

# WHITE PAPER

AN EXECUTIVE SUMMARY FOR COMMUNITY BANKERS  
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## **The 2003 Legislative Session: A New Era – Reality Meets Rhetoric**



Independent Bankers Association of Texas  
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# **The 2003 Legislative Session: A New Era – Reality Meets Rhetoric**

## **INTRODUCTION**

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The 78<sup>th</sup> Regular Session of the Texas Legislature ushered in a new era in Texas politics. For the first time since Reconstruction, both the Texas House of Representatives and the Texas Senate were a majority Republican. In addition, the Governor, Lieutenant Governor, Speaker of the House, Comptroller of Public Accounts, and major state officeholders were all Republicans. This transition of power occurred at the same time as several perceived crises. First, homeowners insurance had become difficult to obtain, at least in part due to the proliferation of mold claims and lawsuits. At the same time, the medical profession complained of rising medical malpractice premiums. Second, the Comptroller of Public Accounts announced that sales tax revenues were significantly down due to a downturn in the economy. The likely result was a budget shortfall based on a continuation of current services of anywhere from \$3 billion to \$12 billion over the biennium. Third, Congressman Tom DeLay concluded that Texas should have more Republican Congressmen and should redistrict.

The atmosphere around the capitol was decidedly tense as men and women of good will attempted to deal with all of the crises in the same session. The Republican leadership concluded that they had a mandate for no new taxes and less government. These two philosophical positions then shaped their reaction to the insurance problems and the budget shortfall. Early proposals focused on cutting services, mainly health services to the poor, elderly and children. As discussions wore on, the focus shifted to cost containment and finding new fees.

The solutions to the insurance premium crisis focused on the role played by claims and largely ignored the impact of investment income on insurance carriers. Although the “crisis” was apparently limited to homeowners insurance availability, the ultimate legislation also dealt with auto premiums. The major reform legislation gives the Insurance Commissioner greater regulatory authority until December 1, 2004. At that time, rates are essentially deregulated and insurers can simply “file and use.” The Commissioner has 60 days to disapprove, but that can be appealed. This is the power that the insurance industry has sought for years.

The other assault on insurance costs was a major piece of tort reform legislation including a constitutional amendment giving the state Legislature authority to limit noneconomic damages. In other words, if the constitutional amendment passes, the Legislature can put caps on components of damages including pain and suffering, loss of consortium, and punitive damages.

Slightly fewer bills were passed in this session with 1,382 out of 5,592 filed actually passed and sent to the Governor. Of those, only 48 were vetoed, which is significantly fewer than the 82 Perry vetoed at the end of last session. Fourteen became law without the Governor's signature. Furthermore, 22 constitutional amendments passed out of 162 filed. Of the constitutional amendments, Proposition 16 is the first major change to home equity lending.

On a positive note, 100% of IBAT's proactive agenda passed and has been signed by the Governor. Although we knew the session would be challenging, IBAT took a very aggressive program of legislation to the Texas Legislature this session to provide additional powers and benefits for our members. At the same time, we played a strong defensive role on issues involving privacy, predatory lending, and other bills that would adversely impact community bankers.

The redistricting crisis resulted in a new Texas legend with over 50 of the House Democrats fleeing to Ardmore, Oklahoma to break a quorum. That tactic worked in the regular session. However, Governor Perry has called a special session to deal with redistricting. This is not an issue that IBAT gets involved with. We leave it to others to make the right decisions for Texas in this matter.

The following material identifies some of the legislation that we followed this session. We tracked 363 bills of interest! Where appropriate, we have attempted to identify possible follow-up action for you to consider in response to a particular bill. Finally, we have included our updated fees and charges chart for your use. Please note that the late charges for second mortgage loans, which IBAT fought hard for, does not go into effect until September 1, 2003.

## **Research**

If you are interested in reading the text of any of the bills described in this paper or would like information about any such bill (including the bill analysis, witness list, or research reports), simply go to the Texas Legislature's web site and follow the instructions. Be sure to select the regular session. The first called special session is already on line! Here is the link: [http://www.capitol.state.tx.us/tlo/legislation/bill\\_status.htm](http://www.capitol.state.tx.us/tlo/legislation/bill_status.htm).

## BANK OPERATIONS

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### Multiple-Party Accounts

**H.B. 1590 by Paxton.** This IBAT proposal provides that a party to a multiple party account may pledge that account without the joinder of any other party. However, a convenience signer or POD beneficiary may not pledge an account. Furthermore, if the other party does not join in the pledge, the creditor must send a notice to that party.

**Action:** Review loan procedures. Either continue to require joinder of all owners or accept pledge of one party with required notice to other(s). Send a notice by certified mail. The following is suggested language only. There is no statutory model notice.

NOTICE: The co-owner of your account [describe] has pledged that account as collateral on a loan in the original principal amount of \$\_\_\_\_\_ to [name of lender]. This note matures on [date]. Until the note is paid in full, neither party will be able to withdraw funds from this account.

**Effective Date:** September 1, 2003

### Multiple-Party Accounts

**H.B. 2238 by Paxton.** This IBAT proposed amendment to the Probate Code cleans up the convenience account section so that convenience signers will be permissible on joint accounts of all sorts. In addition, there can be more than one convenience signer on an account.

**Action:** Deposit account disclosures will need to be revised to include this change to the Uniform Single-Party or Multiple Party Account Selection Notice. It will not affect existing customers, however, unless they desire to change their account and authorize a convenience signer. Also, some customers may prefer a power of attorney to a convenience signer. This is a choice that the customer should make – not the new accounts officer.

**Effective Date:** September 1, 2003

### Electronic Transaction Crimes

**H.B. 2248 by Denny.** This proposal was brought to IBAT by SWACHA. Prosecutors have refused to prosecute fraud accomplished by electronic transactions and debit cards because the Penal Code only covered checks and credit cards. This bill makes both paper and electronic transactions subject to the same sanctions. It should help banks recover on white collar crime – which has been growing by leaps and bounds.

**Effective Date:** September 1, 2003

## **Check Verification or Check Guarantee Services**

**H.B. 2409 by Solomons.** This amendment to chapter 20 of the Business and Commerce Code adds check verification and check guarantee services to the Texas credit reporting law. It requires certain disclosures to the consumer. To a large extent, it simply reinforces the Fair Credit Reporting Act. If a consumer's check is rejected because of a report from one of these services, the service must give the consumer the criteria used for the rejection, without charge for the disclosure. This bill will not affect issuance of "certified" checks by banks.

**Effective Date:** September 1, 2003

## **Affinity Credit or Debit Cards for the Benefit of Public Schools**

**S.B. 966 by Averitt.** This adds section 403.0232 to the Government Code. It allows the Comptroller to enter into an agreement with a credit or debit card issuer for an affinity card to benefit public schools.

**Effective Date:** June 18, 2003

## **State Deposit Collateral**

**S.B. 996 by Williams.** This bill was drafted and strongly supported by IBAT. It permits Federal Home Loan Bank (and other government sponsored entity) letters of credit to be used as security for state public funds. Currently, such letters of credit are permissible collateral for local government public funds. This simply brings the state deposits into parity by amending chapter 404 of the Government Code.

**Action:** Consider this new collateral potential when evaluating bidding on public funds!

**Effective Date:** September 1, 2003

## **Currency Exchange Disclosures**

**S.B. 1583 by Shapleigh.** This adds a new chapter 278 to the Finance Code dealing with regulation of currency exchange rates. It applies to casas de cambio. Before completing a currency exchange transaction, the currency exchange service has to make certain disclosures. Also these must be posted and made in English and Spanish or other language used in the transaction. IBAT drafted amendments to make it clear that this law does not apply to banks.

**Effective Date:** September 1, 2003

## CORPORATE AND SECURITIES

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### Relating to Business Corporations

**H.B. 1165 by Solomons.** This is a cleanup of the corporate laws from the Business Law Foundation. Changes in technology drove many of the provisions. It deals with a variety of issues including indemnity of directors. Since banks use corporate law for their corporate framework, this is relevant for both state and national banks. It authorizes reimbursement of reasonable litigation expenses incurred by a former director or officer or a present or former employee or agent of the corporation who is threatened to be named in a law suit.

In addition, there are amendments dealing with classes of stock creating additional options and flexibility.

There are other amendments to shareholders' pre-emptive rights. There is no pre-emptive right unless the articles affirmatively provide for it. This can be an issue in bank and bank holding companies as it relates to raising capital through the sale of additional shares.

In a continuing expansion of use of electronic media, the Business Corporation Act is amended to allow shareholder meetings by remote communication (i.e.: video conferencing). Reasonably accessible electronic networks can also be used for shareholder meetings. There are other amendments including some to cumulative voting rights.

