

## Here are the 3 major laws impacting your association in 2023:

### 1. HB 886 (Assessment Lien Filing)

*Effective date: September 1, 2023 | Single-family only*

#### What is it?

HB 886, a.k.a. Assessment Lien Filing, defines an “assessment lien” as a lien, lien affidavit, or other lien instrument evidencing the nonpayment of assessments or other charges owed to a POA and is a legal instrument affecting title to real property filed in the official public records of a county.” [This law\(Opens in a new window\)](#) states:

*“Before a property owners' association files an assessment lien, the association must provide three separate monthly notices of delinquency...”*

#### What does this law do?

An amendment to [Section 209.0094 of the Texas Property Code\(Opens in a new window\)](#), HB 886 originated from a desire to regulate the process of filing liens for assessment debts for single-family residential property owners associations. The legislative intent was to offer homeowners a fair opportunity to address any outstanding dues and prevent sudden liens.

In simple terms, HB 886 mandates that **before your HOA (or HOA attorney) can file a lien or notice of lien against homeowners, you must send them three monthly written notices:**

1. **First notice:** sent via first class mail or email.
2. **Second notice:** sent via certified mail (return receipt requested), **at least 30 days** after the first notice was sent.
3. **Third notice:** notice of assessment lien; cannot be sent until **at least 90 days** after the second notice was sent.

Each notice must:

- detail the amount owed;
- clarify the homeowner's rights; and
- provide at least a 30-day period in which the homeowner can pay the owed amount without any additional charges.

#### What does this mean for my association?

First and foremost, if the Declaration for your POA provides for a lien on encumbered

properties for nonpayment of assessments, **this law does not affect the POA's lien**. In simple terms, HB 886 mandates that **before your POA can file a lien notice against homeowners in the real property records, you must send them two written notices** – the first notice by first class mail or email; the second notice via certified mail (return receipt requested). These notices must:

- detail the amount owed; and
- clarify the homeowner's rights

**Note: The second delinquency notice may not be sent until 30 days have passed since the date of the first delinquency notice.** Before your POA can file a lien, it **must wait 90 days after the second delinquency notice** to the homeowner. If the homeowner still hasn't paid the owed amount by the 90-day mark, *then* your board can file the lien (or notice of lien) with the county clerk's office.

### **What now?**

Work with your board's legal counsel to **have prepared an amended Collection Policy that reflects this new procedure.**

## **2. HB 1193 (Anti-Discrimination Based on Section 8 Status)**

*Effective September 1, 2023*

### **What is it?**

HB 1193 requires Texas associations to remove any restrictions based on a tenant's payment method. [This law\(Opens in a new window\)](#) states:

*“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.”*

### **What does this law do?**

HB 1193 changes [Chapter 202 of the Texas Property Code\(Opens in a new window\)](#). The legislative intent behind this bill was to increase protection for tenants who rely on assistance to pay for housing.

### **What does this mean for my association?**

Starting September 1, 2023, **Texas POAs must accept any form of payment, including**

**those made with Section 8 housing vouchers.** This also includes rental vouchers, rental assistance, or rental subsidies from a non-governmental organization. This change helps ensure tenants have equal access to housing, regardless of method of payment.

## What now?

Most POAs do not restrict such methods of payment, however, boards and managers of Texas associations should **review their dedicatory instruments and ensure any restrictions against specific payment methods are not enforced.**

## 3. HB 614 (Fines and Enforcement Policy)

*Effective date: January 1, 2024 | Single-family only*

### What is it?

A returning bill from previous legislative sessions, HB 614, also known as "Fines and Enforcement Policy," requires all Texas HOAs to establish enforcement policies detailing types of restrictions and the schedule of fines for each. [This law\(Opens in a new window\)](#) specifically states:

*“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...*”

### What does this law do?

This legislation aims to increase clarity in Texas HOA policies. This ensures that communities remain compliant and consistent when it comes to enforcement of rules.

### What does this mean for my association?

Your board will need to **seek legal counsel to adjust your enforcement policy to outline these three things:**

- restrictions, arranged by category, that may result in fines if violated;
- a schedule of fines for each type of violation; and
- information about the hearing and verification process before the board.

**Note:** Your policy can reserve the board's authority to adjust fines in a case-by-case basis. This allows for flexibility and consideration of any unique circumstances.

### **What now?**

Your association may already have a fine and enforcement policy, but does it include a schedule of fines for categories of violations? To ensure your policy is compliant with the new state law, your board should **consult your management company and legal counsel** to review your current fines and enforcement policy and update as needed.

**Note:** Since the effective date for this Texas law is January 1, 2024, this allows some time for your association to adopt or adjust your fine and enforcement policy. Any fines levied **before** January 1, 2024 will be enforced as usual, whether the association has established a new policy or not. Fines that are due **after** the effective date will be subject to the association's new policy under Texas state law.