AGENDA

OPINION

Why Companies Are Choosing Texas — and Why They're Right

Texas has implemented a package of reforms aimed squarely at promoting shareholder value

By Robert Ahdieh, Hillary H. Holmes, Brad G. Hubbard | May 15, 2026

The Texas miracle is real. In the past five years alone, more than 200 companies have physically relocated to Texas, including 10 Fortune 500 companies. Texas is now home to more Fortune 500 companies than any other state in the U.S. and to one in 10 publicly traded companies. Recently, companies of all sizes and industries are starting to reincorporate in Texas too. Companies do not uproot themselves lightly, yet a growing number of public companies are doing exactly that by relocating or reincorporating in Texas. Their message is unmistakable: predictable courts, clear rules and protection from litigation abuse now matter more than allegiance to legacy jurisdictions.

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Corporate law has been dominated by a single state since the early 20th century, when New Jersey's anti-corporation reforms drove companies to Delaware. Delaware's dominance was never written into law; it was earned by offering clarity, speed and judicial expertise. And for the last century, there was no real competition amongst the states.

Texas is reviving that competition. Over the last two years, Texas has implemented a package of reforms aimed squarely at promoting shareholder value and attracting companies that want clearer rules and more predictable courts. The reforms include specialized business courts; clear, codified legal standards that protect board decisions from judicial hind-

sight; and statutorily authorized methods to rein in value-destroying derivative suits and politicized shareholder proposals.

Texas designed a specialized Business Court system, which includes expert jurists and a first-of-its-kind, dedicated appellate court with exclusive jurisdiction over Business Court appeals. In its first year, the court's 10 judges resolved more than a third of the 185 cases filed, most in less than six months — remarkably fast for complex commercial litigation, especially in a system that preserves jury trials.

Texas' reforms provide directors with certainty about the standard to which their actions will be held and confidence that it won't shift beneath them depending on which judge draws their case. Texas codified the business judgment rule — the foundational, two-century-old corporate-law presumption that directors and officers act in good faith, on an informed basis, and in the company's best interest. Texas also clarified that this presumption can be rebutted only by serious misconduct — not by hindsight disagreements or creative pleading.

Texas also adopted reforms that enable — but do not require — companies to bar derivative suits from investors who fall below an economic ownership threshold set by the company of up to 3% of the outstanding shares. Recently, some have argued these reforms close the courthouse door to small investors. But this ignores what derivative litigation has become. Whatever its original purpose, modern derivative litigation has drifted far from being a tool for policing corporate malfeasance to operate as a fee-driven settlement mechanism. In many cases, shareholders bear the cost of nuisance claims while receiving immaterial disclosures and no material recovery for the company. Texas' reforms allow companies to meaningfully reduce that tax on productive enterprise by restricting derivative suits to shareholders with a significant economic stake in the company.

The same logic applies to minimum ownership thresholds — $1 million in market value or 3% of the voting shares — for shareholder proposals. Critics argue these reforms silence shareholders, but that claim is overstated. When proposals focused on social or political issues — often unrelated to long-term value creation—are repeatedly advanced by shareholders with nominal economic stakes, restricting them refocuses accountability on those who actually bear the residual economic risk of the firm. Protecting the integrity of shareholder democracy may require distinguishing between genuine shareholder oversight and non-economic proposal activism.

As with past evolutions of corporate law, Texas' corporate governance system does not reflect a race to the bottom; it reflects the natural result of competition and innovation in our federalist system. It's Justice Louis Brandeis' "states as laboratories of democracy" at its finest. Texas' reforms do not force anything on anyone; they provide companies and

their shareholders with options that were not previously available. As SEC chair Paul Atkins recently remarked at Texas A&M Law School's Corporate Law Symposium, "Competition does not pause for tradition, nor does it defer to incumbency. Over time, it compels systems, and states, to adapt — or to yield. Through competition, good ideas spread, poor ones fade and the system itself grows stronger." Texas' innovation has already spurred healthy competition among the states, and competition is good for businesses and the nation alike.

The suggestion by some that shareholders who vote to approve redomestication to Texas must be voting against their own interests is both paternalistic and question-begging. Shareholders are capable of deciding that management's focus on long-term value creation and clarity in governance is worth more than the shareholder's right to file derivative suits or submit shareholder proposals they never intended to use. What we have seen over the past few years is political and social activism masquerading as shareholder rights — across a range of ideological perspectives. What Texas has done does not disempower shareholders. It empowers the board and management to innovate free from non-economic pressures.

Just as companies have approved of Texas' other reforms by voting with their feet, shareholders can signal their approval — or disapproval — by voting their shares and their dollars. They can vote against directors, reject compensation packages or replace the board entirely. And they can sell. When enough investors exit, the market prices that judgment directly into the company's market value. Just as states compete for charters, shareholders compete for returns, and the ability to move capital is itself a powerful discipline.

Texas now offers what companies actually need: a specialized business court, a dedicated appellate track, jury trial availability and a corporate code that any investor can read and rely on. These are not abstractions. They are practical tools that let companies concentrate on building long-term value instead of navigating meritless litigation and politically motivated proxy fights.

For the first time in generations, companies and shareholders have a real choice about where to incorporate — and which governance rules best support long-term value creation. Texas' framework is not the final word, and it need not be. What matters is that it has restarted a conversation that had gone quiet for a century. When states compete for incorporations, every jurisdiction is forced to examine what it is offering and why. That iterative pressure — not any single state's current rules — is what produces durable, well calibrated corporate law over time. Call it competition. Call it federalism. Either way, it is the free market of ideas operating exactly as it should.

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