

TEXAS LAND TITLE ASSOCIATION LEGISLATIVE REPORT

SESSION FACTS

TLTA tracked 667 bills

Of more than 6,300 bills filed, approximately 24% of them were passed into law

49 bills were vetoed by Governor Perry

Number of days in the regular session – 140

There are 31 members in the Senate and 150 members in the House

State senators are elected for four-year terms (Staggered)

Representatives are elected for two-year terms

Legislators are paid \$7,200 per year

BILLS	2007	2005
HB Filed	4140	3592
HB Passed	955	876
SB Filed	2050	1892
SB Passed	526	512
HJR Filed	108	102
HJR Passed	10	5
SJR Filed	64	54
SJR Passed	7	4

2007 TLTA Legislative Committee interim issues:

Prohibition of transfer fees

Continued access to public records

Redacting of social security numbers

BY MINDY CARR, TLTA DIRECTOR OF GOVERNMENT AFFAIRS

For the first time in several years, the Texas Legislature convened the session without any emergency issues on the table. In 2003, they dealt with the controversial congressional redistricting issue and in 2005, revision of the school finance system and property tax relief were top priorities. However, within the first several weeks, a number of big issues arose causing the Legislature to spend most of the year in response mode. From moving to block the Governor's controversial order of the HPV vaccine to overhauling the troubled Texas Youth Commission, members of the Legislature were forced to deal with emotionally charged issues that greatly impacted their constituents. As the session continued, Legislators' personal agendas, such as a statewide smoking ban, the death penalty for sexual predators, toll roads and water reservoirs, gradually became top priority.

In turn, the title insurance industry also fell into response mode. In February, the Attorney General released an opinion stating that social security numbers (SSNs) were confidential and county clerks would be held criminally responsible if the numbers were released. This caused the majority of the 254 county courthouses to either shut down or limit the real estate industry's access to official public records. TLTA immediately allied with the County and District Clerks Association, Texas Association of Counties, Texas Association of Realtors, members of the oil and gas industry and others to file last minute legislation that would clarify that the records should be released by the county clerks. These groups also urged authors of the bill to include safeguards for the public on a go forward basis to help protect SSNs in the future. In the meantime, members of the legislature met with the Attorney General, asking for a 60-day moratorium with the hope that most counties would go back to business as usual. In the end, the bill passed both chambers and was signed by the Governor in just 21 days.



HB 2061 HIGHLIGHTS:


- County or district clerk is not liable for the disclosure of a SSN contained in a filed document
- Requires, upon written request by an individual, the redaction of all but the last four digits of an SSN from documents specified by the individual, unless another law requires the full SSN to be on the document
- Requires clerks to accept documents for filing even if they contain SSNs and does not require the clerk to confirm that a document preparer actually redacted a SSN from a document
- Requires that the preparer of a document not include the SSN on deeds or deeds of trust


Additionally, the TLTA Lobby Team worked around the clock to protect title insurance industry employees from civil and criminal liability. In order to deter people from committing mortgage fraud, the Texas Mortgage Bankers Association supported legislation that increased criminal penalties for everyone involved in a real estate transaction. TLTA, along with the Texas Association of Realtors, believed that the proposal was too onerous and overly broad. Instead, we supported proactive measures that would provide consumers with better information and offer additional resources to investigators to aid in pursuing more cases. Rep. Burt Solomons listened to our concerns and worked with all parties to pass a meaningful mortgage fraud reform bill – HB 716.

Overall, the title insurance industry experienced another successful legislative session and escaped some major pitfalls. A great deal of TLTA's success came from an increased awareness of the title insurance industry – a direct result of our members' efforts to get to know their local legislators and educate them about important industry issues. We also worked closely with other real estate industry groups on numerous issues where we shared interest.

Kudos to everyone who answered our calls for action and contacted their senators and state representatives. You made a huge difference in the outcome of the 80th Legislative Session!

The following is a summary of bills tracked during the legislative session.

 A check box indicates the bill passed and will become law on the effective date noted.

 An x indicates the bill was not approved.

