

48<sup>TH</sup> ANNUAL WILLIAM W. GIBSON, JR.

# MORTGAGE LENDING INSTITUTE



## AUSTIN

September 18–19, 2014  
AT&T Conference Center

## DALLAS

October 2–3, 2014  
Cityplace Conference Center

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Earn up to 14.00 Hours of Credit Including 2.75 Hours of Ethics Credit

Specialization Credit Approved for Bankruptcy Law, Consumer and Commercial Law and Real Estate Law

Credit Available for TREC (up to 9.00 Hours of General Elective MCE) and TDI (up to 10.00 Hours of CE)

TX Appraiser CE Credit Pending

48<sup>TH</sup> ANNUAL WILLIAM W. GIBSON, JR.  
**MORTGAGE LENDING INSTITUTE**

September 18–19, 2014 ■ AT&T Conference Center ■ Austin, TX  
October 2–3, 2014 ■ Cityplace Conference Center ■ Dallas, TX

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Credit Available for TREC (up to 9.00 Hours of General Elective MCE) and TDI (up to 10.00 Hours of CE)  
TX Appraiser CE Credit Pending

**THURSDAY MORNING**

**Presiding Officers:**

**IN AUSTIN:** Brian C. Rider,  
The University of Texas School of Law,  
Austin, TX

**IN DALLAS:** Ann M. Saegert,  
Haynes and Boone, LLP, Dallas, TX

**8:00 a.m. Registration Opens**

Includes continental breakfast.

**8:50 a.m. Welcoming Remarks**

**9:00 a.m. .75 hr | .25 hr ethics**

**Case Law Update, Part I**

Overview of recent cases addressing legal and ethical issues in mortgage lending and real estate, including foreclosures, loan agreements, guaranties, leases, conveyances and more.

David A. Weatherbie, Cramer Weatherbie  
Richardson Walker LLP, Dallas, TX

**9:45 a.m. .75 hr | .25 hr ethics**

**Recourse Carve-Out Liability:  
Only for Bad Boys?**

A discussion of the purpose and form of the typical recourse carve-out, possible negotiated changes to those carve-outs, and the effect of recent case law, plus an analysis of the practical and ethical issues in representing a borrower and guarantor once the loan goes into default.

Jonathan Thalheimer, McGuire, Craddock &  
Strother, P.C., Dallas, TX  
James H. Wallenstein, Glast, Phillips & Murray,  
Dallas, TX  
Thomas M. Whelan, McGuire, Craddock &  
Strother, P.C., Dallas, TX

**10:30 a.m. Break**

**10:45 a.m. .33 hr**

**Master Leases: A Guaranty Substitute or the  
Gift that Keeps on Taking?**

Real estate parent companies occasionally give a master lease instead of a guaranty without considering the economic and legal repercussions associated with master leases. This presentation addresses some of the issues arising from this type of "credit support."

Katherine A. Tapley, Norton Rose Fulbright,  
San Antonio, TX

**11:05 a.m. .33 hr**

**Update on Construction Completion  
Guaranties: They're More Dangerous than  
They Appear**

J. Cary Barton, Barton, East & Caldwell, P.L.L.C.,  
San Antonio, TX

**11:25 a.m. .75 hr**

**Forging Peace Negotiations: Borrowers'  
Peskiest Problems and Biggest Gripes**

A borrower's attorney and a lender's attorney face off over frequently contentious provisions in loan documents and see if they can find common ground.

Vytas A. Petruelis, Jackson Walker L.L.P., Houston, TX  
Paul M. Pruett, Locke Lord LLP, Houston, TX

**12:10 p.m. .50 hr**

**Unusual Additional Collateral and Ancillary  
Loan Documents**

A review of terms which should be negotiated, removed or at least highlighted to the borrower and any third parties impacted by collateral and ancillary loan documents (i.e., Assignment of Management Contract, Security Interest in Contracts, Assignment of Permits, and Environmental Agreement and Indemnity).

Sara E. Dysart, Attorney at Law, San Antonio, TX

**12:40 p.m. Pick Up Lunch**

Included in registration.

**THURSDAY AFTERNOON**

**Presiding Officers:**

**IN AUSTIN:** Jane Snoddy Smith,  
Norton Rose Fulbright, Austin, TX

**IN DALLAS:** John M. Nolan,  
Winstead PC, Dallas, TX

**LUNCHEON PRESENTATION**

**1:00 p.m. .75 hr**

**Demographic Trends in Texas: Implications  
for the Future of Real Estate**

An analysis of demographic, social and economic characteristics and trends in Texas, and their implications for real estate development and lending.

Lloyd Potter, Ph.D., Office of the State Demographer,  
Austin, TX

**1:45 p.m. Break**

**2:00 p.m. .33 hr**

**Title Insurance Endorsements Update**

Recent changes to title insurance endorsements, including major revisions to T-19 and T-19.1, an expansion of the availability of certain endorsements, the approval of new endorsements and more.

