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## 2013 TEXAS LEGISLATIVE UPDATE

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The Texas Legislature meets in a regular 140-day legislative session every two years, convening on the second Tuesday in January of odd-numbered years. The 83<sup>rd</sup> Legislative Session was adjourned on May 27, 2013, after passing 1,437 of the 5,868 bills filed. Governor Rick Perry vetoed 26 bills. Governor Perry called three special sessions. Below is a synopsis of selected legislation most likely to affect our clients and colleagues in the real estate finance and title business. Please click on the bill number for more information on each piece of legislation.

As of January 1, 2014, the Texas Estates Code will replace the Texas Probate Code. New chapter and section numbers will apply, though no substantive changes to sections are intended because of this change.

LICENSING	
<p><a href="#">Senate Bill 1004</a></p> <p>Author: Carona Sponsor: Villarreal</p> <p>Effective Sept. 1, 2013</p>	<p>Simplifies mortgage originator licensing by creating one license type for residential mortgage loan companies (Texas Finance Code, Chapter 156) and one for mortgage bankers and residential mortgage loan originators (Texas Finance Code, Chapter 157).</p> <p><b>Provides licensing changes for Residential Mortgage Loan Companies (Chapter 156), Residential Mortgage Loan Originators and Mortgage Bankers (Chapter 157)</b></p> <p>For license renewal, requires residential mortgage loan company to continue to meet minimum requirements for license.</p> <p>Allows mortgage banker's license to be revoked if it is revoked by another state or federal authority.</p> <p>An individual acting as a residential mortgage loan originator must be sponsored by a residential loan company registered under Chapter 156 and when changing employer, residential mortgage loan originator must immediately alert commissioner.</p> <p>Exempts from licensing under Chapter 157:</p> <ul style="list-style-type: none"><li>• residential mortgage loan originator working for a bank or its subsidiaries owned and controlled by the bank that is regulated by a federal banking agency or institution regulated by Farm Credit Administration;</li><li>• individual negotiating loan for him/herself or an immediate family member;</li><li>• licensed attorney negotiating loan as ancillary matter to representation of client unless attorney takes loan application and negotiates terms;</li><li>• sellers who make no more than five loans per year to purchasers;</li><li>• employees of certain nonprofit organizations; and</li><li>• originators of Texas home equity loans provided originators are enrolled in Nationwide Mortgage Licensing System and Registry, licensed under Texas Finance Code Chapter 342 and are making loans subject to certain provisions of Chapter 342.</li></ul> <p>Requires Finance Commission to prepare forms for use by originators including a mortgage call report to outline mortgage applications and gives Finance Commission authority to create rules for residential mortgage loan originator advertisements.</p> <p>Provides for disciplinary action against licensed residential mortgage loan originator</p>

	<p>who has charged or received a fee before all tasks are complete or proceeds have been distributed.</p> <p><b>Credit Union Subsidiary Organizations (Chapter 156)</b> Requires credit union subsidiaries to maintain a physical office in Texas to be licensed in the state.</p> <p><b>Registered Financial Services Companies (Chapter 156)</b> Simplifies registration and renewal of registered financial services companies and no longer requires \$1 million surety bond for each exclusive agent. Provides for \$500 registration fee for each residential mortgage loan originator sponsored by financial services company. For registration, requires registered financial services companies to apply with Nationwide Mortgage Licensing System and Registry and obtain pre-approval from Finance Commissioner. Further, Finance Commission shall set maximum amount of reimbursement costs for on-site investigations.</p> <p><i>Amends Texas Finance Code Chapters 156 &amp; 157</i></p>
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<b>CORRECTION INSTRUMENTS</b>	
<p><a href="#"><u>Senate Bill 887</u></a></p> <p>Author: Uresti Sponsor: Orr</p> <p>Effective Sept. 1, 2013</p>	<p>Clarifies that a correction affidavit as executed with the formalities of this section (affidavit signed by person with knowledge of the transaction and with notice provided to all parties) “replaces and is a substitute for the original instrument.” Broadens what mistakes can be rectified by a correction affidavit to include omission of legal description from the original instrument or an omitted call in a metes and bounds legal description.</p> <p><i>Amends Texas Property Code §5.028</i></p>

<b>REVERSE MORTGAGES</b>	
<p><a href="#"><u>Senate Joint Resolution 18</u></a></p> <p>Author: Carona Sponsor: Villarreal</p> <p>Effective if passed by a majority of voters in general election, Nov. 5, 2013</p>	<p>Allows reverse mortgage to be used for purchase of a homestead property. Provides statutory form of consumer disclosure must be given to borrowers not less than 12 days prior to closing. Further, requires this notice to be signed by the borrower and the lender or originator.</p> <p><i>Amends Texas Constitution Art. XVI, Section 50(k)</i></p>