To read the full text for any of the bills listed, go to Texas Legislature Online, www.capitol.state.tx.us and search by bill number.



HB 716 HIGHLIGHTS:

- Increases awareness of mortgage fraud for consumers, prosecutors, law enforcement and those involved in the transaction county or district clerk is not liable for the disclosure of a SSN contained in a filed document
- Provides for a notice to be given at closing, warning the borrower that it is a criminal offense to participate in mortgage fraud schemes
- Requires the reporting of suspected mortgage fraud to authorized agencies and the Attorney General
- Provides civil immunity for reporting suspicious mortgage fraud activity
- Creates a residential mortgage fraud task force to better enable law enforcement and state agencies



MORTGAGE FRAUD BILLS TLTA SUCCESSFULLY OPPOSED:

SB 1307 by Sen. Wentworth/HB 2204 by Rep. Harper-Brown

- Increased criminal penalties
- Person can be found guilty by a simple "omission" of fact
- Includes broad conspiracy implications

SB 1308 by Sen. Wentworth/HB 3861 by Rep. Anderson

- Invented a wide range of new torts described in vague, subjective and overreaching terms
- Repealed the tort reform of proportionate responsibility and allows lenders or other parties to a real estate transaction to profit from their own negligence if someone else commits one of the new torts
- Pre-empted the authority of the Commissioner of Insurance to define responsibility for escrow losses in the insured closing letter
- Overreached by making an independent agent the general agent of a title insurance company regardless of the agency agreement between the agent and the company

Legislative Resources

Texas Legislative Council
www.tlc.state.tx.us

Texas Legislature Online
www.capitol.state.tx.us

Texas Ethics Commission
www.tec.state.tx.us

Office of Secretary of State
www.sos.state.tx.us

TLTA Proposed Legislation

The TLTA Lobby Team was successful in passing all but one proposal that was part of TLTA's Legislative Agenda. The following bills were discussed and debated by the Legislative Committee during the interim and ultimately approved by the TLTA Board of Directors:

SB 1153 by Carona

Relating to the use of title insurance to insure certain interests in personal property.

This bill, also known as the UCC bill, provides for the use of title insurance for personal property, such as boats and aircrafts, to ensure that a debtor has sufficient ownership rights or interest in the property to transfer a security interest in the property to the lender as collateral.

Effective date: Sept. 1, 2007

(TDI, by way of a public hearing, must adopt promulgated forms with accompanying rule and rate before this product can be issued)

SB 512 by Harris

Relating to the attachment of a judgment lien to homestead property.

This bill authorizes recordation of an affidavit for release of a judgment lien on a homestead and authorizes a bona fide purchaser or a mortgagee for value to rely on the affidavit. **Effective date: Sept. 1, 2007**

HB 1352 by Paxton

Relating to the operation of a farm, ranch, factory, or other business by the personal representative of a decedent's estate.

This bill authorizes a court to order the personal representative of an estate to operate a business that is part of the estate and to grant the personal representative the powers to operate the business that the court determines are appropriate under certain circumstances and upon making certain considerations. **Effective date: Sept. 1, 2007**

HB 2403 by Darby (amended to HB 2207 by Gallego)

Relating to prohibiting fees for future transfers of real property.

Prohibits a scheme called Transfer Fee Rights, which involves the filing by a homeowner, of a notice containing a deed restriction that is attached to the land record for 99 years. The restriction or covenant asserts that in any subsequent transfer of title, the transferor is obligated to pay the original owner a transfer fee equal to 1% of the sales proceeds. However, nonprofit or governmental entities are exempt from the prohibition. **Effective date: January 1, 2008**

Home Equity & Lien Issues

HJR 72 by Solomons

Proposing a constitutional amendment to clarify certain provisions relating to the making of a home equity loan and use of home equity loan proceeds.

