



# Report on the 88th Texas Legislative Session

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The 88th Texas Legislature was busy, particularly with respect to real estate. This summary of statutes affecting Texas real estate law is not exhaustive and does not include every detail of every law. For full information, consult the actual statutes. Nothing in this report should be considered legal advice. For advice on a specific situation, consult an attorney.

### Occupations Code

**SB 1577:** Amends the Education Code and Occupations Code to officially change the name of the Real Estate Research Center the Texas Real Estate Research Center, and to clarify that the “additional fee” provided for in Section 1101.154(a) applies to each year of the term for which the license is issued or renewed. It makes numerous changes to the Occupations Code, including:

Amending Tex. Occ. Code § 1101.0045 and Tex. Prop. Code § 5.0205 to require a disclosure regarding an option or other equitable interest be in writing and provided to any seller and any potential buyer;

Amending Tex. Occ. Code § 1101.355 to exempt LLCs and S corporations from licensure requirements if the entity is registered with TREC, receives a licensee’s compensation and performs no other acts of a broker, and is at least 51 percent owned by the licensee whose compensation it receives;

Amending Tex. Occ. Code § 1101.356 to eliminate the requirement that a broker applicant’s four years of active experience be in Texas; and

- Amending Tex. Occ. Code § 1101.356 to require education requirements not to exceed 60 semester hours or equivalent classroom hours.

Effective Jan. 1, 2024.

**HB 1363:** Amends the Occupations Code to eliminate the Real Estate Inspection Recovery Fund. Amends Tex. Occ. Code § 1102.114 to eliminate the license fee for issuance of an inspector license. Inspectors must still meet the required qualifications and submit proof of financial responsibility. Effective Sept. 1, 2023.

**SB 1222:** Amends Tex. Occ. Code § 1103.004 to exclude persons performing appraisals in connection with the Practical Applications of Real Estate Appraisal Course from the Texas Appraiser Licensing and Certification Act.

Amends Tex. Occ. Code § 1103.205 to provide that experience as a real estate mortgage lending officer or as a real estate broker performing or reviewing appraisals is no longer acceptable appraisal experience for purposes of determining qualifications for licensure.

Adds Tex. Occ. Code § 1104.2051, allowing the presiding officer of the Texas Appraiser Licensing and Certification Board to appoint an investigative committee to review the facts of a complaint.

Effective Sept. 1, 2023.

**HB 2706:** Amends Tex. Occ. Code § 1201.1025 to allow the sale of manufactured homes without a retailer’s license if all manufactured homes sold or offered for sale are located in a manufactured home community and sold or offered for sale to the same purchaser in connection with a sale of the real property of the community. Effective Sept. 1, 2023.

**HB 2334:** Adds Tex. Occ. Code § 1301.059, removing the requirement of licensure for a person installing, servicing, or repairing service mains or service lines that provide water, sewer, or storm drainage services on private property in an area that extends from a public right-of-way or public easement to not less than five feet from a building or structure. The new section does not apply to work performed on private property designated for use as a one-family or two-family dwelling. Effective Sept. 1, 2023.

**SB 500:** Amends Tex. Occ. Code § 2002.056 to raise the maximum value permitted for a residential dwelling offered as a prize at a raffle. Effective Sept. 1, 2023.

**SB 604:** Amends Chapter 954 of the Occupations Code to provide that certain “land services” typically performed by landmen are not the practice of law if the person does not hold himself out as a licensed attorney and is not a licensed attorney. “Land services” as defined in the act do not include examining title in connection with transactions involving the surface or with mortgages on residential mortgages. Effective immediately.

**HB 2453:** Adds Chapter 60 to the Occupations Code, allowing state, county, or municipal licensing authorities to issue digital licenses. Effective Sept. 1, 2023.

## Property Code

**SB 2 (Second Special Session):** Amends various sections of the Education Code and the Tax Code:

- Increases homestead exemption on school taxes from \$40,000 to \$100,000.
- Provides \$7 billion in tax rate compression. Tax rate compression means school districts receive more money from the state, which in turn reduces tax rates imposed by the school districts. School districts, counties, and cities that have an optional percentage homestead exemption for the 2022 tax year are prohibited from reducing or repealing that exemption until 2028.
- Provides a 20 percent cap on appraisal increases each year for three years on non-homestead properties with an appraised value less than \$5 million.
- Expands the board of directors for appraisal districts in counties with population greater than 75,000 from three to nine directors, three of which are to be elected.
- Reduces property taxes without affecting the funds available to school districts. The difference is made up in state money.

To be effective, Texas voters must approve the constitutional amendment proposed by HJR 2, which will be on the ballot in November 2023.

**HB 2022:** Amends and adds several sections of Chapter 27, Property Code, making changes to the Texas Residential Construction Commission Act:

- Clarifies the term “appurtenance” and makes clear that garages, outbuildings, and retaining walls are included, whether or not attached to the dwelling unit.
- Makes changes to the definition of a “construction defect” and “contractor.”
- Broadens the definition of “residence” under the act.
- Removes bodily or personal damages from economic damages recoverable under the act. A contractor is liable only to the extent a defective condition proximately causes:
  1. actual physical damage to the residence;
  2. an actual failure or lack of capability of a building component to perform its intended function or purpose; or

3. a verifiable danger to the safety of the occupants of the residence.

- Eliminates contractor liability for normal cracking.
- For a claimant under a breach of warranty to recover, he must establish the existence of a latent defect when the residence was completed or title was conveyed, and that the latent defect has rendered the residence unsuitable for its intended use as a home.
- Provides notice, inspection, settlement, and repair procedures in the event of a claim for construction defect. Any attempted waiver provision is void.

Effective Sept. 1, 2023.

**HB 207:** Adds Tex. Prop. Code § 41.0022, excluding certain conveyances from classification as sham or pretended sales. The conveyance of a parcel not meeting the definition of an urban homestead under Section 41.002(a) or (c) by an individual to an entity in which the individual or individual’s spouse has a direct or indirect ownership interest is not a sham or pretended sale, including a pretended sale under Section 50(c), Article XVI, Texas Constitution, if:

1. the deed conveying the parcel is recorded at least 30 days before the entity grants a mortgage, trust deed, or other lien on the parcel;
2. the individual does not reside on the parcel at the time of the conveyance;
3. the parcel is not contiguous to the parcel on which the individual resides;
4. the deed conveying the parcel does not contain a condition of defeasance; and
5. the individual recorded contemporaneously with the deed an affidavit substantially in the form prescribed by Subsection (d) of the new section.

An individual executing a deed complying with the conditions may not claim that the conveyance is a sham or pretended sale, including a pretended sale under Section 50(c), Article XVI, Texas Constitution; and may not claim that the individual had not abandoned homestead rights, if any, in the parcel by executing the deed. Effective Sept. 1, 2023.

**HB 697:** Amends Tex. Prop. Code § 5.008 to require inclusion of fuel gas piping, black iron pipe, copper, and corrugated stainless steel tubing on the required seller’s disclosure form. Effective Sept. 1, 2023, to apply to all transfers for which the parties enter into a binding contract on or after that date.

**HB 3485:** Adds Tex. Prop. Code § 28.0091, allowing contractors and subcontractors to elect not to proceed

with additional work until they have received a fully executed change order for the work if the value of the additional work exceeds 10 percent of the original contract amount. In the event the contractor or subcontractor elects not to proceed, he is not responsible for damages caused by not proceeding. The act amends Tex. Gov't Code § 2251.0521 to make similar changes with respect to public contracts. Effective Sept. 1, 2023, to apply to contracts entered into on or after that date.

**HB 450:** Adds Chapter 31 to the Property Code. Creates a statutory cause of action for bad faith washout of an overriding royalty interest. The action must be brought in the district court of the county where the property is located. A prevailing party may recover actual damages and a constructive trust over the lease, plus attorney fees and court costs. The statute of limitations on such a suit is two years after the plaintiff has actual knowledge of the washout. Effective Sept. 1, 2023, and applicable only to washouts that occur on or after that date.

