

**SUBJECT:** Clarifying that courts are not bound by the ALI's Restatements of the Law

**COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment

**VOTE:** 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

**WITNESSES:** For — Brian Martin; (*Registered, but did not testify*: Joe Woods, American Property Casualty Insurance Association; James Grace Jr., CNA Insurance; Lee Ann Alexander, Liberty Mutual Insurance; Paul Martin, National Association of Mutual Insurance Companies; Lee Parsley, Texans for Lawsuit Reform; George Christian, Texas Civil Justice League; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; Marti Luparello, Texas Farm Bureau Insurance Companies; Nicole Hudgens, Texas Values Action; Cary Roberts, U.S. Chamber Institute for Legal Reform; Brad Schlueter, USAA; Greg Licciardi)

Against — (*Registered, but did not testify*: Idona Griffith; Thomas Phillips)

**BACKGROUND:** Civil Practice and Remedies Code sec. 5.001 states that the rule of decision in Texas consists of the constitution and laws of the state and those portions of the common law of England that are not inconsistent with the state's constitution or laws.

Concerns have been raised that Texas courts may rely on the American Law Institute's Restatements of the Law as dependable descriptions of existing law, even though these restatements sometimes go beyond the current state of legal thinking. It has been suggested that the rule of decision could be clarified to establish that these restatements are not controlling in any action governed by state law.

**DIGEST:** HB 2757 would prohibit the American Law Institute's Restatements of the Law from being controlling in any action governed by the laws of this

state. The bill also would specify that the rule of decision in this state included the constitution of the United States and case law precedents set by a court of this state.

The bill would take effect September 1, 2019.