The changes will clarify some of the provisions of the home equity law that were challenged in the ACRORN lawsuit. Highlights include: 1) Agricultural (Ag) use valuation will be relevant only at date of closing. If property is not exempt at that point, the lien is valid. 2) Oral applications will be permitted and will trigger the 12-day cooling off period. However, the oral application must eventually be reduced to writing and provided to the borrower not later than the day before closing. 3) The one-year period between home equity closings can be waived if the owner of the property completes an affidavit requesting an earlier closing due to a declared state of emergency affecting his homestead. 4) Only blanks relating to the substantive terms would constitute a violation of the law. Other blanks such as in the HUD 1-A, can remain blank and will not need a "not applicable" inserted. 5) At closing, only copies of the documents signed at closing must be provided to the owners. 6) HELOCs will clearly be able to be distributed by check. However, after closing, only checks requested by the borrower should be used.

**Effective date: November 6, 2007
(If approved by the voters)**

The following Legislators deserve special recognition for their assistance to the TLTA lobby team and support of TLTA issues during the legislative session:

Rep. Drew Darby (R-San Angelo)
Rep. Joe Deshotel (D-Beaumont)
Rep. Jim Keffer (R-Eastland)
Rep. Burt Solomons (R-Carrollton)
Rep. Jim Pitts (R-Waxahachie)
Rep. Pete Gallego (D-Alpine)
Rep. Jose Menendez (D-San Antonio)
Rep. Ken Paxton (R-McKinney)
Rep. Gary Elkins (R-Houston)
Rep. Rick Hardcastle (R-Vernon)
Rep. Will Hartnett (R-Dallas)

Rep. Harvey Hilderbran (R-Kerrville)
Rep. Mike Krusee (R-Taylor)
Sen. Chris Harris (R-Arlington)
Sen. Troy Fraser (R-Horseshoe Bay)
Sen. Kip Averitt (R-Waco)
Sen. Tommy Williams (R-The Woodlands)
Sen. Carlos Uresti (D-San Antonio)
Sen. Kirk Watson (D-Austin)
Sen. Kevin Eltife (R-Tyler)
Sen. John Carona (R-Dallas)

Home Equity & Lien Issues, Cont.

HB 3630 by Van Arsdale

Relating to the appraisal for ad valorem tax purposes of agricultural or open-space land.

As filed, this bill requires appraisal districts to appraise the market value of the entire property owned by a landowner and attributes the same market value to the home-site as is given to the other acres on the property. More important for the title insurance industry, the bill prohibits an individual from having land designated for agricultural use if the land secures a home equity loan on January 1, 2008.

Effective date: Jan. 1, 2008

HB 2207 by Gallego

Relating to the conveyance of certain residential real property encumbered by a lien.

This bill requires a specified notification in connection with conveyance of an interest in residential real property that is encumbered by a recorded lien. The requirement would not apply to a foreclosure sale, a deed in lieu of foreclosure, or to the sale of a residence if a title insurance policy is purchased.

Effective date: January 1, 2008

SB 300 by Ellis

Relating to the duration of judgment liens in favor of the state.

This bill extends the duration of an abstract of judgment in favor of the State of Texas or a state agency to 20 years. The bill provides that a properly filed abstract of judgment (AJ) in favor of the State of Texas or a state agency continues to constitute a lien until the earlier of the 20th anniversary of the date the abstract is recorded and indexed; or the date the judgment is satisfied or the lien is released. The judgment lien may be renewed for one additional 20 year period by filing, before the expiration of the initial 20 year period, a renewed AJ in the same manner as the original AJ. The renewed AJ lien relates back to the date the original AJ was filed. SB 300 also provides that this change in the law applies to: 1) a judgment, if the judgment is not then dormant, that exists on the effective date of SB 300, being April 23, 2007; 2) a judgment lien on record before the effective date of SB 300, being April 23, 2007; or 3) a judgment entered or AJ recorded and indexed on or after the effective date of SB 300, being April 23, 2007.

Effective date: April 23, 2007

SB 1520 by Wentworth

Relating to ad valorem tax lien transfers.