**SB 1768:** Amends various sections of the Property Code to remove references to the Texas Residential Construction Commission Act and other obsolete provisions. Effective immediately.

**SB 62:** Amends Tex. Prop. Code § 51.002 and Tex. Tax Code § 34.015. Requires counties to post notices of foreclosure sales on their websites. The county tax assessor-collector is required to post a form for a user to request a statement whether any delinquent taxes are owed on the property. In cases where the comptroller's form is allowed, the county tax assessor-collector may post a link to the comptroller's form. Effective Sept. 1, 2023.

**HB 4635:** Amends and adds to the Civil Practice and Remedies Code, Penal Code, and Code of Criminal Procedure, providing that filing a lien notice under the [Racketeer Influenced and Corrupt Organizations Act](#) (RICO) of 1970 creates a lien on any real property or beneficial interest in real property in the county. Provides procedures for the notice and discharge of the lien. RICO lien notices are filed by investigative agencies when it is believed that the property in question was used in the course of, intended for use in the course of, derived from, or realized through certain organized criminal conduct. Effective Sept. 1, 2023.

**SB 1259:** Amends Tex. Prop. Code § 92.0563 to raise the maximum judgment amount that may be awarded by a justice court to a tenant in a suit involving a landlord's failure to make certain required repairs after notice from the tenant. The maximum is raised from \$10,000 to \$20,000. Effective Sept. 1, 2023, and applies only to causes of action that accrue on or after that date.

**HB 3536:** Tex. Prop. Code § 93.013 allows a commercial landlord to terminate a tenant's right of possession and recover the premises if certain unlawful activities are occurring on the premises. This act amends that section to include the operation of an unlawful massage establishment. Effective Sept. 1, 2023.

**HB 4559:** Certain Texas statutes are limited in their application by certain population ranges. This bill amends various sections of the Property Code and numerous other codes to adjust the population ranges in these "bracket bills." Effective Sept. 1, 2023.

**HB 1558:** Adds Chapter 216 to the Property Code, providing a procedure for certain older subdivisions to extend and/or amend restrictions. The act applies only to subdivisions located wholly or partially within a municipality with a population greater than two million, without an existing written procedure for extension or amendment, with one non-mandatory property owners' association, and which is described by a recorded map or plat filed before 1947 in the real property records of the county in which the subdivision is located. Effective Sept. 1, 2023.

**HB 1193:** Adds Tex. Prop. Code § 202.024, prohibiting a property owners' association from discriminating against a tenant based on the tenant's method of payment (i.e., vouchers, rental assistance, or subsidies). Effective Sept. 1, 2023.

**HB 614:** Adds Tex. Prop. Code § 209.0061, requiring that a property owners' association that has authority to levy fines must adopt an enforcement policy including categories of violations and a schedule of fines for each. The policy must be provided to property owners and be made available on the association's website. The policy may reserve the association's authority to levy a fine from the schedule that varies on a case-by-case basis. Effective Jan. 1, 2024, and applies only to a fine that becomes due on or after that date.

**HB 886:** Amends Tex. Prop. Code § 209.0094, involving notice procedures for filing property owners' association assessment liens. The first notice must be given by first class mail or email. A second notice must be given by certified mail, return receipt requested, at least 30 days after the first notice. The assessment lien may not be filed until 90 days after the second notice. Effective Sept. 1, 2023, to apply only to assessments that become delinquent on or after that date.

**SB 1650:** Amends numerous sections of Chapters 751 and 752 of the Estates Code and Tex. Prop. Code § 240.008. The act replaces the term "person" with "individual" and allows the court to suspend or affirm a durable power of attorney if a guardian is appointed.



The act allows for attorney fees in a court proceeding for the construction or enforcement of a durable power of attorney and makes changes to the authority of an agent appointed by the durable power of attorney over certain business transactions and entities. Effective Sept. 1, 2023.

**HB 567:** Adds Tex. Prop. Code § 301.0045, prohibiting discrimination in housing on the basis of a person's hair texture or because the person wears a protective hairstyle commonly or historically associated with race, including braids, locks, or twists. Effective Sept. 1, 2023.

**HB 2333:** Adds Subchapter F, Chapter 112 of the Property Code. The subchapter provides the requirements of a noncharitable trust without ascertainable beneficiary. Effective immediately.

**HB 2196:** The act deals with qualifying trusts for homestead purposes. Among other changes, it amends Tex. Prop. Code § 41.0021 to change the definition of a "qualifying trust" to mean an express trust:

1. in which the instrument or court order creating the express trust, an instrument transferring property to the trust, or any other agreement that is binding on the trustee provides that a settlor or beneficiary of the trust has the right to:
  - (A) revoke the trust without the consent of another person other than a spouse who is also a settlor of the trust;
  - (B) exercise an inter vivos general power of appointment over the property that qualifies for the homestead exemption, either alone or when aggregated with property subject to an inter vivos general power of appointment held by a spouse who is also a settlor of the trust; or
  - (C) use and occupy the residential property as the settlor's or beneficiary's principal residence at no cost, or rent free and without charge, except for taxes and other costs and expenses specified in the instrument or court order:
    - (i) for the life of the settlor or beneficiary;
    - (ii) for the shorter of the life of the settlor or beneficiary or a term of years specified in the instrument or court order; or
    - (iii) until the date the trust is revoked or terminated by an instrument or court order that describes the property with sufficient certainty to identify the property and that is recorded in the real property records of the county in which the property is located; and

2. the trustee of which acquires the property in an instrument of title or under a court order that:
  - (A) describes the property with sufficient certainty to identify the property and the interest acquired; and
  - (B) is recorded in the real property records of the county in which the property is located.

Amends Tex. Prop. Code § 112.035 to provide that a beneficiary may not be considered a settlor merely because the beneficiary held or exercised a testamentary power of appointment other than a general power of appointment, held a testamentary general power of appointment in favor of or for the benefit of the takers in default of the appointive assets. If a beneficiary of the trust exercised a testamentary general power of appointment in favor of or for the benefit of any appointee other than the takers in default of the appointive assets, the appointive assets are subject to the claims of creditors of the beneficiary, but only to the extent the beneficiary's own property is insufficient to meet the beneficiary's debts. Unless appointed to the beneficiary's estate, they are not subject to administration as a part of the beneficiary's estate or recovery by the personal representative of the beneficiary's estate (with some exceptions), or the payment of taxes or administration expenses of the beneficiary's estate.

Amends Tex. Prop. Code 112.036(c) to accommodate the new 300-year period of the rule against perpetuities extended in 2021, clarifying that the new rule applies to trusts with an effective date on or after Sept. 1, 2021, unless the trust provides that the trust vests according to the provisions of that section in effect at the time of vesting.

Effective immediately.

**SB 801:** Adds Tex. Prop. Code § 114.087 and amends Tex. Prop. Code § 5.028 to provide that when an instrument that names the trust as a party, the trustee of the trust is the named party, unless the trust is a legal entity under state law. The trustee may be identified by a correction instrument, but it is not required. A certification of trust that is recorded in the county where real property is located is presumed to correctly identify the trust and the trustee, and may be relied upon by a good faith purchaser for value. Effective Sept. 1, 2023, but applicable to all instruments, including those executed prior to the effective date.

## Transportation Code

**SB 1869:** Amends Tex. Transp. Code §§ 202.021 and 202.030, which authorize the state to sell real property no longer needed for highways, public utilities, or common carrier purposes. Previously, conveyances needed approval by the governor or attorney general if the value of the property was \$10,000 or more. The bill raised the threshold to \$100,000. Effective Sept. 1, 2023.

## Tax Code

**SB 1381:** Amends Tex. Tax Code § 11.43 to allow a surviving spouse to receive the homestead exemption for an individual 65 years of age or older without applying for the exemption if the appraisal district learns of the individual's death from any source and the surviving spouse is otherwise eligible for the exemption. Effective Jan. 1, 2024, and applies to tax years beginning on or after that date.

