

2009 LEGISLATIVE REPORT

By: Aaron Day
 TLTA Director of
 Government Affairs



TLTA Has Successful and Productive Legislative Session

The 81st Legislative Session came to a close on June 1, 2009. Governor Perry then had until June 21 to either veto, sign or allow the legislation to become law without his signature. We are pleased to report that TLTA had a very successful and productive legislative session.

The following comprehensive post-session report contains not only the TLTA affirmative agenda, but also legislation that would have an affect on the title industry and your business. Please note legislation is organized by subject matter and the status is indicated by either a check mark or an X. If you have any questions, please contact Aaron Day, TLTA Director of Government Affairs at aaron@tlta.com or 512.472.6593.

The Politics of Session

In January, the House of Representatives elected a new Speaker - Rep. Joe Straus, San Antonio – resulting in a new power structure and subsequent committee assignments. The Senate immediately became entangled in debate over the long-standing “two-thirds” rule and whether or not its absence would pave the way for a controversial bill to pass the Senate. The bill in question was S.B. 362, regarding voter identification, which would later be the catalyst for the House’s end-of-session meltdown.

Despite the eventual meltdown the majority of the session was characterized by cooperation. From the participants’ viewpoint, the defining elements of the session were uncertainty and congeniality – no one knew how things would turn out, so everyone did their best to play nice.

A Challenge for TLTA

Throughout the session, TLTA encountered a number of potentially damaging pieces of legislation that would have had a negative impact on our industry, members, and Texas consumers. Every flawed piece of legislation has equal opportunity to make it through the legislative process and find its way to the Governor’s desk. A great deal of our effort was put toward identifying those pieces of legislation and ensuring the legislative process helped

eliminate bad bills. We were able to successfully engage a number of these “defensive issues” and that would not have been possible without the assistance of the bills’ authors who worked to address our concerns. We’re grateful for their cooperation and truly enjoyed working with our elected leaders this session.

One of the more significant issues TLTA faced was the Texas Department of Insurance Sunset bill, S.B. 1007, which contained language requiring a mandatory outside audit for all title agents and the clarification of TDI’s ability to access agent’s financial information with very little built-in due process. We also encountered legislation that would require the ownership of all mineral rights to be insured by the title policy; legislation that would limit the access to public records necessary for the title industry to function; and legislation requiring escrow accounts for real property transactions to be maintained as interest-bearing accounts and the interest be used as revenue for legal aid.

However, it was the issue of title agent insolvency that would define and dominate the legislative session for our industry. The debate surrounding this matter began when a bill was filed to address the issues identified by a TDI insolvency workgroup. The bill later became the vehicle for the debate of a new regulatory structure for the title industry relative to insolvency, as well as an alternative to the more controversial proposals in the original version of the TDI Sunset bill. TLTA volunteers spent countless hours working together to craft legislation that would address insolvency in a way that was workable for the industry and acceptable to TDI and the Texas Title Guaranty Association.

Session Recap

Session	2009	2007
HB Filed	4836	4140
HB Passed	1288	955
SB Filed	2583	2050
SB Passed	1190	526
HJR Filed	140	108
HJR Passed	15	10
SJR Filed	50	64
SJR Passed	11	7

Session Quick Facts:

The Texas Legislature is scheduled to meet every odd-numbered year for 140 days.
There are 31 members in the Senate and 150 members in the House of Representatives.
Senators are elected to a four-year term (staggered).
Representatives are elected to a two year term.
Legislators earn roughly \$600 a month or \$7200 annually.
The 82nd Legislative Session is scheduled to convene on January 11, 2011.

TLTA's Affirmative Agenda

Before the legislative session began, the TLTA Board of Directors adopted its 81st Legislative session Affirmative Agenda consisting of nine key issues. The TLTA lobby team was able to successfully resolve eight of the nine issues. The acknowledgement of foreign signatures by a public notary failed to pass because of the end of session deadlines, but we expect to revisit the issue during the 2011 legislative session.

Our successful outcome is due to the numerous hours and efforts of our TLTA volunteers including the Board of Directors, the Legislative Committee Chair and Members, the TLTA Caucus, PAC contributors, TLTA Day at the Capitol participants, and our volunteer witnesses. The TLTA staff and lobby team would like to express their sincere gratitude to the many industry volunteers that made our success possible.

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

A  indicates the bill did not pass. To view the full bill text click on the bill number.