Finally, the section dealing with meetings by consent authorizes electronic transmission. The requirements for transmission are particularly spelled out. This applies to both shareholders and directors. The consent is considered to be delivered at the time it was transmitted by the person.

**Effective Date:** September 1, 2003

### Corporate Ethics and Integrity

**S.B. 1059 by Ellis, Rodney.** This amends chapter 402 of the Government Code in response to the corporate scandals. It creates a corporate integrity unit within the office of the Attorney General. In addition, certain disclosure requirements and ethics rules are placed on outside financial advisors and service providers. The primary objective here is to identify conflicts of interests.

At one point this bill would have affected public funds deposits. IBAT drafted an amendment to exclude community banks. As finally passed, it applies to financial advisors, financial consultants, money or investment managers, or brokers who advise the state.

**Effective Date:** September 1, 2003

## CONSUMER CREDIT

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### Debt Cancellation, Debt Suspension and Gap Waiver

**S.B. 1429 by Averitt.** This IBAT proposed amendment to chapter 342 of the Finance Code authorizes lenders to offer debt cancellation, debt suspension, and gap waiver contracts on consumer installment loans. These products may be offered but not required. A separate notice must be given to the consumer, advising him of that fact and that purchase cannot be a condition of obtaining the loan. The amount charged for any of these products must be reasonable. Gap waiver is only available on auto secured loans.

**Action:** In order to provide these products, a bank must also comply with either the OCC or Department of Banking regulations. (The Savings & Loan Department has not issued regs at this time.) In addition to the disclosures required by the banking regs, the lender will need to provide a notice as follows:

NOTICE: You are not required to purchase this [describe product] in order to obtain your loan.

The notice must be separate from the loan documents. However, it may be a part of the disclosures required by the regulators.

The Governor considered vetoing this bill. He acquiesced with the understanding that the regulators will issue appropriate rules. Also he understands that national banks may offer these products under a preemptive theory, putting state charters at a disadvantage.

**Effective Date:** June 21, 2003

### Secondary Mortgage Loan Late Fees

**S.B. 1430 by Averitt.** This IBAT amendment to chapter 342.302 of the Finance Code permits a late charge of 5% after ten days on second mortgage loans with simple interest at regulated rates (i.e., over 10%).

**Effective Date:** May 12, 2003

### Credit Services Organization

**S.B. 324 by Armbrister.** This amendment to section 393.002 of the Finance Code adds a new exclusion from credit services regulation for electronic return originators. These are companies that arrange tax refund anticipation loans with banks, savings banks and credit unions.

*Effective Date:* September 1, 2003

## GENERAL LENDING

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### County and Municipal Hospital Loans

*H.B. 2952 by Kuempel.* This amendment to the Health and Safety Code gives the board of managers for a hospital district authority to execute a loan agreement or a promissory note. The loan may be secured by revenues or a deed of trust or other security interests in any real or personal property that is not pledged to a bonded indebtedness. However, the holder of a loan obligation does not have a right to demand payment out of any funds or property of the hospital other than the funds or property specifically pledged.

*Effective Date:* June 20, 2003

## GOVERNMENT

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### Regulation of Credit Unions

*H.B. 1307 by Marchant.* This is a modernization and cleanup act. Most of these administrative powers are really similar to ones granted to the Banking Commissioner many years ago. IBAT recommended that the capital requirements be strengthened (which they were).

Section 33 of this bill is an enlargement of powers and expands the current law from parity with the powers of a federal credit union to the powers of any foreign credit union operating a branch in this state. Like state banks, state credit unions already had parity with federal charters. This new authorization is similar to the super-parity granted state banks in 1995.

*Effective Date:* September 1, 2003

### Mortgage Banker Registration

*S.B. 252 by Staples.* This adds a new chapter 157 to the Finance Code requiring mortgage bankers to be registered with Texas S&L Commissioner. It gives the Commissioner authority to handle complaints. This was a compromise from the original bill, which would have required mortgage banks to become fully licensed rather than merely registered.

*Effective Date:* January 1, 2004

## **Mortgage Broker Licensing**

*S.B. 1577 by Carona.* This amendment to the mortgage broker act deals with the effect of a criminal background on licensing of brokers.

*Effective Date:* September 1, 2003

## **Pre-License Tests for Mortgage Brokers**

*S.B. 1578 by Carona.* This amends the mortgage broker rules to deal with pre-licensing tests.

*Effective Date:* September 1, 2003

## **Credit Union Conversion to Savings Bank**

*S.B. 1666 by Averitt.* This changes the definition of financial institution in chapter 91 of the Finance Code, which deals with savings banks. The effect is to permit credit unions to convert to savings banks.

*Effective Date:* September 1, 2003

## **FBI Background Checks for Mortgage Brokers**

*S.B. 1667 by Averitt.* This amendment to the Mortgage Broker Act was requested by Commissioner Pledger in order to facilitate his ability to obtain a criminal background checks from the FBI on mortgage broker applicants.

*Effective Date:* September 1, 2003

*Comment:* IBAT tracked the mortgage broker proposals to make sure that banks, their employees, and their subs would remain exempt from mortgage broker licensing. No change there!

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## **HOME EQUITY**

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### **Refinancing of a Home Equity Loan With a Reverse Mortgage**

*H.J.R. 23 by Hochberg.* This constitutional amendment corrects a problem with reverse mortgages. It will permit a person to refinance a home equity loan into a reverse mortgage-- which is currently not possible.

**Effective Date:** On passage of the constitutional amendment

## **Administrative Interpretations**

**S.B. 1067 by Carona.** This amendment to chapter 11 of the Finance Code implements the proposed constitutional amendment that would authorize the Finance Commission to issue interpretations of Home Equity Lending Laws. The Credit Union Commission would have comparable authority and interpretation should be consistent.

Amendments added at the last moment provide that if the home equity loan is a “high cost loan” as defined in chapter 343, Finance Code (same definition as in Home Ownership Equity Protection Act), then the lender may not charge for a product or service that the borrower does not receive. Also, the Chapter 343 notice to borrowers (explaining the value of counseling) with loans at rates of 12% or greater will not sunset. However, the penalty section still sunsets on September 1, 2003.

**Effective Date:** On passage of the constitutional amendment

## **Home Equity Line of Credit**

**S.J.R. 42 by Carona.** This is the constitutional amendment supported by TCHR that authorizes lines of credit, flexible payments schedule, issuance by mortgage brokers, cure, and interpretive authority. There are several limitations on the line of credit authority. Draws must be in minimum amounts of \$4,000 or greater. A borrower can’t use a debit card, credit card, or preprinted solicitation check to make the draws. The HELOC can’t exceed 50% of the homestead’s fair market value. There can be no fees charged after the closing (e.g. no draw fee). A lender can’t unilaterally modify the arrangement. Finally, repayment must begin no later than two months from the date the line is established. At that time, the borrower must begin repaying in installments that at least equal the accrued interest. Once the right to make draws ends, the payments must be substantially equal (i.e., fully amortizing).

Rather than broad authority to cure, the constitution includes explicit explanation for the method for cure of various types of violations. Cure must occur no later than 60 days after the lender receives a notice from the borrower. Cure methods include:

- Pay any over charge (i.e. fees exceeding the 3% fee cap, prohibited prepayment penalty, or excess interest)
- Acknowledge that lien is only valid as to 80% of the fair market value; valid only as to homestead; or valid only if property is not ag use valued property
- Written modification for other terms
- Deliver copies of documents that were not delivered at closing; obtain signature of spouse if not obtained on correct documents

- For a second home equity loan, abate interest until first home equity loan is paid off
- For everything else (e.g. close before 12<sup>th</sup> day, close in wrong location, disburse before right of rescission, etc.), refund OR credit the borrower with \$1000 and offer to refinance on the same terms and conditions.

**Effective Date:** On passage of the constitutional amendment. Election day is September 13. The amendment is effective after the Governor canvases the vote. That could be accomplished as early as September 28 or as last as October 13.

**Action:** Whether or not a lender chooses to make home equity lines of credit, they will need to begin using the revised notice to borrower upon passage. Also, the borrower must receive a final itemized disclosure of fees, points, interest, costs and charges one business day before closing. In other words, provide a final HUD1-A the day before closing!

## **Revolving Credit Accounts**

**S.B. 774 by Averitt.** These are changes to chapter 346 of the Finance Code that in particular need to be made to support home equity lines of credit. However, even without the HE changes, this chapter applies to the fees that can be charged where real estate collateral is taken to support a revolving credit account. It would permit the usual fees as spelled out in subchapter G of chapter 342 for second mortgage transactions.

