TEXAS LAND TITLE ASSOCIATION

House and Senate Tax Reform Package – Clarification on Deduction of Second Mortgages

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On Dec. 20 we reported on the details of the tax bill, but some clarification is needed on the treatment of second mortgages for a principal residence and the mortgage interest deduction.

While the House-passed tax bill had initially sought to deny the mortgage interest deduction for a second residence, the final agreement between the House and Senate lowers the mortgage interest deduction from $ 1 million to $750,000 (for married couples) and $375,000 (in the case of married individuals filing separately) on new purchases, but it does not make a distinction on whether the interest deduction is for a first or second principal residence. Thus, interest on second mortgages is not disallowed, but falls under the cap, just as under current law. The Conference report, however, very specifically excludes interest incurred from home equity indebtedness, which is unfortunate just as Texas made getting a home equity loan less rigorous.

In footnotes to the House-Senate agreement, the new tax bill provides that a taxpayer who has entered into a binding written contract before Dec. 15, 2017 to close on the purchase of a principal residence before Jan. 1, 2018, and who purchases such residence before April 1, 2018, shall be considered to have been grandfathered at the higher mortgage interest deduction level.

The House-Senate agreement also provides that simply re-financing an existing mortgage would not trigger the new lower mortgage interest deduction amount if the qualified residence indebtedness does not increase in the re-financing.

Finally, the housing industry was pleased with two final additions. The final bill preserves the low-income housing tax credit that encourages businesses to invest in affordable housing. The bill also keeps the tax-preferred status of private-activity bonds that are used to finance infrastructure and affordable housing projects by municipalities.

The final legislation and explanation is more than 1,000 pages, so it is expected that there will continue to be a review of the overall tax ramifications to our industry in the weeks and months ahead. We will continue to keep our membership updated on this bill and look forward to educating the membership on the full impact in 2018.