 H.B. 2353 by Hughes (Sponsor: Fraser)
Statute of Limitations for Enforcement Actions Amends the Insurance Code to create a statute of limitations for enforcement actions by TDI. The bill injects some basic fairness into the process and gives title agents certainty relative to their status with the department and enforcement actions.
Effective September 1, 2009

 H.B.3073 by Geren (Sponsor: Fraser)
E-filing and Tax Certificates
Also known as the "e-filing bill", amends Chapter 2501 of the Insurance Code to clarify title agents' ability to pass through the charges by third parties for tax certificate reports and electronic filing of documents.
Effective January 1, 2010

 H.B. 3091 by Veasey (S.B. 2065 by Davis)
Acknowledgment of Written Instruments – Foreign Persons
Amends the Civil Practice and Remedies Code to allow notaries to accept identifications produced by foreign governments as prove of an individual's identity.
Please Note: S.B. 2065 passed the Senate Chamber and House Committee but was not set on House Calendar before Sine Die.

 H.B. 3441 by Kleinschmidt (S.B. 1641 by Harris)
Construction Liens under the Texas Residential Construction Commission (TRCC)
Amends the Property Code to provide that a lien remains valid in the event that a builder fails to put the proper information on the home construction contract.
Please Note: The Legislature allowed the TRCC to sunset and did not include it in the "safety net bill" passed during the first called special session. Thus, the section of the code the bills attempted to amend expired rendering the bill moot.

 H.B. 3945 by Orr (S.B. 1596 by Watson)
Release of Lien
Amends the Property Code to allow title agents, at their discretion, to file an affidavit to function as a release of lien allowing files to be closed in absence of the mortgage holder's participation.
Effective September 1, 2009

 S.B. 1661 by Harris (H.B. 3053 by Truitt)
Child Support Liens
Amends the Family Code to create a statute of limitations for child support liens on real property by requiring a renewal after 10 years. The law also helps clarify the designation of a homestead for child support purposes and ends a requirement that the Attorney General automatically file a lien against real property under certain conditions.
Effective May 26, 2009

 **S.B. 1918 by West (H.B. 2395 by England)**
Certificate of Dues Update

Amends the Property Code to allow for an update of dues and communication of either waiver or non-waiver of any first right of refusal the HOA members may possess. The bill was designed to save money for clients at closings by avoiding a repurchase of the much more expansive and expensive HOA package.

Effective September 1, 2009

 **S.B. 1919 by West (H.B. 2394 by England)**
Management Certificates

Amends the Property Code to require HOAs to file and keep current contact information for management or HOA principles and preventing a lien from attaching without the required information on file.

Effective September 1, 2009

 **S.B. 2121 by West (H.B. 2392 by England, Amended to H.B. 3479)**
Right to Redeem

Amends the Property Code to allow Mortgage Lien Holders to redeem after an HOA foreclosure and helps reduce claims by allowing the lien holder to preserve the lien.

Effective September 1, 2009

Legislation of Interest

Insolvency

 **H.B. 4338 by Smithee (Sponsor: Fraser)**

Comprehensive bill addressing agent insolvency issues provides for mandatory minimum capitalization for agents, establishes minimum education requirements for newer agents and agents entering the market, requires that all title plants date back to 1979, declares that monies owed to other title agents and underwriters are monies held in trust, provides that the Texas Title Insurance Guaranty Association (TTIGA) and underwriters have the ability to access files in the event of an insolvency, allows for underwriter communications to TDI relative to agent insolvency concerns, defines an impaired agent for the purpose of addressing insolvency, expands the authority and revenue raising abilities for the TTIGA, and establishes some due process safeguards relative to how TDI can use information gained from agents for the purpose of insolvency concerns.

Effective September 1, 2009

Title Industry and Real Estate Issues

 **H.B. 28 - Notice to Seller of Potential Annexation**

Would have required the seller to provide a copy of

any letter received from a municipality notifying the owner that the property is included in an annexation plan. The seller must also indicate on a form that the seller received notification of annexation, that the property is not in an annexation plan, or that the seller does not know if a notice has been received. The bill allows a purchaser to terminate the contract under certain conditions if the purchaser does not receive the notice before the contract date binding the buyer to purchase the property. The option to back out does not apply if the seller did not receive written notice from a municipality that a property was included in an annexation plan.