Revolving credit accounts secured by real property can be amended by the creditor only in accordance with §303.103, Finance Code. Effectively this gives the consumer the right to pay off existing balances under the prior agreement. Also, such an account can only be accelerated if the customer is in default.

**Effective Date:** September 1, 2003

# **INSURANCE**

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## **Regulation of Mold Assessors and Remediators**

**H.B. 329 by Naishtat.** This adds chapter 1958 to the Occupations Code. It creates a regulation and licensing system for both mold assessors and remediators. Perhaps most significant for the current insurance crisis, it prohibits a license holder from performing both mold assessments and mold remediation at the same property.

**Effective Date:** September 1, 2003 with regulations due not later than April 1, 2004 from the Texas Board of Health

## Health Benefits Coops

**H.B. 897 by Woolley.** This amends the Insurance Code as it relates to small employer health coalitions. A coop may not restrict membership based on health related factors or experience. At least 75% of eligible employees must elect to be covered.

**Effective Date:** September 1, 2003

## Limits on Homeowners Insurance Required by Lenders

**H.B. 1338 by Taylor.** This amendment to Article 21.48A of the Insurance Code provides that a lender may not require a borrower to purchase home owners insurance in an amount that exceeds the replacement value of the dwelling and its contents regardless of the amount of the mortgage or other financing arrangements. In other words, the land can't be covered by the policy.

**Effective Date:** September 1, 2003, for mortgages entered into after January 1, 2004

**Action:** Be sure mortgage servicing processes do not violate this limitation.

## Employer Health Benefit Plan Groups

**S.B. 10 by Averitt.** This amendment to the Insurance Code authorizes the creation of a health group cooperative consisting of employers, including small employers. It appears to be a way to obtain access to more reasonably priced health insurance. A coop is not subject to state mandated benefits. Coops are not required to be licensed by TDI.

**Effective Date:** September 1, 2003 applying to plans delivered, amended, or renewed on or after January 1, 2004

## Automobile and Residential Property Insurance Regulation

**S.B. 14 by Jackson.** This was the omnibus insurance regulation bill of the session. The objective was to provide a revised regulatory scheme with the hope that premium rates will go down. Beginning in 2004, carriers will be able to file and use rates rather than go through rate approval. The Commissioner has 60 days to disapprove, but this can be appealed. This may ultimately make the county mutuals which served the nonstandard market leave the marketplace as they will no longer have a rate advantage. IBAT lobbied on this point out of concern that coverage for subprime auto borrowers may be hard to get in the future! Time will tell if this plays out.

Debates raged over whether carriers should be able to use credit reports in underwriting. Ultimately, the result was continued permission to use these—but not as the sole determinative factor.

**Effective Date:** June 11, 2003

## **Renewal Notice**

**S.B. 115 by Van de Putte.** This adds Article 5.45 to the Insurance Code. It requires a notice on renewal of certain policies giving a plain-language explanation of the difference of the renewal policy.

**Effective Date:** Applies to policies issued on or after 30 days after June 20, 2003

**Action:** Borrower policies may be changing significantly. Set up systems to monitor for compliance with deed of trust requirements.

## **Water Damage Claims**

**S.B. 127 by Fraser.** These amendments to the Insurance Code are intended to address abuses in handling water damage/mold claims. In addition to prohibiting “redlining” for prior claims, the bill regulated public adjusters. The Insurance Commissioner has rulemaking authority.

**Effective Date:** June 11, 2003; rules by January 1, 2004

## **Prompt Pay**

**S.B. 418 by Nelson.** This bill revisits the “prompt pay” issue that Governor Perry vetoed last session, getting him crosswise with TMA! It provides sanctions against insurance carriers that do not pay medical claims promptly.

**Effective Date:** June 17, 2003.

## **Internet Health Benefit Plans**

**S.B. 494 by Shapleigh.** This amendment to the Insurance Code adds some requirements for health benefit plans with Internet sites including maintenance of information regarding physicians and providers. The Commissioner has rulemaking authority.

**Effective Date:** September 1, 2003, applying to Internet sites January 1, 2004

## **Health Benefit Mandates**

**S.B. 541 by Williams.** One of the items causing Texas health insurance policies to be expensive is the extensive number of mandates for coverage. While this bill could result in less

coverage, it may also result in lower costs. It creates the “Texas Consumer Choice of Benefits Health Insurance Plan.”

*Effective Date:* September 1, 2003

## **Collateral Protection Insurance**

*S.B. 1211 by Van de Putte.* This amendment to chapter 307 of the Finance Code was requested by mortgage bankers. It allows the collateral protection insurance on real property to be either the amount of the unpaid indebtedness or replacement cost of the improvements. The amount of insurance previously maintained by the debtor may be used as evidence of the replacement cost. The purpose of this amendment is to match the law to the practices of the secondary market mortgage servicers.

A last-minute Consumers Union amendment requires the lender to add a statement to the notice to borrower relating to the FAIR plan. Here is a possible statement:

You have failed to keep your home insured as required by the deed of trust (mortgage). Coverage may be available under the FAIR Plan at a lower cost. For assistance in finding an authorized agent you may access the Texas FAIR Plan Association website at [www.texasfairplan.org](http://www.texasfairplan.org). For further assistance you may contact the Texas Department of Insurance’s Market Assistance Program at 1-888-799-6277 or Helpinsure.com at [www.helpinsure.com](http://www.helpinsure.com) or by calling 1-866-695-6873.

*Effective Date:* June 20, 2003

## **LIENS AND SECURITY INTERESTS**

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### **UCC Filings**

*H.B. 3414 by Marchant.* This amendment requires the use of the national standard form in filing UCCs by reducing the likelihood of rejection.

*Action:* Be sure that your loan documentation system uses the standard form.

*Effective Date:* January 1, 2004.

### **Manufactured Housing**

*S.B. 521 by Staples.* Among other things this bill changes the absolute conversion of manufactured homes from personal property to real property when they are attached. It makes

election of treatment as real property permissive. There are changes to the disclosures required by retailers. However, these disclosures only need to be made by the retailer.

IBAT worked hard with the authors of this bill to protect banks and to provide an appropriate level of flexibility. In particular, a new section requires lenders to escrow real property taxes. However, IBAT was able to obtain an exclusion from this requirement for lenders that do not otherwise escrow.

**Action:** Coordinate manufactured housing closings with your local title company. Determine in advance whether you and the borrower wish to treat the transaction as a real property one or a chattel mortgage. This decision will significantly alter the documents.

**Effective Date:** June 18, 2003

## **UCC Article 9 Cleanup**

**S.B. 995 by Williams.** This makes changes to article 9 of the UCC. The definition of agriculture lien is amended to include all security interests. The provision relating to bank jurisdiction permits an agreement between the bank and its customer, selecting the jurisdiction. The prior language was “the debtor”, which would include any third party pledgor. Thus, that means that a third party pledge of deposit accounts can’t include an agreement selecting a jurisdiction. The security interests that are perfected upon attachment are expanded to include an account that is limited to payment of winnings in the lottery. The section dealing with perfection permits use of a mortgage either as a fixture filing or as a financing statement for extracted collateral intended to be cut.

**Effective Date:** September 1, 2003

## **MISCELLANEOUS**

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### **Interagency Work Group on Rural Issues**

**H.B. 649 by Keffer, Jim.** This creates an inter-agency work group on rural issues and expands the participants in that group. It will work on issues that face rural communities, discuss and coordinate programs and services and develop regulatory and legislative solutions.

**Effective Date:** September 1, 2003

### **General Provisions of the UCC**

**H.B. 1394 by Elkins.** The first part amends Title 1 of the UCC and moves the rules of construction that allow the provisions of the UCC to be varied by agreement. The choice of law section is deleted but is dealt with elsewhere in Texas law. The UCC relationship to ESIGN is

clarified. The term “bank” is defined to include savings banks, credit unions and trust companies as well as traditional banks. The term “conspicuous” is revised and clarified. The provision relating to when a person has notice of a fact is deleted. Present value is defined. Whether or not a transaction is a security interest or a lease is determined pursuant to 1.203. This is very important in Texas because of our usury law. It clarifies when a transaction will be treated as a lease rather than as a security interest.

Instead of the short section dealing with notice, there is an extremely lengthy provision dealing with when a person has notice or knowledge. It occurs when something is brought to another person’s attention or is delivered in the form reasonable under the circumstances at a reasonable location. There is a new lengthier provision dealing with territorial applicability (choice of law) as well as variation by agreement. This entire section is all interpretive rules. This part of the UCC is not very exciting but it is important to your transaction lawyers who draw up your agreements!