**HB 4077:** Amends Tex. Tax Code § 11.43 to provide that a person who receives a residence homestead property taxation exemption in a tax year may receive the mandatory residence homestead property tax exemption for those 65 years of age or older, as well as any local option exemption for those 65 years of age or older, on the same property in the next tax year without applying for the exemption if the person becomes 65 years of age in that next year. Effective Jan. 1, 2024, to apply to tax years beginning on or after that date.

**SB 1801:** Amends Tex. Tax Code § 11.43 to require the chief appraiser of an appraisal district to develop a periodic review of each residential homestead exemption to confirm that it still qualifies for the exemption. The program must review each exemption at least once every five years. Effective Sept. 1, 2023, with the program to begin Jan. 1, 2024.

**SB 719:** Amends Tex. Tax Code § 11.18, dealing with exemptions from ad valorem taxation of buildings, tangible personal property, and real property owned by charitable organizations. The bill adds organizations providing support or relief to children with disabilities in need of residential care and organizations providing services related to planning for the placement of or placing children in foster or adoptive homes or providing support or relief to women who are or may be pregnant and who are considering placing their unborn children for adoption. Effective Jan. 1, 2024, to apply to tax years beginning on or after that date.

**HB 456:** Amends Tex. Tax Code § 11.18 to exempt from ad valorem taxation mineral interests owned by charitable organizations. Mineral interests, including royalties

from mineral interests, are entitled to exemption provided that the interest (a) is not severed from the surface estate, or (b) was donated to the charitable organization by the previous owner of the interest. Effective Jan. 1, 2024, to apply to tax years beginning on or after that date.

**HB 3207:** Amends Tex. Tax Code § 6.12. Members of the agricultural advisory board of an appraisal district are no longer required to have been residents of the district for at least five years. Effective Sept. 1, 2023.

**HB 2354:** Amends Tex. Tax Code § 23.54 to provide that, for purposes of determining the eligibility of land to continue to be appraised as qualified open-space land, transfer of ownership from the former owner to the surviving spouse is not considered a change of ownership. Effective Jan. 1, 2024.

**HB 260:** Amends Tex. Tax Code § 23.51 to require that in calculating net to land of open-space land located in or adjacent to a wildlife or livestock disease or pest area, the chief appraiser shall take into consideration the effect that the presence of the applicable disease or pest or the designation of the area has on the net income from the land. "Wildlife or livestock disease or pest area" means an area designated by a state agency as an area in which a disease or pest that affects wildlife or livestock exists or may exist, including a chronic wasting disease containment or surveillance zone and an area subject to a quarantine authorized by Subtitle C, Title 6, Agriculture Code. Effective Jan. 1, 2024, to apply to tax years beginning on or after that date.

**SB 1191:** Amends Tex. Tax Code § 23.541 to allow a surviving spouse, surviving child, executor or administrator of the estate, or a fiduciary acting on behalf of the surviving spouse or surviving child to file a late application for qualified open-space appraisal on agricultural land. The provision applies if the land was appraised as agricultural land in the preceding tax year, the ownership of the land changed as a result of the death of an owner, and the application is filed not later than the delinquency date for the taxes on the land for the year in which the application is filed. Effective immediately to apply to the 2023 tax year.

**HB 796:** Amends Tex. Tax Code § 26.17 and adds Tex. Tax Code § 41.13 to require the chief appraiser of each appraisal district to create, maintain, and annually update a publicly available and searchable Internet database that contains information regarding protest hearings conducted by the district's appraisal review board, including the determination of each protest. The database of property-tax-related information maintained by a chief appraiser must provide a link to the district's protest hearing database. Effective Jan. 1, 2024.

**SB 2091:** Amends Tex. Tax Code §§ 33.43 and 34.02, and adds Tex. Tax Code § 34.0101 to provide that, under certain circumstances, real property seized under a tax warrant or ordered sold due to a tax foreclosure may be sold to an owner of abutting property at a private sale. Procedures are set out, including a process to be followed when there is more than one owner of abutting property. These provisions only apply to certain properties, such as property that is unusable because of its shape or size under current zoning or development ordinances, is landlocked, or is in a floodway or at risk of flooding. Effective Sept. 1, 2023.

**HB 2488:** Amends Tex. Tax Code § 42.23 and deals with appeals to district court of an order by an appraisal review board determining a taxpayer protest, or of a motion correcting the appraisal roll. If it involves an increase in appraised value of a property after the appraised value was lowered the previous tax year due to a taxpayer protest, the burden of proof is on the appraisal district to establish the increase in the appraised value by clear and convincing evidence. Effective Sept. 1, 2023.

**HB 4101:** Amends Tex. Tax Code § 41A.015 to authorize a property owner who files a notice of protest under Chapter 41 of the Tax Code to request limited binding arbitration to compel compliance with hearing procedures. Effective Jan. 1, 2024, to apply to all protests filed on or after that date.

**SB 1999:** Amends Tex. Tax Code § 26.013 to update the formula for calculating a taxing unit's unused increment rate. Effective Jan. 1, 2024.

**SB 1013:** The tax credit for certified rehabilitation of certified historic structures was found in Chapter 171 of the Tax Code, which establishes the franchise tax. Supporters of the bill were concerned that in the event the franchise tax is repealed, the credit would be repealed with it. The act moves the program to its own chapter—Chapter 172. Effective Sept. 1, 2023.

**HB 1058:** Adds Subchapter K to Chapter 171 of the Tax Code, establishing a franchise tax credit for a taxable entity that owns a direct or indirect interest in a qualified development in Texas for which the Texas Department of Housing and Community Affairs (TDHCA) awards or allocates a federal low-income housing credit. The entity may claim the credit in equal installments each year over a ten-year credit period, with a maximum total amount of credits of \$25 million each year, plus any unallocated credits carried over from previous years and any credits recaptured or otherwise returned to TDHCA. Credits may be issued beginning Jan. 1, 2024, but can only be claimed on a tax report originally due on or after Jan. 1, 2026.

Amends the Insurance Code to make an entity eligible for a credit against the entity's state premium tax liability if the entity owns a direct or indirect interest in such a qualified development. That entity is not required to pay any additional retaliatory tax as a result of claiming the credit. The total amount claimed may not exceed the amount of the entity's state premium tax liability, but the entity may carry a surplus credit forward or backward. Credits may be claimed only on a tax report originally due on or after Jan. 1, 2026, and before Jan. 1, 2036.

TDHCA is prohibited from allocating any new franchise tax or insurance premium tax credits after Dec. 31, 2029; however, on or after Jan. 1, 2030, TDHCA may provide previously reserved credits, and a taxable entity may claim a credit in connection with a qualified development that was allocated or reserved before Jan. 1, 2030. The act provides for the recapturing of franchise tax or insurance premium tax credits from an entity if the applicable qualified development is subject to the recapture of a portion of the federal tax credit awarded or allocated to the development.

Effective Jan. 1, 2024.

**HB 1228:** Amends or repeals several sections of the Tax Code, requiring taxing authorities to allow property owners to opt-in to communicate electronically with the taxing authorities. Establishes procedures for these communications and prohibits the charging of a fee for electronic communications. Effective Jan. 1, 2024, although counties with populations less than 120,000 must comply in the 2025 tax year.

## Utilities Code

**SB 365:** Amends Tex. Util. Code § 37.054, dealing with applicants for issuance or amendment of a certificate of public convenience and necessity authorizing construction of an electrical substation. In addition to notices already required, the applicant must provide written notice of each proposed substation to each owner of adjacent property and any properties located directly across a highway, road, or street that is adjacent to the property where the substation is to be located. Effective Sept. 1, 2023.

**SB 1076:** Amends Tex. Util. Code § 37.057 to require the Public Utility Commission to approve or deny an application for a certificate of public convenience and necessity for a new transmission facility within 180 days of the filing of the application. Effective immediately.

