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### Legislative Update Report

The deadline for Governor Rick Perry to sign, veto, or let bills from the 81st regular session become law without his signature was June 21. In all, Governor Perry signed 1,656 bills and resolutions, vetoed 38, and allowed 12 to become law without his signature. A list of those bills may be found at the links below.

<http://www.capitol.state.tx.us/Reports/Report.aspx?LegSess=81R&ID=signedbygov>

<http://www.capitol.state.tx.us/Reports/Report.aspx?LegSess=81R&ID=vetoedbygov>

<http://www.capitol.state.tx.us/Reports/Report.aspx?LegSess=81R&ID=filedwogovsign>

### State Issues – Noteworthy Legislation Passed in the Most Recent Session

**HB 3945** - Present law permits a title agency to file a release of a lien after a loan has been paid if the lender does not provide the release. This legislation would promulgate a specific affidavit form for that purpose. Notification to the lender would still be required and the lender could contest the release if full payment of the debt covered by the release has not been made.

**HB 2840** - This legislation is a follow up to the mortgage fraud legislation that TMBA initiated last session. The legislation provides that a person commits a criminal offense if he/she intentionally or knowingly makes a materially false or misleading written statement in providing an appraisal of real property for compensation.

**HB 3073** - provides that in addition to the title insurance premium, a title insurance agent may charge actual costs or a reasonable estimate of costs incurred in connection with a closing and settlement, including a charge by a third party for an electronic filing fee or a fee of a third party for providing a property tax report.

**HB 3479** - contains a provision requiring a property owners' association to give notice to every lien holder of record before foreclosing on the lot of a member of the association

## **Federal Issues**

**Legislation to Delay the HVCC.** H.R. 3044 looks to delay the implementation of the Home Valuation Code of Conduct (HVCC) for 18 months. To support this legislation, you should contact you federal representative. A copy of the proposed legislation can be found at:

<http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.3044>:

**FTC Delays Red Flag Rules Enforcement and Releases FAQs for Red Flag Rules** - On July 29, the Federal Trade Commission (FTC) announced that it will delay, for the second time, enforcement of its "Red Flags" rule to give creditors and financial institutions additional time to develop and implement written Identity Theft Prevention Programs. The new enforcement date is November 1, 2009. The FTC has also developed frequently asked questions ("FAQs") to assist financial institutions, creditors, users of consumer reports, and card issuers in complying with the final rulemaking on Identity Theft Red Flags and Address Discrepancies implementing section 114 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), 15 U.S.C. § 1681m, and section 315 of the FACT Act, 15 U.S.C. § 1681c, that amended the Fair Credit Reporting Act (FCRA). A copy of the FAQs may be found at:

<http://www.ftc.gov/os/2009/06/090611redflagsfaq.pdf>

**The Federal Reserve Board approved final rules that revise the disclosure requirements for mortgage loans under Regulation Z (Truth in Lending)** - The revisions implement the Mortgage Disclosure Improvement Act (MDIA), which was enacted in July 2008 as an amendment to the Truth in Lending Act (TILA). ***The new requirements apply to loan applications filed on or after July 30, 2009.*** The MDIA requires creditors to give good faith estimates of mortgage loan costs ("early disclosures") within three business days after receiving a consumer's application for a mortgage loan and before any fees are collected from the consumer, other than a reasonable fee for obtaining the consumer's credit history. In addition, the rules would implement the MDIA's requirements that: Creditors wait seven business days after they provide the early disclosures before closing the loan; and Creditors provide new disclosures with a revised annual percentage rate (APR), and wait an additional three business days before closing the loan, if a change occurs that makes the APR in the early disclosures inaccurate beyond a specified tolerance. A complete copy of the Federal Reserve Board press release and a link to the rule may be found at: <http://www.federalreserve.gov/newsevents/press/bcreg/20090508a.htm> The Federal Reserve Board Final Rule and Commentary may be found at: <http://edocket.access.gpo.gov/2009/pdf/E9-11567.pdf> Some lenders have published guides to help explain the new TILA changes. A link to the information on the Wells Fargo website may be found at: <https://www.wellsfargo.com/mortgage/resources> A summary from the **Mortgage Bankers Association** may be found at:

[http://www.realtor.org/wps/wcm/connect/8374ee004edc06ba93c3f7c62360d7a0/government\\_affairs\\_mba\\_disclosure\\_rule.pdf?MOD=AJPERES&CACHEID=](http://www.realtor.org/wps/wcm/connect/8374ee004edc06ba93c3f7c62360d7a0/government_affairs_mba_disclosure_rule.pdf?MOD=AJPERES&CACHEID=)

## **Other Industry News**

**Judge Rules Against NAMB in the Lawsuit with HUD Over the Final RESPA Rules.** District Court Judge Robertson ruled in favor of HUD, stating that the agency in fact did not violate the Administrative Procedures Act (APA) before issuing the RESPA final rule, and that