*Effective Date:* September 1, 2003

## **Directing the Board of Education to Consider Elements Relating to Personal Finance**

*H.C.R. 15 by Woolley.* This is a concurrent resolution regarding education and the importance of financial literacy. It provides an outstanding analysis of the problems resulting from a lack of knowledge with regard to consumer credit and other financial matters. IBAT strongly supported this resolution. We believe that school districts have the inherent authority to implement financial literacy. However, we do not like unfunded mandates. Thus, we recommend that schools utilize the resources of the FDIC “Money Smart” program to provide this curriculum.

## **Creation of a Statewide Alert System for Abducted Children**

*S.B. 57 by Zaffirini.* IBAT testified in support of this bill at the request of TXDOT. We testified about our member banks’ involvement in the Amber Alert Program that we just started this past January.

*Effective Date:* June 20, 2003

*Action:* Consider joining the IBAT team in this notification system.

## **Debt Collectors and Credit Bureaus**

*S.B. 533 by Carona.* This bill amends chapter 392 of the Finance Code. All of the provisions apply only to third party debt collectors, not creditors collecting their own debts. It basically requires debt collectors to cease efforts when a debt is disputed and to investigate the accuracy of the disputed item.

*Effective Date:* September 1, 2003

## **Exemption for College Savings Plan Accounts**

*S.B. 1588 by Whitmire.* This adds college savings plan accounts to personal property exempt from execution. These savings plans include prepaid tuition contracts, savings trust accounts, and any other qualified tuition programs meeting IRS criteria.

*Effective Date:* September 1, 2003

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## **PERSONNEL/LABOR LAW**

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### **Promotion of Dependent Care Benefits for Employees**

*H.B. 1020 by Villareal.* The Work & Family Policies Clearinghouse of the Texas Employment Commission is required to encourage employers to provide employee dependent care benefits by promoting their advantages and providing technical assistance.

*Effective Date:* September 1, 2003

### **Medical Support Orders**

*H.B. 2001 by Dutton.* This amendment to the Family Code provides for notifying the employer of a national medical support notice as part of child support. The employer must comply with the order.

*Action:* Alert your personnel department about this new requirement.

*Effective Date:* May 23, 2003

### **Payment of Wages by Staff Leasing Services Companies**

*S.B. 374 by Williams.* This bill makes amendments to chapter 91 of the Labor Code dealing with payment of certain wages by staff leasing services companies. The client company – not staff leasing services company – is required to pay obligations created by an agreement between the client and assigned employee.

*Effective Date:* September 1, 2003

## PUBLIC FUNDS

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### Substitution of Securities

*H.B. 3312 by Capelo.* County Public Fund Law is changed by authorizing the commissioners court to adopt a procedure for approval of substitution or replacement of securities by depositories. They must designate a county employee or official (including county judge) to approve the substituted security.

*Effective Date:* June 20, 2003

### Securities Lending

*S.B. 1318 by Van de Putte.* This amendment to the Government Code authorizes government entities to loan securities to securities dealers and financial institutions.

*Effective Date:* September 1, 2003

## PRIVACY

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### Identity Theft

*H.B. 2138 by Hopson.* This amendment to chapter 35 of the Business & Commerce Code deals with identity theft by electronic device (in other words – skimmers). It provides a new tool in fighting this growing problem.

*Effective Date:* September 1, 2003

### No-Call List

*H.B. 147 by Solomons.* This bill amends Sections 43.002 and 43.103, Texas No Call List Act. It adds cell phones to the definition of “telephone calls.”

*Effective Date:* June 20, 2003

### Privacy Protections for No-Call List

*H.B. 149 by Solomons.* This amends Sections 43.101 and 552.141, Texas No Call List. It substitutes zip codes for addresses in the database. It does not affect banks who are contacting their existing customers.

**Effective Date:** September 1, 2003

## **Commercial Mail**

**H.B. 1282 by McCall.** This adds a chapter 46 to the Business and Commerce Code, dealing with electronic mail solicitation. The objective of this bill is to deal with obscene and unsolicited commercial electronic advertising.

A person may not send an unsolicited commercial electronic mail message unless “ADV” or “ADULT-ADVERTISEMENT” for sexually explicit material is in the beginning of the message line.

In this bill, the term “unsolicited commercial electronic mail message” means such a message sent without the consent of the recipient by a person with whom the recipient does not have an established business relationship. It does not apply to an organization using mail for the purpose of communication exclusively with members, employees, or contractors of the organization. Therefore, trade associations and banks (and other businesses) could communicate with existing customers or members without having to comply with this bill. There are criminal and civil penalties.

**Effective Date:** September 1, 2003

## **State Agency Info Sharing**

**H.B. 2040 by Marchant.** Adds subchapter C to Chapter 555, Government Code. This deals with information sharing among only certain agencies, including Attorney General, Texas Department of Insurance, Texas State Board of Public Accountancy, Public Utility Commission, and State Securities Board. It permits sharing of confidential information among each other for investigative purposes relating to corporate fraud. Sharing is under confidentiality requirements. Similar laws already exist with regard to banks. However, this could have an impact on insurance and securities activities of banks.

**Effective Date:** June 20, 2003.

## **Confidentiality of Personal Info in Real Property Records**

**H.B. 2930 by Lewis.** This deals with confidentiality of certain personal information in real property records. It does not adversely affect title searches according to the Texas Land Title Association. After January 1, 2004, deeds, mortgages and deeds of trust must include a “notice of confidentiality rights.” An individual may strike their SSN or driver’s license number from those instruments.

**Effective Date:** September 1, 2003

**Action:** Be sure forms are revised to include the new notice!

## Truncation of Credit Card

**S.B. 235 by Fraser.** This adds section 35.57 to the Business and Commerce Code and requires truncation to the last five digits of the credit card account number for electronic credit card receipts. It does not apply where the receipt is handled by handwriting or an imprint or copy of the credit card.

**Effective Date:** September 1, 2003. However there is a phase in for cash registers or machines that are initially installed prior to August 31, 2003.

**Action:** If you handle merchant accounts, notify your customers of this change. Regulation E already requires truncation on debit card electronic receipts.

## Credit Report Alerts and Freezes

**S.B. 473 by Ellis, Rodney.** These amendments are to the Fair Credit Reporting Chapter of the Business and Commerce Code and relate to consumer reporting. They provide a process for placing a security alert or freeze on a consumer file where it appears that the identity may have been used without the consumer's consent. The consumer reporting agency must maintain a toll free number for purposes of consumers making security alert notices. Once a "freeze" is in place, a consumer reporting agency may not issue a credit report on that consumer.

The alert and freeze provisions do not apply to check service or fraud prevention service that issues consumer reports to prevent or investigate fraud or to approve or process checks or electronic fund transactions. Deposit account information service companies are also exempt.

Similarly, the freeze will not prevent a credit report from being provided to a person with whom the consumer has an account or a person seeking a prescreened list. A similar law is in effect in California. According to bankers there, this has not impaired their ability to make consumer loans. However, it does protect both the consumer and the lender from identity theft.

**Effective Date:** September 1, 2003

## Social Security Number on Identification Cards

**S.B. 611 by Nelson.** This amendment to chapter 35 of the Business and Commerce Code prohibits a person from displaying an individual's SSN on a card or other device required to access a product or service provided by the person. I am unaware of any credit cards that use SSNs. However, group health insurance cards routinely display social security numbers. This bill should not have any impact on products or services offered by banks but could impact their health insurance.

This section does not apply to the collection, use or release of the SSN that is required by state or federal law for the use of the SSN for internal verification or administrative purposes. In other words, it would not interfere with a bank collecting an SSN in order to comply with the Bank Secrecy Act or the USA PATRIOT Act.

*Effective Date:* March 1, 2005, but it applies to devices issued after March 1, 2005.

## **Disclosure by County and District Clerks**

*S.B. 1388 by Armbrister.* This amendment to the public information law protects certain personal information of current and former employees of the Department of Criminal Justice. There is an exception for documents filed with the county and district clerks. This was very controversial, but without the exception title companies would not be able to issue policies if a jailer ever owned a property!

*Effective Date:* June 20, 2003

## **Driver's License Mag Stripe**

*S.B. 1445 by Averitt.* IBAT proposed this new tool in fraud fighting. This change to the Transportation Code would permit financial institutions (as defined by the USA PATRIOT Act) to have access to the magnetic stripe in order to verify ID. Telemarketing is prohibited. The institution is prohibited from created a data base derived from the mag stripe. However, this prohibition does not apply if the institution obtains a separate written consent of the license holder after providing an explanation of the request and usage in 14 point bold type.