Failed to Pass

 **H.B. 133 - Sales Price Disclosure**

As proposed, the bill would have required the disclosure and filing of the sales price in real property transactions.

Failed to Pass

 **H.B. 352 - Minerals Interests and the Title Policy**

Would have prohibited the exclusion of coverage of the mineral estate from all title policies.

Failed to Pass

 **H.B. 556 - Payment of Attorney's Fees - Adverse Possession**

Provides that in a suit for the possession of real property between a person claiming under record title to the property and one claiming by adverse possession, if the prevailing party recovers possession of the property from a person unlawfully in actual possession, the court is required, rather than authorized, to award costs and reasonable attorney's fees to the prevailing party if the court finds that the person unlawfully in actual possession made a claim of adverse possession that was groundless and made in bad faith and is authorized to award costs and reasonable attorney's fees to the prevailing party in the absence of a finding that a claim of adverse possession is groundless.

Effective September 1, 2009

 **H.B. 652 - Licensing of Escrow Officers**

Authorizes persons who reside in an adjoining state and who are bona fide employees of a licensed Texas title insurance agent or office to be licensed by TDI. Also increases the bonding requirement for out-of-state employees from \$5,000 to \$10,000 and authorizes a person qualified as an escrow officer to hold a license and operate as a notary public.

Effective September 1, 2009

 **H.B. 655 - Payment to a Trustee**

Amends Section 51.0075(f), Property Code, to provide that the purchase price in a sale held by a trustee or substitute trustee under this section is due and payable without delay, rather than im-

mediately, on acceptance of the bid or within such reasonable time as may be agreed upon by the purchaser and the trustee or substitute trustee if the purchaser makes such request for additional time to deliver the purchase price, rather than on acceptance of the bid by the trustee or substitute trustee.
Effective September 1, 2009

 **H.B. 1852 – Escrow Account Interests in Real Property Transactions**

Requires all title agents to move their escrow accounts to interest bearing accounts. The interest earned would then be swept into an account as a revenue source for the funding of indigent legal services.

Failed to Pass

 **H.B. 2295 - TRCC Sunset**

Establishes the continuation of the Texas Residential Construction Commission.

Failed to Pass

 **H.B. 2897 - Application for tax exemption**

Requires title agents to provide homestead exemption information to the buyer and advise the buyer about the process and deadlines concerning the application for homestead exemption.

Failed to Pass

 **H.B. 3502 - Acknowledgements of a Seller's Disclosure Notice**

Amends current law relating to acknowledgements required of a purchaser of residential real property in connection with the receipt of a seller's disclosure notice regarding the property. Requires that the notice be executed and, at a minimum, read substantially similar to a certain form and include information relating to Chapter 766 (Fire Safety in Residential Dwellings), Health and Safety Code. Deletes existing text providing that the undersigned purchaser "hereby acknowledges the property complies with the smoke detector requirements of Chapter 766", or, if the property does not comply with the smoke detector requirements of Chapter 766, the buyer waives the buyer's rights to have smoke detectors installed in compliance with Chapter 766.

Effective January 1, 2010

 **H.B. 3767 - Homestead Property Transferred to a Trustee**

Allows a trustee to transfer, by warranty deed, real property designated as a homestead into a living trust without affecting the homestead designation of the property if the trust settlor is a beneficiary of the trust. In addition, the bill provides residence homestead protection to settlors, their spouses and their heirs in a qualified trust for as long as they use the home as a residence homestead.

Effective September 1, 2009

 **H.B. 3768 - Title Insurance Coverage – Trusts**

Amends current law relating to title insurance coverage of property transferred into an inter vivos trust and provides that the transfer by deed of real property into an inter vivos trust does not affect title insurance coverage of the property if the trust settlor is a beneficiary of the trust. Provides that on the effective date of a transfer under Subsection (a), the insurance coverage on the title of the real property transferred applies to the trustee of the trust into which the settlor transferred the property. Provides that the insurance company has the defenses to the coverage described in Subsection (b) that the company had under the policy against the original named. Authorizes the commissioner of insurance, for an owner's title insurance policy on residential real property that is issued to an individual, to adopt terms that provide for continuation of coverage subject to the rights and defenses against the original named insurer for:

- 1) A person who inherits the original named insured's title on the original named insured's death;
- 2) The original named insured's spouse who receives title in dissolution of marriage with the original named insured;
- 3) The trustee or successor of a trust established by the original named insured for real estate planning to whom the original named insured transfers title after the date of policy; or
- 4) The beneficiaries of a trust described by Subdivision (3) on the death of the original named insured.