**HB 5066:** Amends Tex. Util. Code §§ 37.056 and 37.057, and adds Tex. Util. Code §§ 39.166 and 39.167



to revise the factors to be considered by the Public Utility Commission in granting a certificate for the construction of new transmission lines, adding as a factor the need for extending transmission service where existing or projected electrical loads will be underserved. In considering that need, the commission must consider the historical load, forecasted load growth, and additional load currently seeking interconnection, including load for which the electric utility has yet to sign an interconnection agreement, as determined by the electric utility with the responsibility for serving the load. Requires that the commission approve or deny an application for a certificate within 180 days from the filing of the application (previously one year). Requires the commission to direct the certified independent organization for the ERCOT power region to develop a reliability plan for the Permian Basin region and to identify other regions with rapid electrical load growth and develop reliability plans for those regions. Effective immediately.

**SB 1170:** Amends Tex. Util. Code §§ 40.053 and 40.057 to revise the requirements regarding the designation of a provider of last resort by a municipally owned utility upon the initiation of customer choice. Effective immediately.

**SB 1093:** Amends various sections of the Utilities code to require electric utilities, transmission and distribution utilities, electric cooperatives, and municipally owned utilities to provide the Public Utility Commission with a service area boundary map in GIS format. Expands the “electricity supply chain” to include water and wastewater treatment plants as well as roads necessary to access the electricity supply chain. Places limits on access to the electricity supply chain map. Effective immediately.

**HB 2263:** Adds Subchapter J, Chapter 104 to the Utilities Code, allowing local gas distribution companies to offer customers an energy conservation program. Grants exclusive original jurisdiction over such a program to the Railroad Commission and prohibits political subdivisions from limiting, restricting, or otherwise preventing eligible customers from participating in the program based on the type or source of the energy. Effective immediately.

## Water Code

**HB 2816:** Amends Tex. Water Code § 49.452 to require a seller of property within a municipal management district under Chapter 375 of the Local Government Code to provide written notice to purchasers that the property is within the boundaries of the district. Provides a statutory notice (Section 49.4521). Requires a

district to post notice on its website. Effective Sept. 1, 2023.

**SB 818:** Amends Tex. Water Code § 60.038 to allow navigation districts to exchange interests in real property. The bill also allows districts to impose restrictions on the development, use, and transfer of real property or interests in real property in connection with its sale or exchange. Effective immediately.

**HB 3437:** Amends Tex. Water Code § 49.273 to allow the governing body of a water district to grant authority to an official or employee responsible for purchasing or administering a contract to approve a change order that involves an increase or decrease of \$150,000 or less (previously \$50,000). Effective Sept. 1, 2023.

**SB 1397:** Amends various sections of the Water Code and Health and Safety Code. Continues the Texas Commission on Environmental Quality (TCEQ) until Sept. 1, 2035, and makes various changes in its operations. Effective Sept. 1, 2023.

**SB 471:** Adds Tex. Water Code § 5.176(c) and amends Tex. Water Code § 5.177(c), providing that TCEQ is not required to investigate a complaint that may be addressed during other commission activities or that was filed by an individual when there is not a reasonable probability that the commission can substantiate the complaint and the complaint is repetitious or redundant of other complaints concerning the same site investigated in the preceding 12 months that were not substantiated by the commission, or the complainant has filed five unsubstantiated complaints in the preceding seven years. Effective Sept. 1, 2023.

**HB 1565:** Amends or adds various sections of the Water Code. Continues the Texas Water Development Board (TWDB) and the State Water Implementation Fund for Texas Advisory Committee (SWIFT) to 2035. Requires each regional water planning group to submit a regional water plan and sets out requirements for the plan. Authorizes regional water planning groups to plan for drought conditions worse than the drought of record. Effective Sept. 1, 2023.

**SB 28:** Amends various sections of the Water Code to establish the new water supply for Texas fund, to be administered by the TWDB. The purpose of the fund is to fund projects that will lead to seven million acre-feet of new water supply by the end of 2033. The act requires a constitutional amendment to be approved by voters in November. If approved, the act is effective Jan. 1, 2024.

**HB 2373:** Repeals Tex. Water Code § 13.145, removing restrictions on the authority of a water or sewer utility to consolidate more than one system under a single tariff. Effective immediately.



**HB 2442:** Adds Tex. Water Code §§ 13.254(b-1) and 13.255. A landowner who petitions the PUC for streamlined expedited release from a certificate of public convenience and necessity must send a copy of the petition to the certificate holder by certified mail. The certificate holder may then submit controverting information to the PUC. A municipality that submits an application for single certification must send a copy of the application to the retail public utility by certified mail or hand delivery. The PUC is required to grant by order single certification to the municipality and to determine just compensation. The retail public utility is authorized to appeal the final order to the PUC. Effective Sept. 1, 2023.

**SB 893:** Amends Tex. Water Code §§ 13.244 and 13.246 to authorize the executive director of the PUC to make corrections to a certificate of public convenience and necessity without formal amendment procedures if the correction is for (1) a clerical or typographical error; (2) a change in the name of an incorporated certificate holder if the amendment to the certificate holder's articles of incorporation or certificate of formation only changes the name of the certificate holder; (3) to correct a mapping error in a certificate to reflect the metes and bounds of the certificated area; or (4) to correct another similar nonsubstantive error or matter if authorized by the PUC by rule. The certificate holder must enter into an agreement with any other service provider whose service area is directly affected by the correction and notify any customers directly affected by the correction. Effective immediately.

**HB 4385:** Amends Tex. Water Code § 13.242 to allow the PUC to allow a municipality or utility or water supply corporation to render retail sewer service without a certificate of public convenience and necessity if the municipality has given notice under Section 13.255 that it intends to provide retail sewer service to an area or if the utility or water supply corporation has less than 15 potential connections and is not within the certificated area of another retail public utility. Effective Sept. 1, 2023.

**SB 1778:** Adds Tex. Water Code § 13.152, which authorizes a retail public utility to initiate, transfer, or terminate a customer's water or sewer service on receipt of a customer request by mail, telephone, through an internet website, or through another electronic transmission. Effective Sept. 1, 2023.

**SB 317:** Amends Tex. Water Code § 13.043 to allow an applicant for service from an affected county or water supply or sewer service corporation to appeal to the PUC any fee to obtain service, except a groundwater conservation district or other government fee, regular

membership fees, or tap fees. Affected counties are those affected by the subdivision platting requirements of Subchapter B, Chapter 232 of the Local Government Code. An applicant for service from a water supply or sewer service corporation may appeal to the utility commission for a determination of whether the regular membership fee or tap fee required to be paid to obtain service is consistent with the tariff of the water supply or sewer service corporation. Effective immediately.

**SB 1965:** Amends Tex. Water Code § 13.301, dealing with sales, acquisitions, leases, and rentals of water or sewer systems requiring a certificate of public convenience and necessity. The act requires the PUC to approve transactions under this section without an owner's signature if the owner has abandoned operations of the facilities and cannot be located or does not respond to the application. Requires the PUC to adopt an expedited process for the appointment by the commission or TCEQ of a temporary manager of a utility, utility in receivership, or utility in supervision who is also an operator of a Class A or Class B utility to apply for acquisition of a temporarily managed system. Effective Sept. 1, 2023.

**SB 1289:** Adds Tex. Water Code § 26.02715, allowing a wastewater treatment facility or reclaimed water production facility that treats domestic wastewater for reuse to dispose of the treated wastewater without a permit for an alternative means of disposal. The facility must dispose of the treated wastewater through a wastewater collection system and must obtain the consent of specified operators. The owner of such a facility must not be required to be the owner of an associated domestic wastewater treatment facility permitted by TCEQ. Effective immediately.

**HB 3582:** Makes various changes to the Water Code. Defines "rural political subdivision" and makes them eligible for below market interest rate loans for flood projects. Requires the remaining balance of the Hurricane Harvey account to be transferred to the flood infrastructure fund. Effective Sept. 1, 2023.