*Action:* Evaluate desirability of obtaining mag stripe reading equipment/software to verify validity of driver's licenses and personal identification certificates. If you wish to use the stripe to create your database, set up a procedure to obtain prior consent.

*Effective Date:* September 1, 2003

# **REAL PROPERTY, CONSTRUCTION**

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## **Foreclosure Sales**

*H.B. 335 by Hamric.* This amends chapter 34 of the Civil Practice and Remedies Code and chapter 34 of the Tax Code to require persons who are bidding on real property at execution sales and tax sales to pre-qualify. The person may not bid if they do not exhibit to the officer a statement by the tax assessor showing that there are no delinquent ad valorem taxes owed by the bidder in that county. The deed to the buyer must represent that there was compliance.

*Action:* Revise foreclosure procedures to include this new requirement.

*Effective Date:* September 1, 2003

### **Delivery or Installation of a Manufactured Home in a Flood-Prone Area**

*H.B. 543 by Jones, Jesse.* This amendment to chapter 1201 of the Occupations Code basically prohibits delivery or installation of a manufactured home in a flood prone area.

*Effective Date:* June 20, 2003

### **Restrictive Covenants That Undermine Water Conservation**

*H.B. 645 by Puente.* This bill prohibits restrictive covenants in property owners associations that prohibit or restrict composting, rain barrels or certain irrigation systems. There can still be some regulation, however. This may affect property values.

*Effective Date:* September 1, 2003

### **Homebuilding Regulation**

*H.B. 730 by Ritter.* This bill establishes a title 16 in the Property Code, chapter 401, creating the Residential Construction Commission. The object is to provide certain standards for construction. It also establishes state inspectors and provides qualifications for third party inspectors. A dispute resolution process is put in place. The goal is to create a system to protect builders from unwarranted claims of construction defects.

*Effective Date:* September 1, 2003

### **Condemnation: Market Value of Groundwater Rights**

*H.B. 803 by Geren.* This adds section 21.0421 to the Property Code. In a condemnation for water rights, the commissioners must take into consideration market value of ground water as property apart from the land. This affects real property collateral values.

*Effective Date:* September 1, 2003

### **Foreclosure by Mortgage Servicers**

*H.B. 1493 by Solomons.* This amends chapter 51 of the Property Code to permit a mortgage servicer to handle a foreclosure sale. In addition, it clarifies that the address for notices on residential mortgages is the residence of the borrower unless the borrower has provided the servicer with a change of address before the notice is sent. Otherwise, it is the last known address in the books of the servicer. Property is sold “as is.” This avoids any warranty claims. Also, the trustee or substitute trustee is not a “debt collector” under Texas law.

*Effective Date:* January 1, 2004

## **Commercial Lease Charges**

*H.B. 2180 by Baxter.* This amendment to chapter 93 of the Property Code requires the charges on commercial leases to be “reasonable” and made by a method customarily used by landlords in commercial leases. This could affect banks as they lease out space in bank buildings or manage their ORE.

*Effective Date:* September 1, 2003

## **Remediation Costs**

*H.B. 2252 by Flores.* This provides an exemption from cost recovery actions and liens by the Texas Commission on Environmental Quality for remediation costs if the individual’s only significant property is a person’s homestead and has a fair market value of \$250,000 or less.

*Effective Date:* September 1, 2003

## **Groundwater Contamination**

*H.B. 3152 by Bonnen.* This legislation addresses the issue of escalating costs to investigate and to remediate municipal properties with contaminated groundwater and should have a broad impact on the way lenders view opportunities regarding brownfield properties.

The legislation authorizes the Texas Commission on Environmental Quality (“TCEQ”) and local governments to create municipal setting designations (“MSD”) for properties within the corporate limits of extraterritorial jurisdiction of municipalities that have a population of at least 20,000 and have public drinking water supplies.

Once an MSD is established, parties responsible for contaminated properties within the MSD would no longer have to consider the risks associated with human consumption of the contaminated groundwater in developing a response action to the contamination. Consequently, groundwater remediation costs would be greatly reduced or eliminated, thereby removing significant financial barriers to redevelopment.

*Effective Date:* September 1, 2003

## **Real Property Appraisers**

*S.B. 1013 by Staples.* This amends the regulation of real property appraisers. It deals with inactive certificate or licenses. It also adds a criminal penalty for engaging in an activity for which a certificate or license is required. In re-reading chapter 1103 in the Occupations

Code, it appears that it applies to appraisers only where federal law requires them for financial institutions. In other words, it does not apply to bank valuation processes.

*Effective Date:* September 1, 2003

## Confidentiality of Personal Info in Real Property Records

*S.B. 1559 by Madla.* This makes certain information filed with the county clerk in the real property records confidential. After January 1, 2004, a deed, mortgage, or deed of trust may not be recorded without the notice:

NOTICE OF CONFIDENTIALITY: If you are a natural person, you may remove or strike any of the following information from this instrument before it is filed for record in the public records: your Social Security Number or your driver's license number.

*Action:* Be sure that your deeds of trust include this notice beginning January 1, 2004!

*Effective Date:* September 1, 2003; applies to instruments executed on or after January 1, 2004

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## TAXES

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### Technical Changes

*H.B. 2424 by McCall.* This is the Comptroller's technical corrections bill. Of particular interest to us is section 39, amending the Franchise Code. It provides a definition of dividends and interest received from federal obligations that are excluded from earned surplus and gross receipt. The definition is expansive and matches the current rules. It also comports largely with federal law, which pre-empts the ability of states to tax government securities.

*Effective Date:* October 1, 2003

### Open-Space Valuation

*S.B. 480 by Madla.* Sanctions for change of use don't apply if the transfer of property is from the state or a political subdivision to an individual or business entity for purposes of economic development. IBAT monitored to ensure that the bill did not get amended and adversely affect rural borrowers.

*Effective Date:* June 20, 2003

## TORT

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### Limits on Damages

**H.J.R. 3 by Nixon.** This amendment to article 3 of the Texas Constitution authorizes the legislature to determine limitations on non-economic damages whether the action arises out of contract or tort.

**Effective Date:** If the amendment passes, effective January 1, 2005 for all tort causes of action. For medical malpractice, effective on passage.

## TRUSTS

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The following bills are of interest to banks with a trust department or subsidiary.

### Duties and Removal of a Trustee

**H.B. 1471 by Hartnett.** This amendment to the Trust Act section of the Property Code permits a trustee to be removed if he fails to make an accounting that is required by law or the terms of a trust. It also deals with a court suit requesting an accounting. If the beneficiary is successful, then the court may award costs of court as well as attorneys fees against the trustee in the trustees individual capacity or in the trustee's capacity of trustee.

This bill also deals with charitable trusts and provides protection for the trustee who acts as a prudent investor. That standard is judged based on the entire trust assets rather than by reference to a single investment.

**Effective Date:** September 1, 2003, Applies to accountings after that date.

### Uniform Prudent Investor Act

**H.B. 2240 by Paxton.** This is a Uniform Act that deals with prudent investor standards.

**Effective Date:** January 1, 2004

### Uniform Principal and Income Act

**H.B. 2241 by Paxton.** It adds a new Chapter 116 to the Property Code and is based largely on the Uniform Act.

**Effective Date:** January 1, 2004

## **Exculpatory Clauses**

***H.B. 3503 by Hartnett.*** This amendment to the Property Code limits exculpatory provisions. A settler can't protect a trustee from liability for certain breaches of trust or profit derived from any breach of trust. The bill started out basically dealing with removal of trustees!