This bill establishes a new code of restrictions on and requirements for property tax lenders. These are lenders who make loans on delinquent property taxes and receive assignment or transfer of the priority government tax lien. The bill says the Finance Commission shall 1) prescribe a form and content of an appropriate disclosure statement that the property tax lender must provide to a property owner before the tax lien transfer is executed and 2) adopt rules relating to the reasonableness of closing costs, fees and other charges property tax lenders may assess. The bill also includes provisions that require within ten business days after transfer of a property tax lien, the property tax lender must give notice of the transfer to any mortgage servicer and any holder of a recorded first lien on the property. The property tax lender must obtain a court order before foreclosing on its transferred tax lien. Any application for foreclosure must be served on the holder of any recorded pre-existing first lien on the property. Notwithstanding any contractual agreement between the property tax lender and the property owner, the property tax lender must provide the payoff information required by law when requested by other lien holders. There are several other provisions in the bill to protect both consumers and traditional mortgage lenders that have purchase money liens.

Effective date: Sept. 1, 2007

HB 2138 by Paxton

Relating to regulation of property tax lenders; providing a penalty.

This bill requires licensing of property tax lenders by the Consumer Credit Commissioner and grants to the Commissioner extensive regulatory powers to supervise their lending activities.

Effective date: June 15, 2007

HB 2931 by T. King

Relating to required notice of and a lien resulting from damage to a fence.

This bill authorizes a person who owns real property in this state that is enclosed by a fence or other structure obviously designed to exclude intruders or to contain livestock or other animals to obtain from a court in this state a judgment entitling the person to a lien against the motor vehicle, if the person who damages the landowner's fence owns the motor vehicle or has the consent of the owner of the motor vehicle to drive the vehicle at the time the person damages the landowner's fence.

Effective date: Sept. 1, 2007

Privacy & Open Records Issues

SB 699 by Carona

Relating to the use of only parts of driver's license and social security numbers in certain court documents.

This bill requires each party or party's attorney in a civil action to provide the last three numbers of each party's driver's license number and the last three numbers of each party's Social Security number (SSN) to the clerk of the court within a specified amount of time after the lawsuit is filed. The bill authorizes a court to issue a contempt finding if party fails to provide required information.

Effective date: Sept. 1, 2007

HB 59 by Isett

This bill would have provided that a state or local governmental entity may not disclose personal information such as SSN, date of birth, address, etc; unless the Office of the Attorney General (OAG) authorizes the disclosure after determining that there is a compelling governmental interest in disclosing the information that cannot be effectively accomplished without the disclosure. In addition, the bill provides that a state or local governmental entity shall develop a privacy policy that completely describes in plainly written language the reasons that the governmental entity requires or collects each category of personal information. The bill further requires the OAG to establish additional guidelines for local entities to follow when responding to open records requests. The bill would also amend the Penal Code by enhancing the punishment for the offense of fraudulent use or possession of identifying information from a state jail felony to a felony of the third degree.

HB 2305 by Talton

This bill would have allowed for law enforcement officials to request that their personal information be confidential and required anyone who looked at these records to submit their personal contact information to the Clerk.

SB 48 by Nelson

This bill would have made SSNs in any record held by the county clerk confidential.

SB 434 by Shapiro

This bill would have required a governmental body to redact SSNs of living persons from all documents.

HB 41 by Paxton

Relating to the confidentiality of home address information of certain public officials and their spouses and to the immunity from liability of certain agencies.

This bill extends the confidentiality protection of residence information in appraisal records to federal and state judges in Texas, including federal, district, county, appellate, and administrative law judges. This bill applies to current, former, and retired judges.

Effective date: Sept. 1, 2007

HB 1237 by Farabee

Relating to the confidentiality of certain information of a person licensed to practice law held by the State Bar of Texas.

Upon written request, licensed attorneys could make confidential their home addresses, phone numbers, email addresses, SSNs and dates of birth. Filings with the county or district clerk are exempt.

Effective date: Sept. 1, 2007

SB 596 by Wentworth

Relating to the confidentiality of certain information involving real estate transactions of the School Land Board, Veterans' Land Board, General Land Office, or Commissioner of the General Land Office.

This bill makes confidential information pertaining to development of real property until deed is executed. Information about governmental land transactions, either buying or selling, is to a great extent already confidential until a sales contract or deed is executed.