**HB 1971:** Amends various sections of Chapter 36 of the Water Code to make changes in the procedures for acting on permits or permit amendment applications by groundwater conservation districts. Effective immediately.

**HB 3278:** Amends Tex. Water Code § 36.108, dealing with the procedure for planning of desired future conditions in groundwater conservation districts. After the public comment period closes, the district must compile and submit to district representatives any supporting materials, which must be made available on the Internet for at least 30 days. After that, the district

representatives must reconvene for another joint planning meeting to review the supporting materials before adopting the desired future conditions. Effective immediately.

**HB 2443:** Adds Tex. Water Code § 36.1025, authorizing a person with a real property interest in groundwater to petition the groundwater conservation district to adopt or modify a district rule. The district, within 90 days, must either deny the petition and provide an explanation or engage in rulemaking consistent with the granted petition. Effective Sept. 1, 2023. Districts must adopt rules to implement the procedure by Dec. 1, 2023.

**SB 1746:** Amends Tex. Water Code § 36.117 to require a groundwater conservation district to allow a permit exemption for drilling a water well for temporary use to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the district. The exemption may not exceed 180 days, but the district may extend it until the well is complete. Effective Sept. 1, 2023.

**HB 3059:** Amends Tex. Water Code § 36.122 to change the export fees for water exported from a groundwater conservation district. Effective Sept. 1, 2023.

## Natural Resources Code

**HB 162:** Amends Tex. Nat. Res. Code § 153.047 to require that a burn boss who is a certified and insured prescribed burn manager must be present during a prescribed burn. Effective Sept. 1, 2023.

**SB 785:** Adds Tex. Nat. Res. Code § 141.004, providing that geothermal energy and associated resources below the surface of the land are owned as real property by the landowner, or, if the surface estate and mineral estate have been severed, by the surface owner; and allowing the owner to drill for and produce those resources. The section does not affect ownership of existing oil, gas, or minerals; groundwater; or minerals dissolved or otherwise contained in groundwater, including hot brines.

Amends Tex. Ins. Code § 2703.056 to allow title insurers to provide for exceptions from coverage for geothermal resources, as with oil, gas, and other minerals.

Effective immediately.

**HB 4018:** Adds Tex. Parks & Wild. Code § 11.302, allowing the Parks & Wildlife Department to enter into agreements for developing carbon sequestration or similar ecosystem services on department land. The department is not authorized to enter into an agreement to develop a carbon dioxide injection well on department land. Effective Sept. 1, 2023.

## Finance Code

**HB 219:** Adds Tex. Fin. Code § 343.108, requiring a mortgage servicer or mortgagee who receives the correct payoff amount for a home loan to deliver or file a release of lien in the county real property records within 60 days. If the mortgagor delivers a written request for the release within 20 days, the mortgagee or mortgage servicer must file or deliver the release within 30 days of receiving the request. Effective Sept. 1, 2023.

**SB 895:** Adds Chapter 152 to the Finance Code, replacing the Money Services Act with the Money Services Modernization Act, regulating money transmission services and currency exchange services. Banks are exempt from the Money Services Modernization Act, as are attorneys and title companies performing escrow services for real estate transactions. Effective Sept. 1, 2023.

## Government Code

**SB 1045:** Amends numerous sections of the Government Code and other codes to create the Fifteenth Court of Appeals with exclusive intermediate appellate jurisdiction over cases dealing with the state or other agencies of the state, or by or against any state officer or employee for official conduct, with some exceptions. The court will also have jurisdiction over cases in which the Attorney General is a party and a statute or rule is constitutionally challenged. The court will have original jurisdiction to issue writs arising only out of cases over which the court has intermediate appellate jurisdiction. The court will sit in Austin. Effective Sept. 1, 2023.

**HB 19:** Adds Chapter 25A to the Government Code, adds Tex. Gov't Code § 659.012(a), and amends Tex. Gov't Code § 837.001(a), to create a specialty trial court called the Business Court. The court has civil jurisdiction concurrent with district courts for certain business cases where the amount in controversy exceeds \$5 million (\$10 million for certain cases). Foreclosures are excluded from the Business Court's jurisdiction. All Business Court appeals will be heard by the newly created Fifteenth Court of Appeals. Effective Sept. 1, 2024.

**SB 1340:** Amends Tex. Gov't Code § 403.0246 to require the Comptroller to create an online Local Development Agreement Database, containing information regarding local development agreements under Chapters 380 and 381 of the Local Government Code or Chapter 312 of the Tax Code. Effective Jan. 1, 2024.

**HB 2719:** Amends the Government Code to expand the jurisdiction of the Texas Historical Commission and

amends Tex. Gov't Code § 442.0053 to authorize the Commission to purchase real property for addition to the historic sites system. Effective Sept. 1, 2023.

**SB 1332:** Adds Tex. Gov't Code § 442.0151, creating the Historic Infrastructure Sustainability Trust Fund, to be used for maintaining, preserving, rehabilitating, and restoring historic sites. Effective Sept. 1, 2023.

**SB 1333:** Renames and expands the Capital Renewal Trust Fund to the Texas State Buildings Preservation Endowment Fund for the purpose of maintaining, preserving, rehabilitating, and restoring state buildings and grounds under the control of the State Preservation Board. The changes are found in Chapter 443 of the Government Code. Effective Sept. 1, 2023, except for certain provisions.

**HB 2518:** Adds Tex. Gov't Code § 2252.909, requiring a lease of public property to another person to include lease terms requiring payment and performance bonds. Effective Sept. 1, 2023.

**HB 1817:** Adds Tex. Gov't Code § 2252.908, providing that certain state contracts are voidable for failure to provide the required disclosure of interested parties only if (1) the governmental entity or state agency submits to the business entity written notice that the required disclosure was not provided and (2) the business entity fails to submit the required disclosure within ten (10) business days. Effective Sept. 1, 2023.

**HB 1472:** Amends Tex. Gov't Code § 2306.753, governing the eligibility requirements for the "Bootstrap Loan Program" providing loans for the construction of low-income housing. Under the new law, an owner-builder may not have an annual income that exceeds 80 percent of the greater of the state or local median family income, when combined with the income of any person who resides with the owner-builder. The previous requirement was 60 percent. Effective immediately.

**HB 2965:** Chapter 2272 of the Government Code deals with construction liability claims in improvements to real property that are public buildings or public works. The act adds Tex. Gov't Code § 2272.0025, which prohibits waiver of the chapter and makes any purported waiver void. Effective Sept. 1, 2023.

**HB 255:** Adds Tex. Gov't Code § 406.013, prohibiting a notary public from providing the notary's seal to another, or affixing or attaching the seal to any document except to authenticate the notary's official act. Amends Tex. Gov't Code § 406.014 to specify that a notary public may record the expiration of an identification card presented to the notary as identification. Amends Tex. Gov't Code § 406.024 to increase the amounts notaries are permitted to charge. Effective Sept. 1, 2023.

**SB 1780:** Amends Chapter 406 of the Government Code to provide for online notarization of tangible instruments and electronic documents by an online notary public. Provides procedures for verification of the signer's identity, authentication, and records. Effective Jan. 1, 2024.

## Health & Safety Code

**HB 1598:** Amends Tex. Health & Safety Code § 361.095, prohibiting a local government from adopting rules or ordinances that conflict with Texas Commission on Environmental Quality (TCEQ) rules regarding hazardous waste management facilities and solid waste facilities. Effective Sept. 1, 2023.

**HB 4087:** Amends Tex. Health & Safety Code § 366.012 to allow aerobic systems in certain situations in residential property in a county with a population of at least 350,000 and not more than 370,000 that is adjacent to the Gulf of Mexico and adjacent to a county with a population of 3.3 million and in a county with a population of at least 40,000 and less than 50,000 that borders the Red River along the Oklahoma state line and has a major interstate road running through it. (This appears to mean Galveston County and Cooke County.) Adds Tex. Health & Safety Code § 366.0513, permitting temporary on-site sewage disposal systems in certain situations in residential subdivisions. Effective Sept. 1, 2023.