***Effective Date:*** September 1, 2003

## **APPENDIX A – FEES & LATE CHARGES**

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## FEES & LATE CHARGES

Type of Loan	Permitted Fees Which Are Not Interest	Permitted Fees Which Are Interest	Late Charges
Commercial	Commitment fee, application fee, third-party fees, "loan fees," documentation fees, returned check fee	Origination fee (points)	YES <sup>1</sup>
Real Estate: Commercial	Commitment fee, application fee, third-party fees, "loan fees," returned check fee	Origination fee (points)	YES <sup>1</sup>
Real Estate: Residential First Lien	Commitment fee, application fee, third-party fees, "loan fees"	Origination fee (points) – no usury ceiling on first lien notes	YES <sup>2</sup>
Real Estate: Residential Second Lien – Precomputed & Scheduled Installment Method	Third-party fees, returned check fee	Administrative fee	YES <sup>1</sup>
Real Estate: Residential Second Lien – Simple Interest	Third-party fees, returned check fee	Points <sup>3</sup> , administrative fee	YES <sup>1</sup>
Consumer: Single-pay (term) over 10%	Certain third-party fees	Administrative fee	NO
Consumer: Installment – rate of 10% or less (simple interest only)	"Loan fees," documentation fees, third-party fees		YES <sup>4</sup>
Consumer: Installment – rate over 10% (simple)	Certain recording fees and collection expenses, returned check fee	Administrative fee	YES <sup>1</sup>
Consumer: Installment – rate over 10% (precomputed or scheduled installment method)	Certain recording fees and collection expenses, returned check fee	Administrative fee	YES <sup>1</sup>
Consumer: Open-end credit under Chapter 346	Annual fee, overline fee, cash advance fee, returned check fee		YES capped at \$15
Manufactured Housing Purchase Money (retail)	Transfer fee, acquisition charges (on prepayment), fees or taxes paid to agency		YES <sup>5</sup> capped at \$20
Motor Vehicle Dealer Paper	Documentation fees, fees and taxes to agency, inspection fee, policy or agent fee		YES <sup>5</sup>

<sup>1</sup> 5% after 10 days

<sup>2</sup> Federal preemption

<sup>3</sup> Interpretive letters 81-9, 82-14, 82-15, 82-28

<sup>4</sup> Greater of \$7.50 or 5% after 10 days

<sup>5</sup> 5% after 15 days

## **APPENDIX B – IBAT BILL TRACKING LIST**

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BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
<b>BANK OPERATIONS</b>			
HB 710	Thompson	Durable power of attorney	
HB 782	Grusendorf	Public schools and credit or debit cards	
HB 936	McCall	Collection of a dishonored check fee	
HB 1109	King	Collateral for state deposits	
HB 1224	Villarreal	Financial institution deposits	
HB 1590	Paxton	Multiple-party accounts	9/1/03
HB 2068	Pitts	Personal information maintained by a transportation agency	
HB 2138	Hopson	Identity theft	9/1/03
HB 2238	Paxton	Multiple-party accounts	9/1/03
HB 2248	Denny	Criminal activity affecting a financial institution	9/1/03
HB 2409	Solomons	Check verification or gurantee services	9/1/03
HB 2773	Solomons	Personal ID certificate	
HB 2973	Chavez	Currency exchange rates in international transfers of money	
SB 377	Armbrister	Regulation of Internet services	
SB 536	Shapleigh	Regulation of certain accountants	
SB 605	Shapleigh	Corporate financial report	
SB 625	Shapleigh	Financial institution deposits	
SB 626	Shapleigh	Depository of public funds	
SB 654	Shapleigh	Access to funds by individuals and new businesses in the state	
SB 966	Averitt	Public schools and credit or debit cards	6/18/03
SB 996	Williams	Collateral for state deposits	9/1/03
SB 1133	Carona	Electronics fund transfer	
SB 1583	Shapleigh	Currency exchange rates in international transfers of money	
<b>CONSUMER CREDIT</b>			
HB 1380	Thompson	Consumer loan	Vetoed
HB 1737	Turner	Credit card solicitations on school campuses	
HB 2627	Flynn	Loan agreements	
HB 2713	Gutierrez	Additional interest for default on secondary mortgage loans	
HB 3100	Madden	Loan secured by personal property	
HB 3111	Dunnam	Consumer protections regarding debt collectors	
HB 3505	Marchant	Deferred presentment	
HB 3509	Flores	Sale of service contracts	
SB 1177	Harris C	Deferred presentment	
SB 1429	Averitt	Loan agreements	6/21/03
SB 1430	Averitt	Additional interest for default on secondary mortgage loans	5/12/03
<b>CORPORATE &amp; SECURITIES</b>			
HB 1165	Solomons	Business corporations	9/1/03
HB 2039	Marchant	Corporate ethics and integrity	
HB 2578	Goolsby	Corporations and voting by electronic means	

BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
SB 145	Ellis R	Attorney General's corporate integrity unit	
SB 1059	Ellis R	Corporate ethics and integrity	9/1/03
SB 1544	Janek	Business corporations	
<b>GENERAL LENDING</b>			
HB 266	Naishtat	Payment of certain loans with political contributions	
HB 824	Marchant	Automatic withdrawal of payment on a home loan	
HB 2699	Guillen	Grants to low income areas	
HB 2952	Kuempel	Borrowing by a joint county and city hospital	6/20/03
SB 1632	Wentworth	Borrowing by a joint county and city hospital	
<b>GOVERNMENT</b>			
HB 2	Swinford	Reform measures applying to state government	
HB 1010	Denny	Electronic filings with Ethics Commission	
HB 1079	Wise	Regulation of mortgage brokers	
HB 1307	Marchant	Regulation of credit unions	9/1/03
HB 1495	Solomons	Registration of homebuilders	
HB 1579	Gallego	Regulation of political contributions, expenses, and advertising	
HB 1580	Gallego	Limits on political contributions and expenses	
HB 2584	Flynn	Definition of financial institution	
HB 2585	Flynn	Pre-license test requirement for mortgage broker and loan officer applicants	
HB 2586	Flynn	FBI background checks for mortgage broker license applicants	
HB 2587	Flynn	Licensing of mortgage brokers and loan officers	
HB 2638	Casteel	Lowering operating costs for state financial regulatory agencies	
HB 2673	Flynn	Registration of mortgage bankers	
HB 3249	McClendon	Mortgage Broker License Act	
HB 3548	Keffer J	Economic development financing	
HB 3549	Keffer J	Economic development bank	
HJR 50	Wohlgemuth	Ability of governor to remove officers in the executive branch	
HJR 52	Isett	Governor line-item veto	
SB 252	Staples	Regulation of mortgage brokers	1/1/04
SB 649	Shapleigh	Reporting of political contributions and expenditures	
SB 773	Van de Putte	Registration of homebuilders	
SB 812	Averitt	Regulation of credit unions	
SB 1577	Carona	Licensing of mortgage brokers and loan officers	9/1/03
SB 1578	Carona	Pre-license test requirement for mortgage broker applicants	9/1/03
SB 1666	Averitt	Definition of financial institution	9/1/03
SB 1667	Averitt	FBI background checks for mortgage broker and loan officer license applicants	9/1/03
SB 1719	Williams	Registration of mortgage bankers	
<b>HOME EQUITY</b>			
HB 1841	Solomons	Home equity loans	

BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
HJR 23	Hochberg	Refinancing of a home equity loan with a reverse mortgage	9/13/03 election
HJR 70	Solomons	Home equity loans	
SB 1067	Carona	Home equity lending laws	9/13/03
SJR 7	Carona	Reverse mortgages	
SJR 17	Carona	Home equity loans	
SJR 18	Carona	Home equity violation cure	
SJR 42	Carona	Home equity line of credit	9/13/03 election
SJR 47	Fraser	Home equity line of credit	
SJR 52	West R	Home equity loans	
SJR 56	Carona	Simplifying home equity borrowing	
<b>INSURANCE</b>			
HB 45	Turner	Insurance underwriting based on credit history	
HB 81	Wise	Underwriting decisions based on credit reports	
HB 98	Seaman	Insurance and mold	
HB 99	Seaman	Premium discounts for certain residential property insurance policies	
HB 113	Burnam	Consumer lines of property and casualty insurance	
HB 115	Burnam	Use of credit scoring in underwriting certain lines of insurance coverage	
HB 117	Burnam	Rate rollback for homeowner's and residential fire and allied lines insurance	
HB 121	Burnam	Policy forms for fire and homeowner's insurance	
HB 152	Wilson	Employee life insurance	
HB 241	Seaman	Notice of changes in residential property insurance coverage on renewal	
HB 265	Thompson	Credit scoring in personal auto and residential property insurance	
HB 329	Naishtat	Regulation of mold assessors and remediators	9/1/03
HB 330	Hochberg	Notice of insurance premium rate increases	
HB 331	Hochberg	Use of credit scoring in underwriting certain lines of insurance coverage	
HB 392	Seaman	Licensing of public insurance adjusters	
HB 421	Martinez F	Credit insurance policies	
HB 596	Dukes	Tiers used by insurers	
HB 600	Wolens	Regulation of lines of insurance	
HB 639	Smithee	Rate information to be filed by insurers of residential property	
HB 696	Gutierrez	Prohibition of use of credit reports for insurance underwriting decisions	
HB 720	Eiland	Prompt payment of health care providers	

BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
HB 746	Smithee	Insurance policy forms	
HB 747	Smithee	Procedures by insurers for handling water damage claims	
HB 748	Smithee	Auto and residential insurance rate regulation	
HB 750	Smithee	Deceptive insurance practices	
HB 814	Gutierrez	Motor vehicle insurance	
HB 870	Flores	Prohibiting use of credit history in underwriting insurance premiums	
HB 876	Rodriguez	Disclosure of certain public information collected by the Department of Insurance	
HB 881	Davis Y	Prompt acceptance or denial of a claim under a disability insurance policy	
HB 897	Woolley	Employer coops established for health benefits coverage	9/1/03
HB 920	Eiland	Use of credit scoring in insurance	
HB 962	Burnam	Cancellation of insurance	
HB 968	Alonzo	Limiting increases in premiums for health insurance policies	
HB 978	Dukes	Insurance policy on life of an officer, stockholder, partner, or employee	
HB 979	Dukes	Insurance coverage for manufactured homes	
HB 1085	Smithee	Insurance claims handling	
HB 1086	Smithee	Health plan groups	
HB 1096	Capelo	Private medical information	
HB 1243	Thompson	Small employer health benefits	
HB 1267	Seaman	Small employer health benefit plans	
HB 1336	Taylor	Employer health benefit plans	
HB 1338	Taylor	Residential property insurance	
HB 1345	Uresti	Health benefit plans and the Internet	
HB 1445	Brown B	Notice of insurance premium increase	
HB 1485	Burnam	Residential property insurance	
HB 1552	Haggerty	Collateral protection insurance	
HB 1553	Haggerty	Reimbursement insurance policies	
HB 1705	Taylor	Property insurance guidelines	
HB 1809	Smithee	Proof of automobile insurance	
HB 1810	Smithee	Prompt pay of health care providers	
HB 1825	Hamric	Motor vehicle financial responsibility	
HB 2736	Taylor	Small employer health benefit plans	
HB 3532	Laubenberg	Title insurance	
SB 10	Averitt	Health benefit plan groups	9/1/03
SB 14	Jackson	Auto and residential insurance regulation	6/11/03
SB 91	West R	Credit scoring in underwriting insurance coverage	
SB 99	Van de Putte	Prohibiting use of credit history in underwriting insurance premiums	

BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
SB 113	Van de Putte	Residential insurance policies	6/20/03
SB 114	Van de Putte	Insurance and mold	
SB 115	Van de Putte	Notice of changes in residential property insurance coverage on renewal	6/20/03
SB 127	Fraser	Water damage claims	6/11/03
SB 131	Fraser	Insurance policy forms	
SB 137	Ellis R	Life insurance policies	
SB 226	Ellis R	Remedies for past discriminatory practices in insurance	
SB 228	Ellis R	Public access to underwriting guidelines used by insurers	
SB 243	Shapleigh	Regulation of mold assessors and remediators	
SB 330	Nelson	Private medical information	9/1/03
SB 400	Van de Putte	Regulation of lines of insurance	
SB 418	Nelson	Health benefit plans	6/17/03
SB 422	Bivins	Proof of automobile insurance	
SB 494	Shapleigh	Health benefit plans and the Internet	9/1/03
SB 522	Nelson	Employer coops established for health benefits coverage	
SB 541	Williams	State-mandated health benefits	9/1/03
SB 916	Fraser	Motor vehicle financial responsibility	
SB 1061	Ellis R	Discrimination and insurance	
SB 1211	Van de Putte	Collateral protection insurance	6/20/03
SB 1604	Ellis R	Discrimination in sale of insurance	
<b>LIENS &amp; SECURITY INTERESTS</b>			
HB 257	Pickett	Impoundment of a motor vehicle for failure to maintain financial responsibility for the vehicle	
HB 1009	Hardcastle	Regulation and acquisition of manufactured housing	
HB 2201	Solomons	Uniform law on secured transactions	
HB 2903	Phillips	Contraband subject to foreclosure	
HB 3187	Uresti	Manufactured housing	
HB 3414	Marchant	Filing of a financing statement record under the UCC	1/1/04
SB 351	Harris C	Motor vehicle repo regulations	
SB 521	Staples	Regulation and acquisition of manufactured housing	6/18/03
SB 995	Williams	Uniform law on secured transactions	9/1/03
SB 1533	Brimer	Filing of a financing statement record under the UCC	
<b>MISCELLANEOUS</b>			
HB 154	Woolley	Personal finance education as a requirement for graduation from public high school	
HB 425	Christian	Requiring a state agency to consider legislative intent in adopting rules	Vetoed
HB 595	Dukes	Disposition of electronic equipment	
HB 649	Keffer J	Interagency work group on rural issues	9/1/03
HB 895	Geren	Development rights in real property	

BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
HB 1136	Villarreal	Discrimination based on sexual orientation	
HB 1156	Giddings	Business Organization Code	1/1/06
HB 1394	Elkins	General provisions of the UCC	9/1/03
HB 2972	Chavez	Financial literacy programs for consumers	
HB 3393	Elkins	Practices of debt collectors	
HCR 15	Woolley	Directing the Board of Education to consider elements relating to personal finance	Signed 6/22/03
SB 57	Zaffirini	Statewide alert system for abducted children	6/20/03
SB 95	West R	Requiring a state agency to consider legislative intent in adopting rules	
SB 533	Carona	Practices of debt collectors	9/1/03
SB 627	Shapleigh	Financial literacy programs for consumers	
SB 992	Armbrister	Development rights in real property	
SB 994	Williams	General provisions of the UCC	
SB 1588	Whitmire	College savings plan accounts	9/1/03
SCR 18	Barrientos	Allowing burial of Steven Leslie Martin in the state cemetery	Signed 3/18/03
<b>PERSONNEL / LABOR LAW</b>			
HB 50	Turner	Employee time off regarding child's education	
HB 328	Chisum	Information that may be obtained from an applicant for employment	
HB 355	Dutton	Employee time off to meet with people affecting his child's education	
HB 356	Dutton	Employee time off to participate in a child's school activities	
HB 359	Dutton	Mandatory arbitration in certain employment disputes	
HB 371	Dutton	Arbitration of an employment dispute	
HB 379	Dutton	Right of an employee to inspect his personnel records	
HB 574	Farrar	Discrimination based on sexual orientation	
HB 822	Goodman	Property subject to a child support lien	
HB 1020	Villarreal	Dependent care benefits	9/1/03
HB 1244	Thompson	Employment discrimination in compensation	
HB 1360	Pena	State military forces	
HB 1524	Thompson	Discrimination in employment	
HB 2001	Dutton	Court-ordered medical support for employee's child	5/23/03
HB 3060	Flores	Payment of wages by staff leasing services companies	
SB 33	Zaffirini	Employee's time off regarding child's education	
SB 374	Williams	Payment of wages by staff leasing services companies	9/1/03
SB 1806	Harris C	Court-ordered medical support for employee's child	
<b>PRIVACY</b>			
HB 56	Wise	Disclosure of a customer's personal information by a financial institution	

BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
HB 147	Solomons	Application of the no-call list to commercial mobile service providers and subscribers	6/20/03
HB 149	Solomons	Privacy protections for consumer information in the Texas no-call list	6/20/03
HB 176	McCall	Contents of a debit or credit card receipt	
HB 277	Hopson	Contents of a debit or credit card receipt	
HB 519	Menendez	Unsolicited electronic mail	
HB 853	West B	Establishing a no-offensive e-mail list	
HB 1015	Miller	Disclosing a person's Social Security Number	
HB 1053	Rodriguez	Confidentiality of Social Security Numbers	Vetoed
HB 1176	Dukes	Unsolicited e-mail	
HB 1282	McCall	Commercial electronic mail	9/1/03
HB 1429	Keel	Identity theft offense	
HB 2040	Marchant	State agencies sharing information for investigative purposes	6/20/03
HB 2125	Hupp	Texas Privacy and Security Act	
HB 2407	Riddle	Identity theft	
HB 2930	Lewis	Confidentiality of real property records	9/1/03
HJR 18	Hupp	Right of privacy	
SB 136	Ellis R	Disclosure of personal information by an Internet service provider	
SB 141	Ellis R	State agencies sharing information for investigative purposes	
SB 235	Fraser	Contents of a credit card receipt	9/1/03
SB 298	Shapleigh	Application of the no-call list to commercial mobile service providers and subscribers	
SB 299	Shapleigh	Texas no-call list	
SB 405	Hinojosa	Identity theft	
SB 473	Ellis R	Consumers and identity theft	9/1/03
SB 611	Nelson	Social Security Number on ID	3/1/05
SB 698	Duncan	Commercial electronic mail	
SB 796	Shapleigh	Disclosure of a customer's personal information by a financial institution	
SB 1033	Shapleigh	Unsolicited commercial e-mail	
SB 1388	Armbrister	Disclosure of documents filed with a county clerk	6/20/03
SB 1445	Averitt	Electronically readable info on a driver's license	9/1/03
SB 1650	Hinojosa	Texas Privacy and Security Act	
<b>PUBLIC FUNDS</b>			
HB 3312	Capelo	Commissioners court securities	6/20/03
HB 3551	Chavez	Authority of a municipality to use commercial paper instead of certificates of obligation	
SB 231	Ellis R	Ethics requirements for people involved in investing state funds	
SB 1318	Van de Putte	Securities lending for governmental entities	9/1/03

BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
SB 1534	Wentworth	Securities lending for governmental entities	
<b>REAL PROPERTY, CONSTRUCTION</b>			
HB 335	Hamric	Eligibility of persons to participate in the public sale of certain real property	9/1/03
HB 427	Christian	Leased property that is prone to flooding	
HB 468	Berman	Residential restrictive covenants	
HB 537	Nixon	Landlord's duty to mitigate damages	
HB 541	Chisum	Contingent payment clauses in certain construction contracts	
HB 543	Jones J	Restrictions on delivery or installation of a manufactured home in a flood-prone area	6/20/03
HB 625	Lewis	Equal access to places of public accommodation	
HB 636	Jones J	Housing discrimination against persons convicted of a nonviolent criminal offense	
HB 645	Puente	Restrictive covenants that undermine water conservation	9/1/03
HB 688	Coleman	Release of a mechanic's lien	
HB 730	Ritter	Residential construction	9/1/03
HB 803	Geren	Market value of groundwater rights	9/1/03
HB 902	Solomons	Servicing of a mortgage loan	
HB 1205	Dukes	Practices in connection with home loans	
HB 1493	Solomons	Authorizing a mortgage service to conduct a foreclosure sale	1/1/04
HB 1641	Bailey	Property owner's association	
HB 1667	Jones J	Fee on real estate transactions to fund a housing repair program for low income elderly	
HB 1779	Davis Y	Disclosure of property sales price	
HB 1821	Kuempel	Ad valorem and open-space land	
HB 1871	Riddle	Date for sale of real property under contract lien	
HB 2180	Baxter	Charges for commercial leases	
HB 2252	Flores	Liens placed on homesteads by the Commission on Environmental Quality	9/1/03
HB 2515	Turner	Required reporting to a chief appraiser of information about real property	
HB 2541	Menendez	Affordable housing	
HB 2646	Bailey	Property owners' associations	
HB 2675	Haggerty	Sale of ad valorem tax liens	
HB 3018	Solomons	Mechanic's lien	
HB 3019	Wise	Regulation of lending and finance practices	
HB 3077	West B	Foreclosure of liens on property located in a residence subdivision	
HB 3152	Bonnen	Groundwater contaminants	9/1/03
HB 3183	Hill	Disclosure of real property sale price to an appraisal district	
HB 3260	Naishtat	Forced sale in real property	

BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
HB 3433	Rodriguez	Applying for a resident homestead exemption	
HJR 72	Kuempel	Ad valorem tax appraisal on open-space land	
SB 188	Lindsay	Public sale of real property	
SB 256	Harris C	Contingent payment clauses in construction contracts	
SB 350	Armbrister	Equal access to places of public accommodation	
SB 383	Duncan	Residential construction	
SB 535	Lucio	County regulation of land development	
SB 551	Harris C	Priority of lender's lien over mechanic's lien	
SB 779	Armbrister	Restrictive covenants that undermine water conservation	
SB 906	Lindsay	Date for sale of real property under contract lien	
SB 949	Lindsay	Property owners' associations	
SB 999	West R	Funding for housing by Dept. of Housing & Community Affairs	
SB 1001	West R	Mortgage lender information	
SB 1003	West R	Financing homes	
SB 1013	Staples	Appraising real property	9/1/03
SB 1112	Shapleigh	Regulation of lending and finance practices	
SB 1559	Madla	Confidentiality of personal information filed with the county clerk	9/1/03
SB 1761	Jackson	Groundwater contaminants	
SB 1783	Lucio	Applying for a resident homestead exemption	
<b>TAXES</b>			
HB 108	Chavez	Refund of sales tax on equipment purchased by peace officers, firefighters, and EMS personnel	
HB 395	Merritt	Failure to render property for ad valorem tax purposes	
HB 450	Mowery	Minimum franchise tax	
HB 480	Wilson	Ad valorem taxes for ag land	
HB 589	Davis Y	Repealing certain taxes	
HB 611	Giddings	Franchise tax credit for corporate group health benefit	
HB 694	Davis Y	Application of the franchise tax to certain entities	
HB 702	Solomons	Sunset review process and state taxes	
HB 827	Davis Y	Sunset review process and property taxes	
HB 847	Rangel	Open-spaced land and ad valorem taxes	
HB 892	Haggerty	Appraisal district and tax laws	
HB 1002	Thompson	Repeal of state and local taxes	
HB 1126	Miller	Repeal of franchise tax	
HB 1143	Lewis	Sales tax on repairing and remodeling services	
HB 1160	Isett	Repeal of franchise tax	
HB 1807	Hill	Rendition of property for ad valorem tax purposes	
HB 1851	Allen	Ad valorem tax	
HB 2122	Wilson	Taxes and fees	
HB 2281	Coleman	Taxes and fees	
HB 2378	Hill	Rendition of property for ad valorem tax purposes	

BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
HB 2424	McCall	Taxes and fees	10/1/03
HB 2517	Turner	Ad valorem taxation of farm products and open-space land	
HB 2570	Moreno P	Income tax for school finance	
HB 2803	Giddings	Rendition of property for ad valorem tax purposes	
HB 3146	Wilson	Franchise tax reform	
HB 3437	Rodriguez	School finance	
HJR 47	Merritt	Inheritance tax	
HJR 53	Isett	Requiring a 2/3 vote of the House to enact tax bills	
HJR 96	Rodriguez	Income tax approval by the legislature	
SB 2	Shapiro	Public school finance	
SB 224	Averitt	Ad valorem tax appraisals	
SB 225	Averitt	Ad valorem taxation of personal property used for production of income	
SB 480	Madla	Ad valorem tax for open-space land	6/20/03
SB 758	Brimer	Sales tax on repairing and remodeling services	
SB 1030	Shapleigh	Franchise tax	
SB 1031	Shapleigh	Sales tax on services	
SB 1032	Shapleigh	Tax refunds for employers providing group health plans	
SB 1279	Armbrister	Taxes and fees	
SJR 1	Shapiro	Texas education fund	
SJR 11	Janek	Requiring a 2/3 vote of each House to enact tax bills	
SJR 16	Averitt	Ad valorem tax for commercial property	
<b>T O R T</b>			
HB 4	Nixon	Procedures and remedies in civil actions	6/11/03
HB 956	Isett	Charitable organizations	
HB 2347	Miller	Damages in civil suits	
HB 2920	Christian	Arbitration laws	
HB 2949	Hope	Right to demand a jury trial	
HJR 3	Nixon	Damages in health care claims	9/13/03 election
HJR 39	Nixon	Health care liability claims	
SB 328	West R	Filing of information by arbitrators after each arbitration	
<b>T R U S T S</b>			
HB 1471	Hartnett	Duties and removal of a trustee	9/1/03
HB 2239	Paxton	Applicability of the rule against perpetuities to trusts	
HB 2240	Paxton	Uniform Prudent Investor Act	1/1/04
HB 2241	Paxton	Uniform Principal and Income Act	1/1/04
HB 3503	Hartnett	Trusts	9/1/03
HJR 77	Paxton	Prohibition against perpetual trusts	
SB 534	Carona	Applicability of the rule against perpetuities to trusts	
SB 573	Harris C	Uniform Principal and Income Act	

BILL	AUTHOR	SUBJECT	FINAL ACTION/ EFFECTIVE DATE
SB 574	Harris C	Duties and removal of trustees	
SB 575	Harris C	Uniform Prudent Investor Act	
SB 1668	Averitt	Sale of insurance by financial institution	
SJR 26	Carona	Prohibition against perpetual trusts	
<b>U S U R Y</b>			
HB 588	Marchant	Credit services organizations	
HB 1442	Goolsby	Surcharge on credit cards	
HB 1916	Howard	Prepayment penalty on commercial loan	
SB 324	Armbrister	Credit services organizations	9/1/03
SB 417	Harris C	Interest rate ceilings	
SB 774	Averitt	Revolving credit accounts	9/1/03
SB 798	Brimer	Surcharge on credit cards	
SJR 22	Harris C	Rate of interest for commercial loans	