

BILL ANALYSIS

H.B. 1349
By: Turner
Trade, Workforce & Economic Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

During the 87th Regular Session, the Texas Legislature passed S.B. 1588, which revised certain powers and duties of property owners' associations (POA). However, the bill author has informed the committee that concerns remain regarding separate statutory requirements for POAs and condominium owners' associations. H.B. 1349 seeks to address these concerns by applying provisions of S.B. 1588 to condominium unit owners' associations and providing clarity regarding the authority and functions of a POA.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1349 amends the Property Code to revise provisions relating to condominium unit owners' associations and property owners' associations.

Condominium Unit Owners' Associations

H.B. 1349 requires the condominium unit owners' association of a condominium composed of at least 60 units or a condominium unit owners' association that has contracted with a management company to make the current version of the association's dedicatory instruments relating to the association and filed in the county deed records available on a website that is maintained by the association or a management company on the association's behalf and accessible to association members. The bill defines "management company" as a person or entity established or contracted to provide management or administrative services on behalf of a unit owners' association organized under the Uniform Condominium Act.

H.B. 1349 revises the information that must be stated on a management certificate required to be recorded by a condominium unit owners' association in each county in which any portion of the condominium is located as follows:

- removes the option for the certificate to include either the association's mailing address or the name and mailing address of the person or entity managing the association and requires the certificate to include instead the association's mailing address and the name, mailing address, telephone number, and email address of any management company; and
- includes the following as required components of the certificate:

- any amendments to the declaration;
- the website address of any website on which the association's dedicatory instruments are available in accordance with the bill's provisions; and
- the amount and description of a fee or fees charged to a unit seller or buyer relating to a transfer of a property interest in a unit of the condominium.

The bill specifies that an amended management certificate is the certificate that the association is required to record not later than the 30th day after the date the association has notice of a change in any information in the recorded management certificate and includes a change to other information the association considers appropriate as a change that triggers that requirement.

H.B. 1349 requires a condominium unit owners' association, not later than the seventh day after the date the association files a management certificate or an amended management certificate for recording, to electronically file the applicable certificate with the Texas Real Estate Commission (TREC). The bill requires TREC to only collect the management certificate and amended management certificate for the purpose of making the data accessible to the public through a website. The bill specifies that the exemption from liability of the association and its officers, directors, employees, and agents for delay or failure to record a management certificate, unless the delay or failure is wilful or caused by gross negligence, applies with respect to recording such a certificate with a county clerk's office and with respect to electronically filing the certificate with TREC. The bill exempts a unit owner from liability for attorney's fees incurred by an association relating to the collection of a delinquent assessment against the unit owner, or interest on the delinquent assessment, if the attorney's fees are incurred by the association or the interest accrues during the period a management certificate is not recorded with a county clerk or electronically filed with TREC, as required by provisions governing the management certificate.

H.B. 1349 authorizes a condominium unit owners' association to charge a reasonable and necessary fee, not to exceed \$375, to furnish a resale certificate to a purchaser before a unit owner other than a declarant executes a contract or conveys the unit.

H.B. 1349 requires a condominium unit owners' association that has recorded a management certificate or amended management certificate with a county clerk before the bill's effective date to electronically file the most recently recorded management certificate or amended management certificate with TREC as required by the bill's provisions not later than March 1, 2026.

Property Owners' Associations (POA)

H.B. 1349 establishes that the prohibition against a POA enforcing a restrictive covenant that prevents a property owner from building or installing certain security measures does not prohibit a POA from doing the following:

- prohibiting the placement of fencing that obstructs:
 - a license area, as defined by a written license agreement or plat;
 - a sidewalk in the public right-of-way or otherwise installed for public or community use; or
 - a drainage easement or drainage area;
- requiring a driveway gate to be set back at least 10 feet from the right-of-way if the driveway intersects with a laned roadway, as defined by the Transportation Code rules of the road provisions; or
- if provided by a restrictive covenant, prohibiting the installation of fencing in front of the front-most building line of a dwelling.

The bill provides for exceptions to these provisions by doing the following:

- authorizing a property owner to maintain any perimeter fencing or fencing in front of a dwelling's front-most building line installed or constructed before September 1, 2025; and

- prohibiting a POA from prohibiting a property owner from installing perimeter fencing or fencing in front of the front-most building line of a dwelling if:
 - the property owner's residential address is exempt from public disclosure under state or federal law; or
 - the property owner provides to the POA documentation from a law enforcement agency of the property owner's need for enhanced security measures.

H.B. 1349 requires a POA, not later than the 10th day before the date the POA or POA's board takes action or meets to elect or appoint a person to serve on an applicable architectural review authority for the review and approval of improvements within a subdivision, to provide notice to POA members soliciting persons interested in serving on the authority. The required notice must contain instructions for a person to notify the POA of the person's interest in serving on the authority, including the date by which the person's notification must be received by the POA, and must be provided by mail to each owner or by both of the following:

- posting the notice in a conspicuous manner reasonably designed to provide notice to POA members on any website maintained by the POA or other Internet media or in a place located on the POA's common property or, with the property owner's consent, on other conspicuously located privately owned property within the subdivision; and
- by sending the notice by email to each owner who has registered an email address with the POA.

The bill prohibits the date established by a POA by which notification of a person's interest in serving on the architectural review authority must be received by the POA from being a date earlier than the 10th day after the date the POA provides the notice described by the bill's provisions.

H.B. 1349 prohibits a person, except as provided by the bill's provisions, from being appointed or elected to serve on an applicable architectural review authority unless the person timely notifies the POA of the person's interest in serving on the authority in accordance with the bill's provisions. The bill authorizes a POA, if a vacancy remains on an applicable architectural review authority after each person who is eligible under statute for appointment or election to serve on such an authority and who timely notifies the POA in accordance with the bill's provisions, to appoint any person to fill the vacancy, including a person not otherwise eligible under statute.

EFFECTIVE DATE

September 1, 2025.