## Local Government Code

**HB 3697:** Makes various changes to the Local Government Code to regulate county plat approval.

Amends Tex. Loc. Gov't Code § 232.001 to prohibit a commissioners court or the county authority responsible for approving plats from requiring an analysis, study, document, agreement, or similar requirement to be included in or as part of an application for a plat, development permit, or subdivision of land that is not explicitly required by state law.

Adds Tex. Loc. Gov't Code § 232.0022, allowing the commissioners court or the court's designee to delegate plat approval to one or more officers or employees of the county, with a right to appeal in the applicant.

Amends Tex. Loc. Gov't Code § 232.0025 to require counties to issue a written list of all documentation and other information that must be submitted with a plat application, and to maintain the list on its website. Amends the same section to strengthen timing requirements on the approval process and provide remedies if the county fails to meet the requirements. The remedies include a partial refund of the fee, approval of



the application by operation of law, the ability of the applicant to petition the district court for a writ of mandamus, and attorney fees and court costs.

Amends Tex. Loc. Gov't Code § 232.0033 to prohibit refusal for failure to identify a corridor, as defined by Section 201.619, Transportation Code, unless the corridor is part of an agreement between the Texas Department of Transportation and the county under that section.

Effective Sept. 1, 2023, to apply to plat applications submitted on or after that date. The written list required by Section 232.0025 must be adopted and published by Jan. 1, 2024.

**HB 14:** Adds Chapter 247 to the Local Government Code. In the event a regulatory authority fails to conduct a document review or development inspection in a timely manner (within 15 days after the time required by the code), the review or inspection may be conducted by a qualified third party who meets the requirements set out in the statute. Effective Sept. 1, 2023.

**HB 1381:** Amends Tex. Local Gov't Code § 211.007 to require a zoning commission to hold at least one public hearing on the preliminary report before submitting the final report to the governing body. Effective Sept. 1, 2023.

**SB 929:** Amends Tex. Local Gov't Code § 211.006 and adds Tex. Local Gov't Code § 211.019. This act deals with the situation in which a municipality interferes with a property owner's use of property by a zoning change. An owner who is required to stop a nonconforming use may elect to (1) receive payment by the municipality of certain costs plus the diminution in the market value of the property, or (2) continue the nonconforming use until the owner or lessee recovers the amount of the payment through continued business activities. Notice provisions and a process are included. Effective immediately.

**SB 59:** Amends Tex. Local Gov't Code § 232.0315 and Tex. Tax Code § 34.01 to require a county or other political subdivision to give notice of water and wastewater requirements for foreclosure sales of residential properties. Effective Sept. 1, 2023.

**HB 1922:** Adds Tex. Local Gov't Code § 214.908, providing that a building permit fee of a municipality is abolished on the tenth anniversary after the date the fee is adopted or most recently reauthorized unless the municipality's governing body holds a public hearing on the fee's reauthorization and reauthorizes the fee. Effective Jan. 1, 2024.

**HB 3492:** Adds Tex. Local Gov't Code §§ 212.906 and 232.901. Under the act, application, review, engineering, inspection, acceptance, administrative, or other fees imposed by a municipality or county related to the acceptance, review, or processing of engineering or construction plans or for the inspection of improvements for construction of a subdivision or lot or a related improvement associated with or required in conjunction with that construction must be set by considering the actual cost to review and process the application or plan or to inspect the public infrastructure improvement. The municipality or county may not consider the cost of constructing or improving the public infrastructure for a subdivision, lot, or related property development in determining the amount of these fees. Effective Sept. 1, 2023.

**HB 1195:** Amends Tex. Local Gov't Code §§ 191.010 and 191.011 to allow a county clerk or district clerk in any county that allows for electronic filing of documents and instruments to require a person filing certain documents or instruments in person to present photo identification. If the individual does not provide the photo identification, the clerk may not accept the document or instrument. The clerk may copy the identification or record identifying information but may not charge an additional fee for doing so. Effective immediately.

**HB 1526:** Adds Subchapter H, Chapter 212 of the Local Government Code. A municipality with a population greater than 800,000 may not have a requirement to dedicate parkland or pay fees in lieu thereof, for any commercial use other than a multifamily, hotel, or motel use. Such a requirement is not prohibited for single-family or two-family uses. Places other restrictions on required dedications. Effective immediately.

**HB 2127:** Adds numerous sections of various codes that prohibit municipalities and counties from adopting, enforcing, or maintaining ordinances or rules inconsistent with state law. Such an ordinance or rule is void. Allows persons to bring civil suits against municipalities and counties for violations, waives governmental immunity, and allows attorney fees and court costs. The act contains other provisions and exclusions. Effective Sept. 1, 2023.

**HB 586:** Amends Tex. Local Gov't Code § 43.1055 to authorize a municipality to annex certain road rights-of-way provided that the owner of the right-of-way or the governing body of the political subdivision that maintains the right-of-way does not object. The annexation of the road right-of-way does not expand the municipality's extraterritorial jurisdiction (ETJ). Effective immediately.

**HB 3053:** Adds Tex. Local Gov't Code § 43.1463 to require a city with a population of 500,000 or more that annexed an area between March 3, 2015, and Dec. 1, 2017, to hold an election on the question of disannexation. There are exceptions. The election procedure is set forth, and cities are prohibited from using public money for promotional campaigns and advocacy related to the election. Effective Sept. 1, 2023.

**HB 3514:** Amends Tex. Local Gov't Code § 43.071 to allow a municipality with a population less than 3,000 to annex property within the boundaries of a water or sewer district with the consent of the governing body of the district. Effective Sept. 1, 2023.

**SB 2038:** Adds Subchapters D and E to Chapter 42 of the Local Government Code. The act provides that a municipality must release ETJ over any non-excluded area under certain conditions. To accomplish release, a petition must be presented signed by more than 50 percent of the registered voters in the area or by a majority in value of the holders of title of land in the area. Another way to accomplish release is at an election requested by petition, signed by at least 5 percent of the registered voters residing in the area. The election route requires a majority of qualified voters of the area to be released. Areas excluded include (1) areas within five miles of the boundary of military bases where an active training program is conducted, (2) an area that was voluntarily annexed into the ETJ in a county with a population greater than 240,000 and with more than 50 percent growth from 2010 to 2020, (3) the ETJ of a city with a population greater than 1.4 million and within 15 miles of the boundary of a military base in a county with population greater than two million, (4) an area designated as an industrial district under Tex. Loc. Gov't Code § 42.044, and (5) an area subject to a strategic partnership agreement under Tex. Loc. Gov't Code § 43.0751. A municipality must conduct the elections at its own expense and may voluntarily release ETJ in lieu of holding an election, provided it does so prior to the election date. Effective Sept. 1, 2023, although a municipality must release ETJ acquired from an annexation commenced on or after Jan. 1, 2023.

**SB 543:** Adds Tex. Local Gov't Code § 253.0125, authorizing a municipality to transfer real property of an interest in real property to an entity under an economic development agreement under Chapter 380. The transfer must be for consideration in the form of an agreement between the parties that requires the entity to use the property in a manner that primarily promotes a public purpose of the municipality relating to economic development. The agreement must include provisions granting the municipality sufficient control to ensure the public purpose is accomplished and the municipality

receives the return benefit. The act contains exclusions and restrictions, including a notice requirement and a prohibition on transfer of land acquired by the municipality from the previous owner by eminent domain. Effective immediately.

**HB 2071:** Amends or adds several sections of the Local Government Code, dealing with public facilities used to provide affordable housing. Applies to multifamily residential developments owned by a public facility corporation, but does not apply to developments with certain percentages of residential units reserved for public housing units or receiving certain government assistance. Sets forth numerous restrictions, maximum rents, and requirements for notices and public hearings. Provides for tax exemptions and the requirements for the exemptions. Effective immediately.