Wade A. Thunhorst, Title Resources Guaranty Co.,  
Dallas, TX

**2:20 p.m. .50 hr**

**Environmental Update: Due Diligence and  
Other Issues for Loan Arrangers—Hi-Yo, Silver!**

A brief overview of environmental concerns affecting mortgage lenders with a focus on selected hot topics and practical considerations, including due diligence, statutory defenses protecting secured creditors, the rising concern of vapor intrusion, and recent updates affecting development such as the definition of waters of the U.S. and jurisdictional wetlands and the presence of endangered species.

**IN AUSTIN:**  
Jeff Civins, Haynes and Boone, LLP, Austin, TX

**IN DALLAS:**  
Mary S. Mendoza, Haynes and Boone, LLP, Austin, TX

2:50 p.m. .50 hr

**Legal Drafting Style Guide: A New Approach to Editing**

Do you need help removing passive-voice, legalisms, redundancies, 150-word sentences, and other writing atrocities from your documents? A legal drafting style guide will help you transform your unreadable documents into plain English (or at least understandable documents).

Kevin M. Kerr, Attorney at Law, Dallas, TX

3:20 p.m. Break

3:30 p.m. .50 hr

**Developments in Bankruptcy Law**

With a look at recent developments in bankruptcy law affecting the mortgage lending world, work through new cases on credit bidding by lenders, "good faith" in filing and cram downs, impairment, and conflicts between senior and junior lien holders.

Christopher G. Bradley, U.S. Bankruptcy Court, Western District of Texas, Austin, TX

4:00 p.m. 1.00 hr ethics

**Technology and File Management: Best Practices for Reducing, Managing and Storing Your "Paper"**

A discussion on the practical, technological and ethical issues that come with managing the mountains of paper that a law practice generates, including best practices with respect to document generation, distribution and retention, and the ownership of client files. Learn the benefits of and options for reducing paper consumption and storage in the law firm context, including a look at both the technology and the ethics of computing in the cloud.

**IN AUSTIN:**

Hon. Rebecca Simmons, Kinetic Concepts, Inc., San Antonio, TX

Mary Brennan Stich, Rackspace Hosting, Windcrest, TX

**IN DALLAS:**

Laura L. McClellan, Thompson & Knight LLP, Dallas, TX

Hon. Rebecca Simmons, Kinetic Concepts, Inc., San Antonio, TX

5:00 p.m. Adjourn

**FRIDAY MORNING**

**Presiding Officer:**

**David A. Weatherbie, Cramer Weatherbie Richardson Walker LLP, Dallas, TX**

8:00 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. .75 hr | .25 hr ethics

**Case Law Update, Part II**

A continuation of the Case Law Update.

David A. Weatherbie, Cramer Weatherbie Richardson Walker LLP, Dallas, TX

9:15 a.m. .50 hr

**Drafting Security Documents and Legal Opinions after Enactment of the Texas Assignments of Rent Act (TARA)**

Drafting deeds of trust, stand-alone assignments of leases and rents, legal opinions and ancillary loan documents after the enactment and in light of TARA.

Greta E. Goldsby, Winstead PC, Austin, TX

9:45 a.m. .50 hr

**Land, Crops and Cows: Farm and Ranch Lending Issues**

An overview of financing transactions and issues for farms, ranches and their operations.

James D. Eggleston Jr., Eggleston Flowers & King, Weatherford, TX

10:15 a.m. Break

**Concurrent Sessions**

**RESIDENTIAL**

**Presiding Officer:**

**Chris A. Peirson, PeirsonPatterson, LLP, Dallas, TX**

10:30 a.m. .50 hr

**What's Happening under Rules of Procedure 735 and 736**

New developments under Texas Rules of Civil Procedure 735 and 736 that relate to home equity, reverse mortgage, home equity line of credit, property owners' associations and certain transferred or property tax loan liens.

Tommy Bastian, Barrett Daffin Frappier Turner & Engel, LLP, Addison, TX

11:00 a.m. .50 hr

**Qualified versus Non-Qualified Mortgages**

A review of the Consumer Financial Protection Bureau (CFPB) regulations and guidance on qualified mortgages (QM), plus developments pertaining to QM and non-QM loans.

Michael K. O'Neal, Winstead PC, Dallas, TX

11:30 a.m. .75 hr

**CFPB Enforcement and Examinations**

A review of recent CFPB enforcement actions, practical tips on how lenders, homebuilders and real estate brokers can prepare for an examination, and the effects of CFPB initiatives on compliance and litigation strategies.

Troy W. Garris, Weiner Brodsky Kider PC, Washington, DC, and Dallas, TX

12:15 p.m. Pick Up Lunch

Included in registration.

