

Texas Annotated Assignment of Rents

The University of Texas School of Law
54th Annual William W. Gibson, Jr.
Mortgage Lending and Servicing Institute

September 17-18, 2020

Presented By:
Lorin Williams Combs
and
Jerry L. Lott, Jr.

WINSTEAD PC | ATTORNEYS

1

Texas Assignment of Rents Act

- Senate Bill 889 became law in June 2011
- Created Texas Property Code Chapter 64,
Assignment of Rents to a Lienholder
- Allows lenders to understand process to
capture rents in Texas

WINSTEAD PC | ATTORNEYS

2

Effect of TARA

- Negates an "absolute" assignment of rents
- Creates a uniform process for taking and perfecting a security interest in rents
- All assignments now subject to Chapter 64

WINSTEAD PC | ATTORNEYS

3

"As Additional Security for the Loan"

- "Absolutely and unconditionally assigns" language no longer appropriate
- Instead, use typical security interest granting language
- "Immediately," "presently" and "collaterally" are now appropriate
- FN 3 and FN 29

WINSTEAD PC | ATTORNEYS

4

Disclaimer of Assignment

- A deed of trust or stand alone assignment of rents is deemed a security instrument under the Act
- A security instrument can expressly disclaim the creation of an assignment of rents
- FN 3

WINSTEAD PC | ATTORNEYS

5

Property Subject to Lien

- All Rents – ensure that your definition mirrors definition in Section 64.001(9) of the Act
- Lease Guaranties (FN 25)
- Proceeds of Rents (FN 27)

WINSTEAD PC | ATTORNEYS

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Texas Annotated Assignment of Rents

Also available as part of the eCourse

[2020 William W. Gibson, Jr. Mortgage Lending and Servicing eConference](#)

First appeared as part of the conference materials for the
54th Annual William W. Gibson, Jr. Mortgage Lending and Servicing Institute session
"The Annotated Assignment of Rents Revisited"