Effective September 1, 2009

 **H.B. 4043 – Notification - Certificate of Convenience – Municipal Owned Utility**

Amends the Water Code, to provide that Section 13.257(c) does not apply to certain transfers of title, including a transfer of title to property located within the corporate limits of a municipality that is served by a municipally owned utility.

Failed to Pass

 **H.B. 4219 - Transfer Fees**

Extends the prohibition of transfer fees on both seller and buyer to all real property regardless whether the fee is collected by an home owners' association, charity, or government entities, which are now excluded from the prohibition on transfer fees.

Failed to Pass

 **H.B. 4397 - Payoff Statement Requirements**

Requires the Finance Commission of Texas by rule to adopt a standard form that must be used by a mortgage servicer in providing a requested payoff statement. Establishes that any amounts remaining owed on a properly executed payoff statement because of a mistake by the lender or mortgage ser-

vicar does not constitute a lien against the property. Also authorizes a lender or mortgage servicer who notices a material mistake in a payoff statement to provide a corrected statement within two business days before the closing date set forth in the payoff request. Provides that a mortgage servicer who fails to deliver a requested payoff statement to the requestor is liable to the mortgagor for any actual damages suffered by the mortgagor as a result of the violation, reasonable attorney's fees, and court costs.

Failed to Pass

 **H.B. 4765 Franchise Tax – Revenue Minimum**

Seeks to mitigate the affect of the new franchise tax by effectively removing 40,000 businesses from the tax rolls. Provides that a taxable entity is not required to pay any tax and is not considered to owe any tax for a period if the amount of tax computed for the taxable entity is less than \$1,000, or the amount of the taxable entity's total revenue from its entire business is less than or equal to \$1 million, rather than \$300,000, or the amount determined under Section 171.006 (Adjustment of Eligibility for No Tax Due, Discounts, and Compensation Deduction) per 12-month period on which margin is based. Provides that a taxable entity is not required to pay any tax and is not considered to owe any tax for a period if the amount of tax computed for the taxable entity is less than \$1,000, or the amount of the taxable entity's total revenue from its entire business is less than or equal to \$600,000, rather than \$300,000, or the amount determined under Section 171.006 per 12-month period on which margin is based.

Effective January 1, 2010

 **HJR 14 - Eminent Domain – Public Use**

Constitutional Amendment requiring voter approval to prohibit the use of eminent domain if the primary purpose is economic development.

Election Date November 3, 2009

 **S.B. 18 - Eminent Domain**

Modifies the process governing eminent domain proceedings, standards of evidence that could be considered by a court in the course of making decisions regarding damages, obligations placed upon condemning entities, and the rights of previous owners to repurchase taken property. The bill authorizes special commissioners to take into account any evidence that a property owner would consider in a negotiated transaction outside the standards set forth in the chapter. It also modifies the price at which previous owners could repurchase condemned property on which a public use was cancelled within 10 years of the acquisitions to be the price paid to the owner by the governmental entity at the time the property originally was acquired,

rather than the fair market value of the property at the time the public use was cancelled.

Failed to Pass

 **S.B. 444 - Mandatory Sales Price Disclosure**

Requires the disclosure and filing of the sales price in real property transactions.

Failed to Pass

 **S.B. 1001 - Office of Public Insurance Counsel Sunset**

Establishes the continuation of OPIC.

Note: OPIC was extended until 2011 in S.B. 2 "the safety net bill" passed during the first called special session of the 81st Legislature.

Failed to Pass

 **S.B. 1007 - Texas Department of Insurance Sunset**

Establishes the continuation of TDI and requires a mandatory annual third party audit of all title agents. Also clarifies TDI's ability to access and review the financial records of title agents.

Note: TDI was extended until 2011 in S.B. 2 "the safety net bill" passed during the first called special session of the 81st Legislature.

Failed to Pass

 **S.B. 1625 - Power of Attorney**

The bill removes the discretion of third parties in the acceptance of durable powers of attorney and requires third parties (including title companies) to accept powers of attorney absent a known or established justification for a refusal to accept the power of the attorney.

