



# Capitol Report



Legislative Update

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Milestones this week: First bill got through the process and to the governor's desk! Appropriations bill will be heard in the House Chambers Friday (and into the wee hours?). Over 400 amendments have been filed to it as we write this. Governor Perry addresses Tea Party and suggests Texas could secede. IBAT's last proactive bill is set for hearing! (Convenience signer bill is set for hearing on Monday.) The pace is picking up with only six weeks left in this session. Many bills of concern had hearings this week. Here are some of the highlights.

## FORECLOSURE

Numerous bills would change the process, including increasing the time frame to 90 days and requiring mediation (HB 3482) and requiring mortgage default data to be obtained (HB 2309). Many thanks to all of you who responded to our call to action on SB 472 by Estes. The author had worked with industry and consumer advocates to develop a bill that addressed concerns in a rational way. While IBAT has some concerns with the details of a notice to be developed by the AG and provided to debtors in foreclosure, we generally found the bill to be acceptable. We are optimistic that several "clean up" amendments we have recommended will be added on the floor. We still anticipate that the newspaper industry will push for an amendment to require four weeks of prior publication as part of the foreclosure process. More information can be found [HERE](#). The bill has been favorably reported from committee without changes.

SB 2214 and HB 3776 would add a \$150 fee to foreclosure filings to fund indigent healthcare. We are obviously opposed.

IBAT was among the groups invited to testify at a special hearing of the Pensions, Investments and Financial Services Committee on Thursday. The topic – foreclosure. In addition to industry representatives, the committee heard from the Texas A&M Real Estate Center, regulators, housing advocates and consumer groups. As you can likely surmise, there is great interest at the legislature in addressing this issue. We continue to spend a tremendous amount of time and energy on the myriad of bills addressing the foreclosure process.

## REAL PROPERTY AND LIEN ISSUES

The title industry's bill, SB 1596, has been heard in Senate Business & Commerce. This bill, which was reviewed by IBAT prior to filing, tweaks the affidavit process already in the Property Code. In the event a release of lien isn't received from a lender within 30 days after the payoff requested by the lender is made, the title company may file an affidavit to act as a release of lien.

HB 3053 would clarify that child support liens are valid for ten years but can be renewed. HB 3857 was revised by its author Rep. Herrero to track the requirements for foreclosure relief in federal law. After a servicemember returns from duty, foreclosure is abated. HB 3252 would add in a remedy for violation of the high cost home loan

chapter. An aggrieved consumer could sue for damages, injunctive relief, or both plus attorneys fees. All of these are still pending in committee.

### CONSUMER CREDIT

HB 1478 by Bohac would have prohibited a creditor from considering certain medical debt in making a loan. The author pulled down this bill from consideration. HB 3021 by Leibowitz would cap interest on consumer loans at 30%. That might sound okay, but it would include all fees that are considered interest in that cap. So late fees would essentially be eliminated on consumer loans. Admin fees could also result in a loan being usurious. HB 3529 by Yvonne Davis would require debt collectors to obtain a state license. In addition, it would amend the state debt collection and credit reporting chapters in the Finance Code. Banks would be

exempt from licensing. Credit bureaus (but not creditors) would have to notify consumers of adverse additions to their reports. HB 1572 by Thompson would clarify the \$100 penalty for violation of the debt collection chapter. This one would apply to banks collecting their own debts.

### TAXES

Beaucoup bills were heard this week that would affect the margin tax. The most likely scenario is that the threshold for taxation will be bumped from the current \$300,000 to probably \$1 million. There is some wiggle room in revenues due to both the rainy day fund and federal stimulus funds. How far that will be used is anyone's guess right now.

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