**Concurrent Sessions**

**COMMERCIAL**

**Presiding Officer:**

**Robert G. "Jerry" Converse, Of Counsel, Norton Rose Fulbright, Austin, TX**

10:30 a.m. .75 hr

**Substitute for Equity: Understanding Economic Development Incentives and Your Right to Them**

An overview of economic development incentives and the latest changes and modifications to these programs that are available from state and local governments, plus practical tips for identifying and managing the risks to property owners and mortgage lenders when these incentives are granted to or based upon the tenant/user and not the project itself.

Robert G. "Jerry" Converse, Of Counsel, Norton Rose Fulbright, Austin, TX

11:15 a.m. .50 hr

**Real Estate Preferred Equity Agreements: Issues Concerning the Sponsor Principal**

An examination of the sponsor principal's role in real estate preferred equity investment transactions, including matters related to the sponsor principal's liability to the capital partner and to third-party lenders, whether the type of equity investment transaction affects (or should affect) the scope of the sponsor principal's liability to the capital partner, whether requiring the sponsor principal to execute a debt-like guaranty instrument could create adverse consequences for the capital partner in an enforcement action, and issues created for the sponsor principal upon a management takeover by the capital partner.

Bryan D. Garner, Thompson & Knight LLP, Dallas, TX

11:45 a.m. .50 hr

**Land Use: Dirty Little Secrets Every Lending Lawyer Needs to Know**

Did you know that cities in Texas can terminate nonconforming uses? How far can cities go in demanding exactions during the development process? What assurance can a city give you that a proposed use is actually permitted? Often the answers to these questions have an impact on the development potential of an asset and, therefore, its value. This presentation examines the complexity of land use regulations, including practices and procedures relevant to new development and redevelopment, in order to understand how these regulations can impact valuation.

William S. Dahlstrom, Jackson Walker L.L.P., Dallas, TX

12:15 p.m. Pick Up Lunch

Included in registration.

## FRIDAY AFTERNOON

### Presiding Officer:

**Brian C. Rider, The University of Texas School of Law, Austin, TX**

### LUNCHEON PRESENTATION

**12:35 p.m. .75 hr**

#### Federal Regulatory Update and Outlook

This was a watershed year for federal rule-making and more rules are on the way. Review the year's regulatory changes and the changes to come.

##### IN AUSTIN:

Ken Markison, Mortgage Bankers Association, Washington, DC

##### IN DALLAS:

Justin J. Wiseman, Mortgage Bankers Association, Washington, DC

**1:20 p.m. Break**

**1:35 p.m. .75 hr**

#### Drilling into Commercial Lending: What Good Is My Collateral Now that There's a Rig in the Parking Lot?

A look at the impact of mineral development on value and use of commercial real estate: How do you identify and avoid conflicts between mineral interests and liens which can devalue a collateral asset? What are the benefits, if any, of the accommodation doctrine? What and when does title insurance give a surface owner (including a lender who forecloses on the property) any coverage or benefit?

Brian C. Rider, The University of Texas School of Law, Austin, TX

**2:20 p.m. .50 hr**

#### Water, Water Everywhere, but How Do We Get It?

A discussion of how to locate and secure water sources for projects which are outside established water service areas with a special emphasis on the lender's perspective.

Grady B. Jolley, Branscomb PC, San Antonio, TX

**2:50 p.m. .50 hr**

#### Hot Tips and Current Events of Interest

Discussion of recent developments and hot topics in mortgage lending and related real estate matters.

Jeff Matthews, Winstead PC, Dallas, TX

**3:20 p.m. 1.00 hr ethics**

#### Dealin' in Dirt without Slippin' in the Mud: The Ethics of Whom You Represent

A lively and unconventional look at ethical challenges in real estate and lending practice—be sure to save some energy and brain power for this presentation!

Jeff Jury, Burns Anderson Jury & Brenner, LLP, Austin, TX

**4:20 p.m. Adjourn**

## CONFERENCE FACULTY AND PLANNING COMMITTEE

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JUSTIN J. WISEMAN  
Mortgage Bankers Association  
Washington, DC

\*Planning Committee member

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www.utcle.org/conferences/ML14

**Mail:**  
The University of Texas  
School of Law  
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PO Box 7759  
Austin, TX 78713-7759

**Fax:**  
512.475.6876

**Questions? 512.475.6700**

*Dietary requirements or Accessibility needs?  
Call 512.475.6700 or email service@utcle.org*

## REGISTRATION BENEFITS

**Before the Conference:** Access course materials—downloadable PDFs of papers and slides— and speaker and attendee roster in *Your Briefcase* 48 hours before the conference.

**After the Conference:** Unlimited access to final, complete course materials—downloadable PDFs of papers and slides—in *Your Briefcase*.

