



# 2023 LEGISLATIVE UPDATE

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A REVIEW OF NEW LAWS FROM THE 88<sup>TH</sup>  
LEGISLATIVE SESSION

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# EFFECTIVE DATES OF 2023 LEGISLATION

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- All changes are effective on September 1, 2023, except:
- §209.0061, Association Fine Policy (HB 614), which will take effect January 1, 2024.

## § 209.0094 – ASSESSMENT LIEN FILING (HB 886)

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- (c) Before a property owners' association files an assessment lien, the association must provide notices of delinquency in accordance with Subsections (d) and (e).
- (d) The **first notice** of delinquency must be provided:
- (1) **by first class mail** to the property owner's last known mailing address, as reflected in records maintained by the association; **or**
  - (2) **by e-mail** to an e-mail address the property owner has provided to the property owners' association.

## § 209.0094 – ASSESSMENT LIEN FILING (CONT.)

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(e) The **second notice** of delinquency must be provided by **certified mail, return receipt requested**, to the property owner's last known mailing address, as reflected in the records maintained by the association, not earlier than the 30th day after notice is given under Subsection (d).

## § 209.0094 – ASSESSMENT LIEN FILING (CONT.)

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(f) A property owners' association **may not file an assessment lien before the 90th day after** the date notice of delinquency was sent to the property owner under Subsection (e).

(g) Subsections (c), (d), and (e) **do not apply** to a property owners' association providing a property owner covered by the Servicemembers Civil Relief Act (50 U.S.C. Section 3901 et seq.) the protections to which the owner is entitled under the Act.

## § 202.024 – PROHIBITING DISCRIMINATION AGAINST TENANT BASED ON METHOD OF PAYMENT (HB 1193)

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(a) In this section, "method of payment" includes payment made in whole or in part by:

(1) a housing choice voucher under **Section 8**, United States Housing Act of 1937 (42 U.S.C. Section 1437f); or

(2) **any other federal or state or local housing assistance** provided to a person or to a property owner on behalf of a person, including rental vouchers, rental assistance, or rental subsidies from a nongovernmental organization.

## § 202.024 – PROHIBITING DISCRIMINATION AGAINST TENANT BASED ON METHOD OF PAYMENT (CONT.)

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(b) A property owners' association **may not include or enforce** a provision in a dedicatory instrument that prohibits or restricts a property owner from renting a dwelling to a person based on the person's method of payment.

## § 209.006 I – ASSOCIATION FINE POLICY (HB 614)

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- (a) This section **does not apply** to a property owners' association that is not authorized by the association's dedicatory instrument to levy a fine.
- (b) A property owners' association board **shall adopt an enforcement policy** regarding the levying of fines by the property owners' association. The policy must include:
- (1) **general categories of restrictive covenants** for which the association may assess fines;
  - (2) a **schedule of fines for each category** of violation; and
  - (3) information regarding hearings described by Section 209.007.



## § 209.006 I – ASSOCIATION FINE POLICY (CONT.)

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(c) The enforcement policy adopted pursuant to Subsection (b) may reserve the board's authority to levy a fine from the schedule of fines that varies on a **case-by-case basis**.

(d) Each property owners' association shall:

(1) **provide a copy of the policy** to an owner of each property in the subdivision by:

(A) **posting the policy on an Internet website** maintained by the property owners' association or an agent acting on behalf of the association and accessible to members of the association; **or...**

## § 209.006 I – ASSOCIATION FINE POLICY (CONT.)

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(B) **annually sending a copy of the policy**, separately or included in routine communication from the property owners' association to property owners, by:

(i) **hand delivery** to the owner;

(ii) **first class mail** to the owner's last known mailing address; **or**

(iii) **e-mail** to an e-mail address provided to the property owners' association by the owner; **and...**

## § 209.006 I – ASSOCIATION FINE POLICY (CONT.)

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(2) **make the policy available on any publicly accessible Internet website** maintained by the property owners' association or an agent acting on behalf of the association.

# VETOED BILL: SB 1668

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- This bill was proposed to build on past legislation and add:
  - Management certification requirements for condominium owners' associations
  - Granting associations rights to restrict or prohibit certain placement for fences
  - Expanding eligibility for serving on an Architectural Review Authority (ACC)
- The Governor's Veto Statement identifies the reason for veto as the bill being "simply not as important as cutting property taxes."

## DEFEATED BILLS: HB 92 & HB 276

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Both bills prohibiting HOAs from preventing certain activities by property owners including raising chickens and rabbits, growing fruits and vegetables, and other “homesteading” activities were defeated in this legislative session.



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June 20, 2023

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