Effective date: June 15, 2007

SB 123 by Deuell

Relating to excepting from required disclosure under the public information law certain personal information maintained by a municipality that pertains to a minor.

This bill makes certain types of information held by the government that pertains to those 17 years old or younger confidential. The types of information include: name, age, home address, home/personal phone number, SSN, or information that tends to reveal the name of a guardian of the minor or of a member of the minor's family.

Effective date: May 17, 2007

FACT:

Most number of vetoes by Texas Governors:

Governor	# of Vetoes	Year
Gov. Perry	83	2001
Gov. Edmund Davis	72	1870
Gov. Preston Smith	67	1969
Gov. Bill Clements	56	1989
Gov. Rick Perry	49	2007

Recording and County Issues

HB 732 by Krusee *Relating to recording requirements for certain documents.*

Confusion still remains regarding the acceptance of paper copies of an electronic document and some county clerks have questioned whether a document, specifically a real estate document that has been faxed, emailed or copied, is an original document containing original signatures and notary seals. This bill prohibits a paper document concerning real or personal property from being recorded or serving as notice of the paper document unless certain actions are taken.

Effective date: Sept. 1, 2007

HB 2566 by Madden *Relating to a document or instrument filed by an inmate with a court concerning real or personal property.*

This bill prohibits a prison inmate or a person filing on behalf of an inmate from recording a real property instrument unless the document reflects the fact that the beneficiary is an inmate. As introduced, the bill would have required every real property instrument recorded to state whether the beneficiary was a prison inmate, but that requirement was changed due to TLTA's lobbying efforts.

Effective date: Sept. 1, 2007

HB 2118 by Pickett *Relating to licensing and regulation of residential fire alarm technicians and regulation and installation of fire detection and alarm devices.*

This bill requires each one-family or two-family dwelling to be equipped with a working smoke detector in accordance with the smoke detector requirements of the building code in effect in the political subdivision in which the dwelling is located. It modifies the seller's disclosure notice, which the seller must provide to the buyer, and adds smoke detector, smoke detector for hearing impaired person, carbon monoxide alarm,

and emergency escape ladders to the checklist. The buyer waives the buyer's rights to have smoke detectors upon signing this notice. The bill also requires the Texas Department of Insurance to prepare and distribute information of public interest relating to fire safety and the dangers of carbon monoxide.

Effective date: Sept. 1, 2007

HB 2738 Solomons *Relating to liens on real property.*

This bill provides 1) for alternate foreclosure posting if the courthouse or the county clerk's office is closed because of inclement weather, natural disaster or other act of God, 2) the foreclosure trustee is not a fiduciary of the mortgagor or mortgagee, and 3) the purchase price at a foreclosure sale is payable immediately on acceptance of the bid.

Effective date: June 15, 2007

SB 1781 by Carona *Relating to technical defects in instruments conveying real property.*

SB 1781 changes the statute of limitations from four years to two years on challenging a recorded instrument affecting real property which contains a ministerial defect, omission or formality in the certificate of acknowledgment.

Effective date: June 15, 2007

HB 989 by Zerwas *Relating to the filing for record of a plat or re-plat of a subdivision of real property.*

A bill enacted by the 79th Legislature prohibited a person from filing for record or having recorded a plat or re-plat, unless an original tax certificate was attached, proving that delinquent taxes were not owed. Due to legislative oversight, language to include condominiums and amended plats and re-plats was inadvertently excluded. This bill extends the same filing requirements already in statute for condominiums, amended plats, and amended re-plats.

Effective date: Sept. 1, 2007

HB 1067 by Murphy *Relating to subdivision replating by certain municipalities.*

Specifies that "covenants and restrictions" are only relevant if they are contained or referenced in a recorded dedicatory instrument. This legislation conforms state law to the method used by the City of Houston to handle re-plats from 1983 through mid-2006, and is bracketed to the City of Houston.

Effective date: June 15, 2007

HB 1222 by Goolsby

Allowed counties to use the maintenance and preservation fee for redacting purposes.

