

Texas Annotated Assignment of Rents

The University of Texas School of Law
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Mortgage Lending and Servicing Institute

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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

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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

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"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

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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

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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)

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"The Annotated Assignment of Rents Revisited"