

LEGISLATIVE UPDATE:
SIGNIFICANT BILLS OF THE 83RD TEXAS LEGISLATURE, REGULAR SESSION
AFFECTING REAL ESTATE, LENDING
AND OTHER COMMERCIAL MATTERS



REAL ESTATE LEGISLATIVE AFFAIRS COMMITTEE
REAL ESTATE, PROBATE AND TRUST LAW SECTION
STATE BAR OF TEXAS
FINAL REPORT

JUNE 20, 2013

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I. INTRODUCTION

This report is the final report of the Real Estate Legislative Affairs Committee of the Real Estate, Probate and Trust Law Section of the State Bar of Texas (“**RELACs**”). This report summarizes significant bills passed during the Regular Session of the 83rd Texas Legislature affecting real estate, mortgage lending, and other business and commercial issues of interest to Texas real estate law practitioners.

During the Session, Texans’ elected representatives introduced 5,885 bills. Among those bills, RELACs identified over 2,000 to track throughout the Session. From among the bills that were being tracked and passed, RELACs chose for inclusion in this report 159 bills that were believed would be of general interest to practitioners of Texas real estate law.

This report categorizes bill summaries by code in alphabetical order. Some bills may be broad enough in scope to justify placement under multiple codes and/or under multiple titles within a code; however, in the interest of brevity, each bill summary appears in this report only once, under the primarily affected code and title. Consequently, we encourage the reader to carefully review the entire report to ensure recognition of every bill of relevance to a particular topic.

Bill captions in this report are copied from the actual legislation. However, neither the bill caption nor RELACs’ general summary can address all relevant aspects of each bill. Rather, this report serves only to alert the reader to each bill’s general scope and effect. The reader must choose which bills, if any, merit closer scrutiny for their potential effect on his or her practice.

II. EFFECTIVE DATES

Pursuant to Section 39, Article III, of the Texas Constitution, the effective date of acts without specific effective dates (and without provisions for immediate effect) passed by the Legislature in regular session is ninety-one days after adjournment of the regular session. For the 83rd Legislature’s Regular Session this date is Monday, August 26, 2013. If, however, a bill has a provision for immediate effect and is passed by a two-thirds majority in each of the

House and Senate, then the bill becomes law immediately upon: (a) the date the Governor signs it, (b) the date the Governor files it with the Secretary of State (with neither signature, nor veto), (c) in the absence of signing or filing, the date the deadline for gubernatorial action expires, or (d) if the Governor vetoes the bill, the date the Legislature overrides the veto.

To reduce the potential for confusion and uncertainty as to effective dates, this report states the earliest effective date for each summarized bill as reported by the Texas Legislative Service on its website. RELACs advises the reader to review these effective dates, in that a substantial number of bills included in this report have effective dates prior to Monday, August 26, 2013. Note as well that different portions of a bill may have different effective dates. The summaries in this report do not necessarily indicate all effective dates within a bill.

III. ACKNOWLEDGMENTS

RELACs is almost entirely dependent on volunteer efforts from members of the Texas real estate lawyers community. Without these lawyers’ collective efforts, this report would not be feasible. Each of these lawyers has given RELACs scores of hours he or she may have otherwise spent in countless different (and, most likely, less arduous) pursuits. The Bar is richer for their service. RELACs for the 83rd Texas Legislature is:

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IV. INTERNET RESOURCES

Bills from the 83rd Texas Legislature can be accessed the official website for the Texas legislature at:

<http://www.capitol.state.tx.us>.

Additionally, this report hyperlinks each bill summary to the final, enrolled version of the bill as posted on the Texas Legislature's website. Simply click on the bill heading and the enrolled bill will appear in your web browser.

V. SUMMARIES OF NEW LEGISLATION

AGRICULTURE CODE

Title 2. Department of Agriculture

Senate Bill 1214

Relating to certain economic development programs administered by the Department of Agriculture.

Amends Texas Agriculture Code, Sections 12.027, 44.007 and 502.404; repeals Section 12.040 and adds Section 12.0272

Author: Schwertner Sponsor: Darby

Enhances the Texas Department of Agriculture's economic development programs. Allows the department to seek funding to support economic development. Creates the Texas Economic Development Fund in order to receive federal funds received pursuant to federal programs. Allows the Department to segregate returns from federal programs to be deposited for use in programs of the Department which are aligned with the federal government. Updates various sections dealing with the Texas Agriculture Finance Authority and expands the TAFA's authority and flexibility. Rural businesses are now able to apply for interest rate reduction programs funded through new economic development programs.

