ HOA must apply payments from owners to assessments before attorneys fees
- ▶ Authorizes JP court suit to enforce access to HOA records and award of prevailing party legal fees
- ▶ New notice requirements for collections and enforcement
- ▶ HOAs must adopt and record open records procedures, payment plan guidelines, and records retention policies

## DEVELOPERS & HOME BUILDERS

- ▶ Limits on length of "Declarant Control Period"
- ▶ "Development Period" carve-out for open meetings, solar panels, board appointees, declaration amendments
- ▶ Requirements to grandfather private transfer fees paid to developer or 501(c)s that don't "directly benefit"
- ▶ New disclosures for home sales contracts

## LENDERS

- ▶ Junior lienholders get notice & 60 days to cure owner's default to HOA

## HOA DIRECTORS

- ▶ At least 72 hours notice of board meetings (regular & special) to all members
- ▶ Limits on what board can do without prior notice to members or in executive session
- ▶ Every owner may run for board - can't disqualify (*except for "disclosed" felons & moral turps*)
- ▶ No secret ballots (must be signed), and access to ballots for inspection is limited
- ▶ Board must call annual meeting to avoid call for elections by grass roots group
- ▶ Limits on appointments to board (versus election)

## HOA MANAGERS

- ▶ Transfer fees paid to managers at closing are protected - no changes - business as usual
- ▶ Resale certificates - longer to prepare, prepayment by buyer
- ▶ Changes to content of resale certificates
- ▶ If HOA or manager maintains publicly-accessible website for HOA, must post governing documents

† Well... not "everyone." Most of these do not apply to developments that are condominium in ownership. Remember, not all condos look like condos. The legal nature of a property is important for the application of these law changes.