<b>POWER OF ATTORNEY</b>	
<p><a href="#"><u>House Bill 2918</u></a></p> <p>Author: Thompson, S. Sponsor: Rodríguez</p> <p>Effective Jan. 1, 2014</p>	<p>Requires additional language to be included on the modified Statutory Durable Powers of Attorney form. Instead of crossing out withheld powers as in current forms, a principal will initial in front of each particular power the principal wishes to grant to the attorney-in-fact, and an all-of-the-above option is included. Adds required section setting forth agent’s duties and termination of agent’s authority.</p> <p><i>Amends Texas Estates Code §752.051 (Statutory Form of Durable Power of Attorney previously set forth in Texas Probate Code §490)</i></p>

<b>FORECLOSURE</b>	
<p><a href="#"><u>House Bill 584</u></a></p> <p>Author: Rodriguez, E. Sponsor: Rodríguez</p> <p>Effective Sept. 1, 2013</p>	<p>Requires counties with Internet sites to post notices of sale filed with the county clerk on the website. The notices must be accessible without charge and without requiring registration.</p> <p><i>Amends Texas Property Code §51.002</i></p>
<p><a href="#"><u>House Bill 2978</u></a></p> <p>Author: Parker Sponsor: Paxton</p> <p>Effective Immediately</p>	<p>Allows service of citation for expedited foreclosure proceedings to be conducted in line with Texas Rules of Civil Procedure 106 or 736. Provides guidelines for court-ordered mediation. Requires Texas Supreme Court to produce forms by March 1, 2014 for use in an expedited foreclosure of a home equity or reverse mortgage loan.</p> <p><i>Amends Texas Civil Practice and Remedies Code Chapters 17 and 154</i></p>

<b>PROPERTY TAX LENDERS</b>	
<p><a href="#"><u>Senate Bill 247</u></a></p> <p>Author: Carona Sponsor: Miller, D. &amp; Oliveira</p> <p>Effective Immediately</p>	<p>Provides additional regulations for property tax lenders advertisements, procedure for providing payoff statements and transferring tax liens.</p> <p><i>Amends Texas Finance Code Chapter 351</i></p>

<b>RECORDATION OF DOCUMENTS</b>	
<p><a href="#"><u>Senate Bill 1437</u></a></p> <p>Author: Paxton Sponsors: Sanford &amp; Goldman</p> <p>Effective Immediately</p>	<p>Permits counties with populations of 500,000 or more to allow anyone with whom it has a memorandum of understanding to electronically record documents with the county clerk. Also permits municipal clerk to electronically record documents with county clerk.</p> <p><i>Amends Texas Local Government Code §195.003</i></p>

<b>WIRE TRANSFERS</b>	
<p><a href="#"><u>Senate Bill 230</u></a></p> <p>Author: Carona Sponsor: Deshotel</p> <p>Effective Sept. 1, 2013</p>	<p>Provides that federal Electronic Fund Transfer Act (EFTA) governs if there is an inconsistency between EFTA and state electronic transfer law.</p> <p><i>Amends Texas Business &amp; Commerce Code §4A.108</i></p>

<b>COMMERCIAL LOANS</b>	
<p><a href="#"><u>House Bill 1979</u></a></p> <p>Author: Villarreal Sponsor: Carona</p> <p>Effective Sept. 1, 2013</p>	<p>Allows a creditor and obligor to compute annual interest on a commercial loan on a 365/360 basis or 366/360 basis. Creditor and obligor may agree that interest due may be added to the principal balance, and such interest is deemed to be principal in determining usury.</p> <p><i>Amends Texas Finance Code §§306.002 and 306.003</i></p>

<b>HOME LOAN PROGRAMS</b>	
<p><a href="#"><u>Senate Bill 1553</u></a></p> <p>Authors: Lucio &amp; Van de Putte Sponsors: Farias &amp; Guillen</p> <p>Effective Immediately</p>	<p>Expands state mortgage assistance program to include professional educators and veterans in the list of professionals and service workers who can apply for certain low-interest home mortgage loans through Homes for Texas Heroes home loan program.</p> <p><i>Amends Texas Government Code §§1372.025 &amp; 2306.5621</i></p>

**NOTICE**

**THIS MEMORANDUM IS PROVIDED FOR THE GENERAL INFORMATION OF CLIENTS AND FRIENDS OF OUR FIRM AND IS NOT INTENDED AS SPECIFIC LEGAL ADVICE. YOU SHOULD NOT RELY ON THIS GENERAL INFORMATION ALONE BUT SHOULD CONSULT AN ATTORNEY REGARDING THE APPLICATION OF THE LAWS AND REGULATIONS DISCUSSED IN THIS MEMORANDUM TO YOUR SPECIFIC BUSINESS OR CIRCUMSTANCES.**