Failed to Pass

 **S.B. 1938 – Escrow Account Interests in Real Property Transactions**

Requires all title agents to move their escrow accounts to interest bearing accounts. The interest earned on the accounts would be swept into an account as a revenue source for the funding of indigent legal services.

Failed to Pass

Home Owners Association Issues

 **H.B. 1976 – Comprehensive HOA Reform**

The bill eliminates non-judicial foreclosure, gives homeowners the right to file suit against an HOA and collects damages if the board acts outside of the law or the governing documents, gives homeowners the right to collect attorney fees if the homeowner prevails regardless of who files the suit, prohibits the HOA's right of entry on private property, prohibits HOAs from enforcing restrictions added after the home is purchased, eliminates an HOA's right of first refusal, prevents HOA boards from

amending bylaws to expand board powers, requires 51% approval of all homeowners in HOA to amend governing documents, requires notice of and establish open meetings for HOA board and committees and requires written minutes to be published, voids HOAs' right to prohibit voting privileges, prohibits proxy ballots, require written notice to all homeowners of election or vote, requires HOAs to contract with county agent to tabulate votes, requires HOAs to file voting results with the county clerk, prohibits requirements for board members, with exception of conviction of moral turpitude, establishes a priority of payments from homeowners so past and current dues are paid first, requires HOAs to establish and offers an alternative payment schedule when homeowners become delinquent, repeals HOAs' right to fine homeowner \$200 per day per violation, requires full disclosure of documents governing an HOA be provided to prospective home buyer, prohibits restrictions against homeowner from parking vehicles on public street or in owner's driveway, allows HOAs up to 10 years to file action against a homeowner.

Failed to Pass

H.B. 1977 – HOA Liens on Homesteads

Authorizes a property owners' association to affix a lien on a homestead to be collected at the time the property is transferred to collect on debts accrued on dues or fees owed to the association by the property owner. The bill also requires the funds be paid upon the sale of the property unless a seizure of the homestead property is authorized by a provision in a dedicatory instrument adopted by the members of the homeowners' association in a manner prescribed as outlined in the bill.

Failed to Pass

Lien Issues

H.B. 396 – Expunction of a Notice of Lis Pendens

Amends the Property Code to require a person who files a notice for record of lis pendens to serve a copy of the notice on each party to the action who has an interest in the real property affected by the notice not later than the seventh day after the filing. The bill also sets out comprehensive procedures for all parties relative to a motion to expunge a lis pendens.

Effective September 1, 2009

H.B. 669 – Mechanic's Lien – Liability for Filing

Amends the Civil Practice and Remedies Code, by adding Subsection (c) providing that a person claiming a lien under Chapter 53 (Mechanic's, Contractor's, or Materialman's Lien), Property Code, is not liable under this section for the making, presentation, or use of a document or other record

in connection with the assertion of the claim unless the person acts with intent to defraud.

Effective September 1, 2009

H.B. 1465 – Joinder of a Tax Lien Transferee

Requires a taxing unit to also join a tax lien transferee when it files suit to foreclose its own lien for delinquent property taxes. Once joined, a transferee is entitled to foreclose its lien, notwithstanding the current law that generally prohibits the same within one year of the date on which the lien is recorded and regardless of whether the loan secured by the lien is delinquent. Alternatively, the bill authorizes a transferee to pay all taxes, penalties, interest, court costs, and attorney's fees owing to the taxing units in the suit.

Effective September 1, 2009

H.B. 1513 – Construction Contact Trust Fund

Provides that trust funds paid to a creditor under Chapter 162 (Construction Payments, Loan Receipts, and Misapplication of Trust Funds), Property Code, are not property or an interest in property of a debtor who is a trustee described by Section 162.002 (Contractors as Trustees), Property Code. The bill provides that regardless of whether a construction contract is covered by a statutory or common law payment bond, Chapter 162 applies to a certain contract for the improvement of specific real property in this state. Also amends the Property Code to provide a fiduciary responsibility between the contractor and the property owner for certain funds.

Effective September 1, 2009

H.B. 3083 – Dragnet Clause

Requires a mortgagee to provide a specific written notice to a person before the person agrees to become obligated as a surety or guarantor on a loan secured by a deed of trust. Requires the notice to include information relating to the effects of a dragnet clause and establishes that the failure to provide such notice removes the person's liability for certain obligations.

Failed to Pass

Privacy and Open Records Issues

H.B. 3596 – Public Disclosure in Appraisal Records

Prohibits public disclosure of the identity of an owner or real property in the appraisal records.