**HB 2815:** Amends various sections of the Local Government Code and other codes dealing with management districts, municipal utility districts, and conservation and reclamation districts. Changes the notices required to be given to purchasers of property in these districts. Effective immediately.

**SB 1766:** Adds Tex. Local Gov't Code § 271.9041, which applies only to contracts for appraisal services of real property between licensed appraisers and governmental agencies. Indemnity clauses or hold harmless clauses in such a contract are void and unenforceable, as are provisions setting a different standard of care than the standard provided in the statute. Effective Sept. 1, 2023, to apply to contracts for which the request for proposals or request for qualifications is published and distributed on or after that date.

**HB 4057:** Amends Tex. Local Gov't Code § 211.0166 to allow an owner of property included within the boundaries of a conservation district to exclude the property from the district by filing an acknowledged statement within one year from the time the property is included in the district. The act applies only in a city with a population of two million or more. Effective immediately.

**SB 1860:** Adds Tex. Local Gov't Code §§ 9.0015 and 9.0045 and amends Tex. Local Gov't Code §§ 9.003 and 9.004. The act defines "climate charter" as "a charter provision or charter amendment establishing a comprehensive rule or policy statement that purports to address climate change or the municipality's environmental impact, including water and energy use and air pollution." A home-rule municipality is prohibited from holding an election for voter approval of a proposed climate charter unless the legislature adopts a resolution approving the proposed charter. A climate charter adopted by a municipality before the bill's effective date of Sept. 1, 2023, remains valid and enforceable

until Jan. 1, 2026, but requires the municipality to comply with the legislative approval requirement not later than Sept. 1, 2025.

**SB 1017:** Adds Chapter 247 to the Local Government Code, prohibiting any political subdivision from limiting or prohibiting access to a specific energy source, or prohibiting or restricting the use, sale, or lease of an engine based on its fuel source. Effective Sept. 1, 2023.

**HB 3526:** Adds Tex. Local Gov't Code § 214.221, prohibiting a municipality from applying a municipal building code to a solar pergola. Effective Sept. 1, 2023.

## Agriculture Code

**HB 2308:** Amends Chapter 251 of the Agriculture Code to expand protection of agricultural operations from nuisance actions, enforcement actions, and other liabilities. Expands the definition of “agricultural land” to include “any other land on which agricultural operations exist or may take place.” Effective Sept. 1, 2023.

**HB 1750:** Amends several sections in Chapter 251 of the Agriculture Code. Requires Texas A&M AgriLife Extension Service to develop a manual that identifies generally accepted agricultural practices and indicates which of those practices do not pose a threat to public health. Prohibits a city from imposing a requirement that directly or indirectly:

1. prohibits the use of a generally accepted agricultural practice listed in the manual;
2. prohibits or restricts the growing or harvesting of vegetation for feed or forage;
3. prohibits the use of measures to control vermin or disease-bearing insects; or
4. requires an agricultural operation to be designated for certain uses.

A city may impose a maximum vegetation height under certain conditions. Cities may impose regulations on agricultural operations within corporate boundaries only if they show evidence that the requirement is reasonably necessary to protect persons who reside in the immediate vicinity or persons on public property in the immediate vicinity from certain enumerated dangers. Effective Sept. 1, 2023.

**SB 1424:** Amends various sections of the Agriculture Code. Continues the State Soil and Water Conservation Board and the Texas Invasive Species Coordinating Committee through 2035. Tasks the State Soil and Water Conservation Board with creating a Dam Structural Repair Grant Program to provide for the structural

repair and maintenance of flood control dams. Effective Sept. 1, 2023.

## Insurance Code

**HB 1900:** Amends Tex. Ins. Code §§ 551.104 and 551.105 to change the required notice for written notice of nonrenewal or change in coverage for certain types of insurance, including home; farm and ranch; dwelling, duplex, or apartment; personal auto; and other real and personal property. The notice period is extended from 30 to 60 days. The act is effective Sept. 1, 2023, and applies to policies delivered, issued, or renewed on or after Jan. 1, 2024.

**SB 2008:** Amends Tex. Ins. Code § 911.301 to change the threshold for rural property for purposes of insurance on rural property. Rural property means property located outside an area of land subject to the taxing authority of a municipality with a population of more than 6,500 (previously 2,500). The threshold is to be adjusted in relation to federal census data. Effective Sept. 1, 2023.

**HB 1074:** Adds Tex. Ins. Code § 1806.002, clarifying that receipt or acceptance of a prohibited rebate, discount, abatement, credit, or premium is neither an unfair method of competition nor a false, misleading, or deceptive act or practice under the Texas Deceptive Trade Practices Act (DTPA). An insurer or its agent is not prohibited from offering, for free or at a discount, other offerings related to loss control of the risks covered in the policy, as long as the practice is reasonable and not discriminatory when compared to similar insureds. Effective Sept. 1, 2023.

**HB 1058:** Adds Chapter 233 to the Insurance Code and Tex. Tax Code §§ 171.551-171.566. Establishes a franchise tax credit for a taxable entity that owns a direct or indirect interest in a qualified development in Texas for which the Texas Department of Housing and Community Affairs (TDHCA) awards or allocates a federal low-income housing credit. The credit may be claimed in equal installments each year over a ten-year credit period and caps the total amount of credits that may be awarded each year at \$25 million, plus any unallocated credits carried over from previous years and any credits recaptured or otherwise returned to TDHCA. Effective Jan. 1, 2024. Credits may be issued beginning on that date but may only be claimed on a tax report originally due on or after Jan. 1, 2026.

An entity that owns an interest in such a qualified low-income housing development is eligible for a credit against the entity's state premium tax liability and is not required to pay any additional retaliatory tax as a



result of claiming the credit. The total amount claimed may not exceed the amount of the entity's state premium tax liability, but the entity may carry a surplus credit forward or backward. Credits may be claimed only on a tax report originally due on or after Jan. 1, 2026, and before Jan. 1, 2036.

The act prohibits TDHCA from allocating any new franchise tax or insurance premium tax credits after Dec, 31, 2029. However, on or after Jan. 1, 2030, TDHCA may provide previously reserved credits, and a taxable entity may claim a credit in connection with a qualified development that was allocated or reserved before Jan. 1, 2030. The act provides for the recapturing of franchise tax or insurance premium tax credits from an entity if the development is subject to the recapture of a portion of the federal tax credit awarded or allocated to the development. Effective Jan. 1, 2024.

**HB 1040:** Amends Tex. Ins. Code §§ 35.003, 35.004, and 35.0041 to allow insurance entities to conduct business on an “opt-out” basis rather than only on an “opt-in” basis. A cancellation or termination notice must be written, but it may be delivered electronically or in paper or other nonelectronic form. Effective Sept. 1, 2023.

**HB 1706:** Adds Tex. Ins. Code § 4102.007, prohibiting a commercial or residential property insurer from including a provision that prohibits an insured from contracting with a public insurance adjuster. Effective Sept. 1, 2023, to apply to policies delivered, issued, or renewed on or after Jan. 1, 2024.

**SB 2232:** Adds Tex. Ins. Code § 2210.016, allowing the Texas Windstorm Insurance Association (TWIA) to establish requirements that an agent must meet to offer or sell TWIA policies, and providing for TWIA to audit agents for compliance. Clarifies that an insurance agent offering or selling TWIA policies is not an agent of TWIA. Effective Sept. 1, 2023.

**SB 2233:** Amends Tex. Ins. Code § 2210.2031, limiting the automatic renewal process for TWIA policies to policies covering residential property. Effective Sept. 1, 2023.

**HB 3208:** Amends Tex. Ins. Code § 2210.204 to require TWIA to return unearned premiums after cancellations only for the following reasons: (1) purchase of similar coverage in the voluntary market, (2) sale of the property to an unrelated party, (3) total loss of the property, or (4) determination by TWIA that the insured property is no longer insurable under TWIA rules and procedures. Effective Sept. 1, 2023.