HB 1100 by Lucio *Relating to cancellation of a subdivision plat under certain circumstances.*

Authorizes certain people who own real property in certain subdivisions to follow a process in order to cancel, wholly or partly, an existing subdivision plat and to reestablish the property using lots and blocks descriptions. In 1926, the original owners of a subdivision in Olmito, Texas, filed a plat describing the property in lots and blocks. In 1930, the owners had the Cameron County commissioners court cancel that plat and replace it with a plat that described the property by acreage. However, the tax appraisal district, title companies, surveyors, and real estate attorneys have continued to use the block and lot description rather than the acreage description, which has created problems for property owners seeking to build on their property.

Effective date: June 15, 2007

SB 1812 by Duncan

Authorized the Office of Court Administration to develop a centralized, state-recognized website to provide an option for posting legally sufficient notices.

Probate Issues

HB 519 by Naishtat
Relating to the creation of a trust for the management of an incapacitated person's estate.

Under current law, a proper court is authorized to enter an order creating a management trust for the estate of an incapacitated person. This is a power that may be better suited for probate courts. This bill authorizes a court exercising probate jurisdiction to enter an order creating a management trust.

Effective date: Sept. 1, 2007

HB 564 by Hartnett
Relating to the administration and operation of certain trusts and other property interests held for the benefit of another.

This bill enacts the changes to statutory law recommended by the State Bar of Texas, including a revision of statutory duty to keep beneficiaries informed, clarification on when a trust is considered "self-settled," a reversal of the default rule requiring bonds of trustees, and an authorization of a custodian to create a trust that would last beyond a child's 21st birthday provided that certain requirements are met. During the interim between legislative sessions, it is the practice of the Real Estate, Probate, and Trust Law Section of the State Bar of Texas to recommend improvements to the Texas Trust Code for adoption by the next legislature.

Effective date: June 15, 2007

HB 1710 by Naishtat
Relating to the administration of community property.

HB 1710 deletes existing statute providing for formal administration of a community estate and retains the statute addressing informal administration of a community estate.

Effective date: Sept. 1, 2007

SB 593 by Wentworth
Relating to proof of, and providing notice to certain beneficiaries under, a decedent's will.

This bill requires the personal

representative of a decedent's estate, within a certain time period of an order admitting a will to probate, to give notice to each beneficiary named in the will whose identity is known or, through reasonable diligence, can be ascertained, and to file an affidavit with the court listing the beneficiaries notified. The bill also sets out what the notice must contain.

Effective date: Sept. 1, 2007

Banking and Foreclosure Issues

HB 1460 by Haggerty
Relating to the licensing, acquisition, regulation, and taxation of manufactured housing; providing administrative and criminal penalties.

HB 1460 proposes several changes to Chapter 1201 (Manufactured Housing), Occupations Code providing greater consumer protections through increased enforcement authority granted to the Manufactured Housing Division of the Texas Department of Housing and Community Affairs (TDHCA). In particular, this bill provides more stringent procedures required to transfer ownership and clarifies responsibilities of businesses licensed by TDHCA. This bill also includes a provision that permits a mortgage lender to take action to effect a conversion of the manufactured home from being personal property to real property if the owner fails to do so as part of the mortgage loan requirements. The bill also further clarifies how property taxes are recorded and collected with respect to manufactured homes that are designated as personal property.

Effective date: January 1, 2008

SB 645 by Ellis

SB 645 would have established a professional study to examine mortgage foreclosure rates in the Houston-Sugarland-Baytown Metropolitan Statistical Area.

SB 987 by Lucio

This bill would have required loan applicants for complex home loans to receive consumer counseling before the closing date of such a loan to provide the consumer the chance to make an informed decision of the consequences of such complex loans and to attempt to lower foreclosure rates in this state.

SB 1484 by Lucio

SB 1484 would have required sellers of real property who finance the sale, rather than using a third-party lender or bank, to provide amortization schedule and annual accounting statements to the buyer so the buyer knows on a timely and regular basis how payments are being applied, and the amount of principal still owed.