NAMB did not demonstrate that HUD acted in an “arbitrary and capricious” manner. See NAMB’s press release at:

<http://www.namb.org/namb/NewsBot.asp?MODE=VIEW&ID=271&SnID=186419212>

**Dodd Outlines Plan for Independent Consumer Protection Agency** - Senator Chris Dodd (D-CT), Chairman of the Senate Committee on Banking, Housing, and Urban Affairs, announced that he believes any effort to reform the regulatory structure of the American financial system should include an independent consumer protection agency that will regulate credit and bank products and protect American consumers from predatory financial practices. A copy of his statements may be found at: <http://dodd.senate.gov/?q=node/5015>

**Department of Treasury Issues Rule on Executive Compensation** - The Department of the Treasury issued an interim final rule regarding guidance on the executive compensation and corporate governance provisions of Emergency Economic Stabilization Act of 2008 applicable to entities that have received financial assistance under the Troubled Asset Relief Program (TARP). A copy of the press release and a link to the rule may be found at:

[http://www.financialstability.gov/latest/tg\\_0609b2009.html](http://www.financialstability.gov/latest/tg_0609b2009.html)

**A New Foundation: Rebuilding Financial Supervision and Regulation** - On Wednesday, June 17, 2009, the Obama Administration released a white paper entitled "A New Foundation: Rebuilding Financial Supervision and Regulation" (the "White Paper"). The White Paper sets forth a wide array of proposals designed to overhaul the nation's financial regulatory oversight structure in the wake of the current financial crisis. The plan set forth in the White Paper to reform the financial oversight structure would have a profound effect upon institutions of every type. The white paper lists as its five key objectives:

**(1) Promote robust supervision and regulation of financial firms.** Financial institutions that are critical to market functioning should be subject to strong oversight. No financial firm that poses a significant risk to the financial system should be unregulated or weakly regulated. We need clear accountability in financial oversight and supervision. We propose:

- A new Financial Services Oversight Council of financial regulators to identify emerging systemic risks and improve interagency cooperation.
- New authority for the Federal Reserve to supervise all firms that could pose a threat to financial stability, even those that do not own banks.
- Stronger capital and other prudential standards for all financial firms, and even higher standards for large, interconnected firms.
- A new National Bank Supervisor to supervise all federally chartered banks.
- Elimination of the federal thrift charter and other loopholes that allowed some depository institutions to avoid bank holding company regulation by the Federal Reserve.
- The registration of advisers of hedge funds and other private pools of capital with the SEC.

**(2) Establish comprehensive supervision of financial markets.** Our major financial markets must be strong enough to withstand both system-wide stress and the failure of one or more large institutions. We propose:

- Enhanced regulation of securitization markets, including new requirements for market transparency, stronger regulation of credit rating agencies, and a requirement that issuers and originators retain a financial interest in securitized loans.
- Comprehensive regulation of all over-the-counter derivatives.
- New authority for the Federal Reserve to oversee payment, clearing, and settlement systems.

**(3) *Protect consumers and investors from financial abuse.*** To rebuild trust in our markets, we need strong and consistent regulation and supervision of consumer financial services and investment markets. We should base this oversight not on speculation or abstract models, but on actual data about how people make financial decisions. We must promote transparency, simplicity, fairness, accountability, and access. We propose:

- A new Consumer Financial Protection Agency to protect consumers across the financial sector from unfair, deceptive, and abusive practices.
- Stronger regulations to improve the transparency, fairness, and appropriateness of consumer and investor products and services.
- A level playing field and higher standards for providers of consumer financial products and services, whether or not they are part of a bank.

**(4) *Provide the government with the tools it needs to manage financial crises.*** We need to be sure that the government has the tools it needs to manage crises, if and when they arise, so that we are not left with untenable choices between bailouts and financial collapse. We propose:

- A new regime to resolve nonbank financial institutions whose failure could have serious systemic effects.
- Revisions to the Federal Reserve's emergency lending authority to improve accountability.

**(5) *Raise international regulatory standards and improve international cooperation.*** The challenges we face are not just American challenges, they are global challenges. So, as we work to set high regulatory standards here in the United States, we must ask the world to do the same. We propose:

- International reforms to support our efforts at home, including strengthening the capital framework; improving oversight of global financial markets; coordinating supervision of internationally active firms; and enhancing crisis management tools.

While the white paper does not institute the changes, it does show the hopes of the Obama administration for changing the current regulatory framework. A complete copy of the white paper may be found at: [http://www.financialstability.gov/docs/regs/FinalReport\\_web.pdf](http://www.financialstability.gov/docs/regs/FinalReport_web.pdf)