Failed to Pass

 **H.B. 1383/S.B. 331 – Information of Public Employees**

Prevents the public disclosure of public employees' information.

Failed to Pass

 **S.B. 1630 - Public Information Law**

Under the Public Information Act, if a governmental entity subject to the Act receives a request for information that is available on the Internet, the governmental entity must locate, copy, and provide that information. The bill permits an entity subject to the Act to comply by informing the requestor the information is available on the Internet. The entity must then provide the location of the information and offer the person access to a computer terminal at no charge to access the information. If the information is available on the Internet then that information does not have to be provided by the governmental entity in any other form.

Failed to Pass

Recording and County Issues

 **H.B. 2753- Solar Energy Improvements**

Creates a special assessment administered by a county against residential property to finance the installation of solar panels for that property. The assessment remains with the land until it was satisfied.

Failed to Pass

 **H.B. 4140 - Bulk Data Request**

Defines "bulk data request," for purposes of the open records law, as a request for copies of public information that would involve producing copies of 100 pages or more in response. The bill specifies that, notwithstanding any other provision of that law, a governmental body is not required to produce information in response to a bulk data request in any medium other than that in which the information is maintained. Further, a governmental body would not be required to produce a document responsive to a bulk data request in the requested format if the public information is maintained in the same medium as the medium requested by the requestor. The bill authorizes a governmental body, notwithstanding any other provision of the open records law, to charge an amount not to exceed 20 cents per page in providing a copy of information subject to a bulk data request.

Failed to Pass

Banking and Foreclosure Issues

 **H.B. 10 - Regulation of Residential Mortgage Loan Originators (SAFE Act)**

The federal Housing and Economic Recovery Act

of 2008 included the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E.). All states are required to adopt the SAFE Act and comply with federal law. The S.A.F.E. Mortgage Licensing Act provides for the Nationwide Mortgage Licensing System and Registry, a system that issues a unique identifying number permanently identifying a residential mortgage loan originator. While current Texas law requires residential mortgage loan originators to be licensed, Texas must enact the provisions of the S.A.F.E. Mortgage Licensing Act to be in compliance with federal rules by the United States Department of Housing and Urban Development. The bill enacts the provisions of the Secure and Fair Enforcement for Mortgage Licensing Act for residential mortgage loan originators in Texas.

Effective June 19, 2009

 **H.B. 406 - Excess Proceeds of a Tax Sale**

Relating to the disposition of excess proceeds of a tax sale of real property or foreclosure of a tax lien on real property. Requires a person conducting a sale for the foreclosure of a tax lien under Rule 736 of the Texas Rules of Civil Procedure, within 10 days of the sale, to pay any excess proceeds after payment of all amounts due all participants in the sale to the clerk of the court that issued the order authorizing the sale. Requires that the excess proceeds from such a sale be handled according to Sections 34.03 (Disposition of Excess Proceeds) and 34.04 (Claims for Excess Proceeds) of the code. Prohibits a fee charged by an attorney to obtain excess proceeds for an owner from being greater than 25 percent of the amount obtained or \$1,000, whichever is less. Prohibits a person who is not an attorney from charging a fee to obtain excess proceeds for an owner. Prohibits the amount of the excess proceeds the court may order be paid to an assignee or transferee from exceeding 125 percent of the amount the assignee or transferee paid the assignor or transferor on the date of the assignment or transfer. The bill sets out priorities and rules relative to the disposition of the excess proceeds.

Effective September 1, 2009

 **H.B. 421 - Mortgage Servicer's Notice of Sale**

Requires that a debtor provide notice to his or her tenant that the property is being foreclosed upon.

Failed to Pass

 **H.B. 1407 - Redemption – Ad Valorem Tax Sale**

Requires an owner of real property to state in the affidavit that the owner's redemption period has not expired, thus absolving the assessor-collector of making fact determinations regarding that issue. The bill also reinforces that an assessor-collector is

not liable for acting in reliance upon the statements made in the affidavit.

Effective September 1, 2009

 **H.B. 2595 - Property Liens and Foreclosure**

Extends the notice period for a foreclosure from 20 to 45 days.