HB 2783 by Solomons
Relating to the regulation of certain persons involved in mortgage lending.

This bill contains multiple amendments and new provisions to the Texas Mortgage Broker License Act including permitting mortgage brokers to make second lien loans under their license from the Savings and Mortgage Lending Commissioner without being required to get an additional license. **Effective date: Sept. 1, 2007**

HB 2007 by Solomons
Relating to modernization of the regulation of banking in this state.

This bill modernizes provisions of Texas banking law and contains a provision requiring the Texas Department of Banking to establish and implement a financial literacy educational program.

Effective date: Sept. 1, 2007

HB 3798 by Vaught

This bill would have prohibited a person who builds and sells a single-family residence from offering or providing a benefit to a potential purchaser as consideration to use a mortgage lender specified by the person for a loan to purchase the residence.

Industry and Real Estate Issues

HB 3271 by Eiland

Relating to the biennial hearing concerning title insurance and related information.

Makes changes to information collected and used by TDI in regards to biennial hearings: 1) Each title insurance company and agent shall annually submit to TDI a statistical report of loss experience, expense of operation and other material matters. 2) If new or different information is required to be included in the stat report the information may be considered by the commissioner if the information is reasonably credible for the purposes for which it is intended. 3) A title insurance company or agent may bring suit in Travis County district court if the information required to be reported in the statistical report is unduly burdensome or not material to the biennial hearing. 4) Allows a party to the ratemaking phase of the biennial hearing to challenge another person's admission as a party.

Effective date: Sept. 1, 2007

SB 1253 by Averitt

Relating to the frequency and expenses of certain examinations conducted by the Texas Department of Insurance.

SB 1253 requires TDI to examine a carrier as frequently as TDI considers necessary and at least every five years and requires the commissioner to adopt rules governing the frequency of examinations of carriers that have been organized or incorporated for less than five years. **Effective date: Sept. 1, 2007**

HB 3323 by Homer

This bill would have required the Commissioner of the Texas Department of Insurance to be elected by the people rather than appointed by the Governor.

HB 1787 by Hartnett

Relating to the determination of title to real property through a declaratory judgment.

A recent Texas Supreme Court decision prohibited title disputes from being resolved under the Uniform Declaratory Judgments Act. There is now only one method by which a title dispute can be resolved - the trespass to try title action. The bill provides that a boundary dispute can now be resolved through the use of a declaratory judgment suit. **Effective date: June 15, 2007**

HB 1038 Ritter

Relating to the operation of the Texas Residential Construction Commission; providing penalties.

This bill makes extensive changes to the Texas Residential Construction Commission which includes a provision requiring the seller of residential property to provide notice of applicability of certain warranties and building and performance standards. The requirement does not apply to a mortgagee under a foreclosure sale or a deed in lieu of foreclosure.

Effective date: Sept. 1, 2007

SB 270 Wentworth, HB 133 and HB 1552 by Villareal

There were numerous proposals filed again this session to require sale price disclosure, but once again did not make its way to the governor because of opposition from the real estate industry. Most of the bills would have required the information to be recorded with the deed.

HB 3232 by Olivio [bracketed to Houston area]

Relating to certain subdivision golf courses.

This bill requires a public hearing be held before re-platting subdivision golf courses for commercial or residential development. This hearing would be held by the municipal authority responsible for approving the proposed re-platting. HB 3232 requires public notice at least 15 days prior to said hearing by publishing notice in an area newspaper, providing written notice to the affected property owner's associations, and providing written notice directly to the owners of lots that are within 200 feet of the area subject to the proposed re-platting. The bill constrains the municipal authority from approving the re-platting unless it determines that the new plat meets numerous criteria relating to municipal services and the standard of living in the subdivision. HB 3232 also requires that the proposed re-platting be complete and explicitly detailed (with specific definitions of what that means). This explicitly allows property owners of lots within 200 feet of the proposed re-platting to sue in order to have a county district court enforce this law.

Effective date: June 15, 2007

HB 2402 by Truitt

Relating to the authority granted to certain property owners' associations in dedicatory instruments and restrictive covenants.