**HB 3310:** Amends Tex. Ins. Code § 2210.574 to set a deadline for completion of a TWIA appraisal demanded by a claimant. The deadline is to be determined by the Insurance Commissioner. Effective Sept. 1, 2023.

**HB 998:** Amends Tex. Ins. Code §§ 2211.001, 2211.051, 2211.054, 2211.153, 2211.154, 2211.155, and 2211.201. Adds Tex. Ins. Code § 2211.1515. Broadens the Fair Access to Insurance Requirements Plan (FAIR Plan) with respect to property owners' association plans in underserved areas to include coverage of common areas and facilities. In determining the FAIR Plan designated area, the commissioner must designate the area within ten miles of a TWIA catastrophe area. Property owners' association insurance must be made available if the association cannot obtain coverage, as shown by two declinations in the voluntary market. Effective Sept. 1, 2023. Property owners' association coverage must be provided by Sept. 1, 2024.

## Business & Commerce Code

**SB 1514:** Amends several sections of the Business Organizations Code and the Business and Commerce Code. Notably, it amends Tex. Bus. Org. Code § 101.001(1) to provide that a “Company agreement” means any agreement—written, implied, or oral—of the members concerning the affairs or the conduct of the business of a limited liability company. A company agreement of a limited liability company having only one member is not unenforceable because only one person is a party to the company agreement. A written company agreement may consist of one or more agreements, instruments, or other writings and may include or incorporate one or more schedules, supplements, or other writings providing for the conduct of the business and affairs of the limited liability company or of a series of the limited liability company. In this day and age of constant digital communication, people produce “writings” all the time. Courts may have to determine whether these writings are part of the company agreement. Effective Sept. 1, 2023.

## Civil Practice & Remedies Code

**HB 2024:** Amends Tex. Civ. Prac. & Rem. Code § 16.009 to provide that an action for property damage, personal injury, wrongful death, contribution, or indemnity arising out of the design or construction of a new residence, or alteration, repair, or addition to an existing residence or appurtenance must be brought within ten years of the substantial completion of the improvement. The limitations period is reduced to six years if the contractor provides a written warranty that complies with the requirements of Section 16.009, including a minimum warranty of one year

for workmanship and materials, two years for plumbing, electrical, and HVAC systems, and six years for major structural components. Effective immediately.

**HB 73:** Amends Tex. Civ. Prac. & Rem. Code § 75.006 to expand liability protection for landowners and occupiers. Owners and occupiers are protected from liability for the acts or omissions of trespassers, third parties who enter without express or implied permission and damage fences or gates, wildlife, and acts of God. The liability protection applies regardless of whether the damage occurs on or off the property. The landowner must cure any resulting defect on the land within a reasonable time. Effective Sept. 1, 2023, to apply to causes of action that accrue on or after that date.

**HB 2636:** Adds Chapter 75B to the Civil Practice and Remedies Code, providing limited liability for RV parks and campgrounds for injuries arising from participation in a “recreational vehicle park or campground activity.” To qualify for the protection, the parks or campgrounds must post required statutory notice signs as set forth in Tex. Civ. Prac. & Rem. Code § 75B.003. Limited liability does not apply if an injury is proximately caused by negligence, dangerous conditions on the land, facilities or equipment that the park or campground knew or reasonably should have known. Additionally, an RV park or campground can be held liable for intentional injury or for failure to properly train an employee actively involved in the recreational vehicle park or campground activity. Effective immediately.

**HB 2007:** Amends Tex. Civ. Prac. & Rem. Code § 150.002. That section requires plaintiffs claiming damages against an architect, engineer, landscape architect, or surveyor to file a certificate of merit from a similar third-party licensed professional. The act amends that section to remove the certificate of merit requirement in cases in which a third-party plaintiff or cross-claimant that is also a similarly licensed professional makes a claim against another licensed professional if the claim arises out of a design-build project in which a governmental entity contracts with a single entity for design and construction. Effective Sept. 1, 2023, to apply to actions commenced on or after that date.

**HB 3949:** Amends Tex. Civ. Prac. & Rem. Code §§ 173.002 and 173.003. These sections apply to certain nonprofit entities in the event of a controversy between members. They permit arbitration if required by the applicable bylaws or organizational documents. The act adds to these sections to permit arbitration in a controversy between the organization and its members if the applicable bylaws or organizational documents require arbitration. Effective Sept. 1, 2023, to apply to controversies arising on or after that date.

**HB 1382:** Amends Tex. Civ. Prac. & Rem. Code §34.041 to authorize a county commissioners court to authorize a public sale of real property taken by execution of a judgment to be conducted in an online auction. The act does not apply to sales under a power of sale in a deed of trust or other contract lien. Commissioners courts are authorized to adopt rules governing the online auction. The rules become effective on the 90<sup>th</sup> day after they are published in the county real property records. Effective Sept. 1, 2023.

**HB 4381:** Adds Tex. Civ. Prac. & Rem. Code § 52.007, which addresses the amount of security required to be posted by a judgment debtor pending a civil appeal. To qualify for the provisions of the act, the judgment debtor must have a net worth less than \$10 million. If the judgment debtor shows that posting security in the amount required under Section 52.006(a) or (b) would require the judgment debtor to substantially liquidate the judgment debtor’s interests in real or personal property necessary to the normal course of the judgment debtor’s business, the trial court shall allow the judgment debtor to post alternative security with a value sufficient to secure the judgment. While the appeal is pending, the judgment debtor may continue to manage, use, and receive earnings from interests in real or personal property in the normal course of business. Effective Sept. 1, 2023, to apply to civil actions commenced on or after that date.

## Code of Criminal Procedure

**SB 1133:** Adds Chapter 56C to the Code of Criminal Procedure, creating a compensation fund for owners of agricultural land who suffer damage to their land as a result of certain criminal offenses committed by trespassers and related to border crimes, or as a result of law enforcement response to a trespasser engaged in a border crime. The attorney general is tasked with creating a procedure for administration. The landowner must pursue reimbursement from any insurance or from local, state, or federal programs to be eligible for compensation from the fund. The maximum award per incident causing damage is \$75,000. Effective Sept. 1, 2023, and expires two years after all money appropriated for the program is expended.

## Texas Constitution

**HJR 126:** Adds Article I, Section 36 to the Texas Constitution, providing that the people have the right to engage in generally accepted farm, ranch, timber production, horticulture, or wildlife management practices on real property they own or lease. The amendment does not affect the authority of the legislature to authorize

by general law the regulation of those practices. The amendment requires voter approval in November.

**SJR 75:** Adds Article III, Section 49-d-16 to the Texas Constitution, creating the Texas Water Fund as a special fund in the state treasury, to be administered by the Texas Water Development Board (TWDB), for the purpose of funding water projects in the state. The amendment requires voter approval in November 2023.

**SJR 74:** Adds Article III, Section 49-e-1 to the Texas Constitution, creating the Centennial Parks Conservation Fund as a trust fund outside the state Treasury, for the purpose of creating and improving state parks. The amendment requires voter approval in November 2023.

**HJR 132:** Adds Article VIII, Section 25 to the Texas Constitution, providing that the legislature may not impose a tax based on the wealth or net worth of an individual or family. The amendment requires voter approval in November 2023.

**HB 9:** Creates the Texas Broadband Infrastructure Fund, an effort to expand the availability of broadband Internet across the state. The bill is subject to voter approval of the constitutional amendment proposed by HJR 125, which will be on the ballot in November 2023.

**SB 2627:** Creates the Texas Energy Fund, which provides grants and loans with the goal of modernizing, weatherizing, and improving the reliability of generation, transmission, and generation of electricity. The bill is subject to voter approval of the constitutional amendment proposed by SJR 93, which will be on the ballot in November 2023.







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