Effective Date: September 1, 2013

Title 6. Production, Processing, and Sale of Animal Products

House Bill 1819

Relating to the liability for injuring a trespassing sheep or goat.

Amends Texas Agriculture Code, Section 143.033

Author: Kascal Sponsor: Seliger

Imposes liability on a person with inadequate fences for damages if he maims, wounds or kills a trespassing sheep or goat including using a dog or a gun for such actions. Such persons

(inadequate fence maintainers) were already liable for similarly injuring or killing trespassing cows, horses, mules, jacks, and jennies. Liability also arises if the person procures a third party to do the maiming, wounding or killing, including by use of a gun or a dog. Presumably a person with good fences has no liability if he or she maims, wounds or kills a trespassing animal.

Effective Date: September 1, 2013

Senate Bill 174

Relating to the control of stray bison and other estrays.

Amends Texas Agriculture Code, Section 142.001(1) and adds Subdivision (2)

Author: Estes Sponsor: Anderson

Includes "bison" within the definition of "estrays" which means stray animals found on public property. When stray bison are found on public property, sheriff is to notify the owner of the stray bison and its location. However, if the stray bison is determined to be dangerous to the public or if its owner doesn't immediately remove the bison, the sheriff may immediately impound the bison. If a "perilous condition" exists (i.e., the capture and impoundment of the stray bison threatens law enforcement personnel or other animal), the sheriff may "dispose" of the animal by any means without notifying the owner and without attempting to impound the animal. Sheriff must make a written report of such disposition. Amendment expands the law regarding estrays, impoundment and disposition previously applicable to livestock, exotic livestock and exotic fowl.

Effective Date: May 10, 2013

Title 7. Soil and Water Conservation

House Bill 2153

Relating to the abolition of wind erosion conservation districts.

Repeals Texas Agriculture Code, Chapter 202

Author: Callegari Sponsor: Garcia

Requires the county judge of each county in which there remains a wind erosion conservation district (which were created pursuant to a 1981 law) to proceed with the dissolution of such district, sale of its property, payment of its debts, and the transfer of the district's remaining property to the county where the district was located.

Effective Date: June 14, 2013

BUSINESS AND COMMERCE CODE

Title 1. Uniform Commercial Code

Senate Bill 230

Relating to the applicability of state law governing funds transfers to certain remittance transfers.

Amends Business & Commerce Code Section 4A.108

Author: Carona Sponsor: Deshotel

Provides that inconsistencies between state and federal law regarding certain wire transfers will be governed by the federal Electronic Fund Transfer Act to the extent of the inconsistency.

Effective Date: September 1, 2013

Senate Bill 474

Relating to financing statement and other records under the secured transactions law.

Amends Texas Business & Commerce Code, Section 9.516(b)

Author: Carona Sponsor: Villarreal

Deletes requirements in UCC statement amendments of certain details identifying information previously required for debtors who are entities.

Effective Date: September 1, 2013

Title 5. Regulation of Business and Services

Senate Bill 699

Relates to the contents of an assumed name certificate filed by certain businesses or professionals.

Amends Texas Business & Commerce Code, Section 71.102

Author: Carona Sponsor: Villalba

Eliminates the requirement in an assumed name certificate for disclosure of the registered address of the registrant. Only the street or mailing address of the registrant's principal office is now required.

Effective Date: September 1, 2013

BUSINESS ORGANIZATIONS CODE

Title 1. General Provisions

Senate Bill 847

Relating to business entities and associations

Amends Texas Business & Commerce Code, Sections 3.059, 7.001, 11.052, 21.301, 101.052, 101.605, 101.609, 101.622, 154.104; repeals Section 24.003(c)

Author: Carona Sponsor: Oliveira

With respect to restated certificates of formation making new amendments, deletes the requirement that such restated certificate of formation identify all of the added, altered and deleted provisions. Provides that a general partner's personal liability to its other partners for acts or omissions as a governing person may be limited or eliminated by language in the partnership agreement. Provides that a limited partnership or a limited liability company may limit the liability of its governing persons. Exempts general partnerships from certain notices to creditors in the event of a winding up. Changes the definition of "distribution limit" for a consuming assets corporation. Adds provisions that limited liability company agreements and partnership agreements may extend rights to third persons though such third

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