HB 2402 prohibits a property owners' association from forcing one of its members to grant an easement on that person's property against the person's will. This bill also prohibits certain developers of residential subdivisions from prohibiting an amendment to a dedicatory instrument of a property owner's association. **Effective date: Sept. 1, 2007**

HB 1495 by Callegari

Relating to a bill of rights for property owners whose property may be acquired by governmental or private entities through the use of eminent domain authority.

This bill requires landowners affected by potential condemnation to receive a written statement of their rights and options as provided by state law. Current law requires limited disclosure regarding a property owners' rights during a condemnation proceeding. Although Chapter 21 (Eminent Domain), Property Code, requires certain notices and disclosure to property owners, current law does not require that these property owners be informed of their statutory and constitutional rights. Affected property owners may decide to hire legal counsel to advise them of their rights and options during a condemnation proceeding, but while such counsel may assist a property owner during a condemnation proceeding, this benefit is mitigated by the costs of attorney's fees and court costs. **Effective date: February 1, 2008**



HB 1671 by Homer

Relating to limiting the authority of a property owner to erect a gate on certain third-class and neighborhood roads.

This bill prohibits a person from erecting a gate across neighborhood and third-class roads unless approved by the commissioners' court of the county.

Effective date: Sept. 1, 2007



SB 1634 by Wentworth

Relating to a court order for a land surveyor to cross land.

SB 1634 provides that a registered professional land surveyor may seek and obtain a court order authorizing the surveyor to enter land owned by a private party when the surveyor is acting in his or her official capacity or when the issuance of the court order is in the public's best interest.

Effective date: May 21, 2007

Affordable Housing



HB 1637 Menendez

Relating to the operation and administration of the Texas First-Time Homebuyer Program by the Texas Department of Housing and Community Affairs and to certain down payment assistance under that program.

This bill establishes the Texas First-Time Homebuyer Program in the Texas Department of Housing and Community Affairs to provide financial assistance to low income first-time homebuyers.

Effective date: Sept. 1, 2007



SB 1908 by Ellis

Relating to affordable housing and to the receivership and rehabilitation of certain property; providing an administrative penalty.

SB 1908 requires that for loans made for the development of multifamily housing with funds provided under the National Affordable Housing Act, the TDHCA must 1) obtain a mortgagee's title policy in the amount of the loan, 2) TDHCA may not designate a specific title insurance company to provide the policy or require the borrower to provide the policy from a specific title insurance company and 3) the borrower shall select the title insurance company to close the loan and provide the policy.

Effective date: Sept. 1, 2007

SPECIAL THANKS

The TLTA lobby team would like to thank the Legislative Committee for all their input and hard work. Committee members spent hours reviewing bills and recommending positions.

TLTA Legislative Committee Members

Chair Fred Schraub, San Antonio
Tommy Bastian, Addison
Bobby Burnett, Benjamin
Brent Chesney, Corpus Christi
John Cook, Breckenridge
John DeLoach, San Antonio
Denise Dumon, Dallas
Whitney Eledge, Austin
James Farrar, Eastland
Walter Fortney, Fort Worth
Celia Goode-Haddock, College Station
James Gosdin, Houston
Joe Grealish, Houston
David Hays, Dallas
Kim Hesley, Boerne
Sam Howell, Marshall
James Johnson, Houston
Maureen Kersey, Addison
Roland Love, Dallas
Pete Marianos, Dallas
Katherine Metcalfe, Keller
Eldridge Moak, Rusk
Dawn Moore, Dallas
Dewayne Naumann, Austin
Greg Nix, Houston
Scott Noel, San Antonio
Brian Pitman, Austin
Bickford Shaw, Austin
James Sibley, Houston
Cara Swisher, Austin
Latra Szal, Austin
Kathleen Terrell, Navasota
Susan Valdez, Edinburg

Special thanks to:

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Other industry lobbyists:

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TLTA Lobby Team:

Mindy Carr, Director of Government Affairs
Allen Place, Legislative Consultant
Tom Rutledge, Regulatory/Legislative Counsel