Failed to Pass

 **H.B. 2774 - Implementation of SAFE Act**

Amends current law relating to the licensing and regulation of certain persons involved in residential mortgage lending in order to bring sections of the Finance Code and the recovery fund claim process in compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Effective September 1, 2009

 **H.B. 2779 - Licensing of Mortgage Loan Originators**

The bill provides the regulatory structure for the savings and mortgage lending commissioner to regulate mortgage banker employees who are residential mortgage loan originators. Building upon H.B. 10 (SAFE Act), the bill provides more specific requirements for the application and renewal process for a license, how the commissioner should exercise enforcement and disciplinary authority, or the rights afforded to a residential mortgage loan originator. The bill is patterned after the existing provisions in the Mortgage Broker License Act.

Effective April 1, 2010

 **H.B. 2840 - Mortgage Fraud**

Adds TDHCA to statutes relating to reporting, sharing information on, and investigating fraudulent activity. The bill makes it an offense to intentionally or knowingly make a false or misleading written statement in providing a property appraisal for compensation.

Effective September 1, 2009

 **H.B. 3485 - Notice of Foreclosure – Reporting to TDHCA**

Requires a person filing a notice of sale of residential property under Section 51.002(b) (relating to a notice of the sale) to submit to the county clerk a completed form that provides the zip code for the property. Requires the trustee or sheriff, on completion of a sale of real property, to submit to the county clerk a completed form that contains information on whether the property is residential. Requires the county clerk, not later than the 30th day after the date of receipt of a form under this section, to transmit the form to the Texas Department of Housing and Community Affairs (TDHCA). Requires the board of TDHCA to prescribe the forms required under this section. Authorizes the forms to only request information on whether the property is residential and the zip code of the property. TD-

HCA is required to report the information received under this section quarterly to the legislature in a format established by the board by rule.

Vetoed

 **H.B. 3857 Foreclosure – Military Personnel**

Allows for active duty military service members (and non active duty service members during the nine months after the date on which their service concluded) to either stay foreclosure proceedings or adjust the service members' obligations under a contract. The bill does not release the service member from all mortgage and contractual obligations but instead adjusts timeline for repayment and provides for the possibility of adjustment of obligations.

Effective June 19, 2009

 **S.B. 472- Notice to Vacate After Foreclosure**

Increases the minimum amount of written notice to vacate the property a purchaser of a foreclosed building is required to give a residential tenant of the building, extends the cure period on a pending foreclosure from 20 to 45 days, requires a mortgage lender to serve a debtor with written notice of sale by regular and certified mail, authorizes the attorney general to create a model form for that notice, and requires a debtor to notify any tenants of a pending foreclosure within seven days after the debtor receives a notice of sale.

Failed to Pass

 **S.B. 2214 - Filing Fee – Foreclosure**

Creates a filing fee imposed on a notice of foreclosure sale to fund indigent civil legal services.

Failed to Pass

Affordable Housing

 **H.B. 3240 - Resale as Affordable Housing**

Establishes a municipal land banking program for affordable housing purposes. The bill removes tax liabilities to other taxing entities if the property is used for affordable housing.

Failed to Pass

TLTA Lobby Team:

Aaron Day - Director of Government Affairs

Allen Place - Legislative Consultant

Tom Rutledge - General Counsel

Legislative Resources

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

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

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

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

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. Craig Eiland (D-Galveston)
Rep. Kirk England (D- Grand Prairie)
Rep. Pete Gallego (D-Alpine)
Rep. Charlie Geren (R- River Oaks)
Rep. Bryan Hughes (R -Marshall)
Rep. Tim Kleinschmidt (R- Lexington)
Rep. Jose Menendez (D-San Antonio)
Rep. Rob Orr (R-Burleson)
Rep. Ken Paxton (R-McKinney)
Rep. Jim Pitts (R-Waxahachie)
Rep. John Smithee (R-Amarillo)
Rep. Burt Solomons (R-Carrollton)
Rep. Vicki Truitt (R- Southlake)
Rep. Marc Veasey (D-Fort Worth)

Sen. John Carona (R-Dallas)
Sen. Wendy Davis (D- Fort Worth)
Sen. Craig Estes (R- Wichita Falls)
Sen. Troy Fraser (R-Horseshoe Bay)
Sen. Chris Harris (R-Arlington)
Sen. Carlos Uresti (D-San Antonio)
Sen. Kirk Watson (D-Austin)
Sen. Jeff Wentworth (R- San Antonio)
Sen. Royce West (D-Dallas)

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 of either support or opposition.

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