**Bonus eCourses:** Complimentary 180-day access to Bonus eCourses—with papers, slides, and audio—for CLE credit you may have missed at the conference. Available in *Your Briefcase* 6–8 weeks after the conference.

**TX MCLE Credit Reporting:** UT Law CLE can report credit on your behalf directly to the State Bar of Texas. Track your Texas MCLE credit claimed and reported through UT Law CLE in *Your Account*.

**Your Account:** Create *Your Account* online at www.utcle.org. Your UT Law CLE Account is created for you as a first-time conference registrant (mail and fax registrations) with the email address you provide.

## IN-HOUSE AND CONFERENCECOMPLETE MATERIALS

### In-House

Bring the Mortgage Lending Institute in-house. Audio presentations and written materials for learning with your colleagues—for Texas MCLE credit. We manage the accreditation process from approval to reporting. Custom packages available.

### ConferenceComplete Materials

Comprehensive Binder and Audio products from the live conference—for research and self-study. Available for download and shipping.

## REGISTRATION FORM

PLEASE PRINT CLEARLY

ML14

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*Invoices, confirmations and receipts are emailed to these addresses.*

### REGISTRATION—Includes Course Materials and Thursday and Friday Luncheon Presentations

For Group registration, call 512.475.6700.

#### 1. Select Location and Date

- AUSTIN—September 18–19, 2014  
Early Registration cutoff Wednesday, September 10, 2014
- DALLAS—October 2–3, 2014  
Early Registration cutoff Wednesday, September 24, 2014

#### 2. Select Registration Type

- Individual registration by cutoff date . . . . . \$550
- Individual registration after cutoff date . . . . . \$600

#### 3. Select Course Materials Format

- Electronic Course Binder on USB Key ONLY
- Printed Course Binder ONLY

#### 4. Friday Morning Concurrent Sessions – Select One

- Residential
- Commercial

### IN-HOUSE—For Texas MCLE Credit

ConferenceComplete package includes Audio CD Set plus a Printed Binder and MCLE Reporting Form for each participant. Available for delivery 3–5 weeks after conference date. Shipping included.

- In-House for 2 . . . . . \$850
- \_\_\_\_\_ Additional participant(s) for \$275 each . . . . . \$ \_\_\_\_\_

### CONFERENCECOMPLETE MATERIALS<sup>†</sup>—For Research and Self-Study

Comprehensive Binder and Audio products from the live conference. Available for delivery 3–5 weeks after conference date. Shipping included.

- eBinder Download (PDF) . . . . . \$225
- Printed Binder . . . . . \$275
- Audio Download (MP3) . . . . . \$175
- Audio CD Set . . . . . \$225

<sup>†</sup>Texas customers—add 8.25% sales tax or include an Exemption Certificate . . . . . \$ \_\_\_\_\_  
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**TOTAL \$** \_\_\_\_\_

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MORTGAGE LENDING INSTITUTE

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ML14

CONFERENCE LOCATION

**AT&T Conference Center**  
1900 University Avenue  
Austin, TX 78705  
512.404.3600

**Special Room Rate: \$174**  
good through August 22, 2014  
(subject to availability)

**Parking:**

Free daily self-parking at UT garages.  
Separate fees apply for valet  
and overnight parking.  
(subject to change)

AUSTIN

September 18–19, 2014



KEY DATES

**September 10, 2014**  
*last day for early registration*  
add \$50 for registrations received after this time

**September 12, 2014**  
*last day for cancellation (full refund)*

**September 15, 2014**  
*last day for cancellation (partial refund)*  
\$50 processing fee applied

**September 18, 2014, 8:50 a.m.**  
*Institute begins*

CONFERENCE LOCATION

**Cityplace Conference Center**  
2711 North Haskell Avenue  
Dallas, TX 75204  
214.515.5100

**Self-Parking:**  
Complimentary  
(subject to change)

NEARBY ACCOMMODATIONS

Warwick Melrose Hotel Dallas  
3015 Oak Lawn Avenue  
Dallas, TX 75219  
214.521.5151

DALLAS

October 2–3, 2014



KEY DATES

**September 24, 2014**  
*last day for early registration*  
add \$50 for registrations received after this time

**September 26, 2014**  
*last day for cancellation (full refund)*

**September 29, 2014**  
*last day for cancellation (partial refund)*  
\$50 processing fee applied

**October 2, 2014, 8:50 a.m.**  
*Institute begins*

M  
C  
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E

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 14.00 hours, of which 2.75 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

ABOUT THE COVER

White Rock, 60" x 60", oil on canvas, is by Susan Barnett. For more information, visit [www.conduitgallery.com](http://www.conduitgallery.com) and [www.susanbarnett.net](http://www.susanbarnett.net).

