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Summarizing state legislative and regulatory developments affecting housing and the building industry.

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ACTION ALERT - B&I Hearing on TRCC Bills - TUESDAY, March 31

We have confirmed that the House Business and Industry Subcommittee on TRCC, Property, Landlord and Tenant issues will be hearing TRCC bills with which we have serious concerns on **Tuesday, March 31 at 10 a.m. or upon adjournment of the House in room E2.030**. We expect the hearing to start around 2:00, after the House adjourns from session. Click [here](#) to view a list of the bills being heard.

Your participation at this hearing is crucial. We urge you to attend and turn in witness cards against some of these bills.

Thank you,
TAB Government Relations Staff

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HB 2295 - TRCC Sunset Bill - Hearing Review

The House Business and Industry Committee heard TRCC Sunset bill, HB 2295, by Rep. McClendon on Monday. The testimony lasted about six hours and a big thank you goes out to all who attended, testified and sent letters of support to the members; it is a grassroots effort such as this that Legislators appreciate and makes TAB such an effective association. The hearing went well overall, with some great testimony being presented by the builders. However, those speaking against the TRCC were out in force and made an impression on members of the committee who were hearing from homeowners and consumer groups for the first time. This testimony weakened several committee members from their strong support of the bill and more work must be done to inform them of the compromises reached in HB 2295 and other recent changes such as those incorporated in HB 1038 last session. Undoubtedly there will be pressure for more changes before the bill is

voted from committee and sent to the full House.

If you would like to watch the video broadcast of the committee hearing you may do so at:

<http://www.house.state.tx.us/fx/av/committee81/90323a04.ram>. The builder testimony can be found at the beginning of the hearing and in the last hour of the hearing.

Some of the issues that received particular focus included:

- length of time for the SIRP process at the TRCC
- making the SIRP process voluntary to homeowners vs. mandatory
- the overwhelming use of mandatory binding arbitration clauses in builder contracts
- licensing vs. registration of builders
- requirements for insurance and the lack of construction defect coverage in most GL policies in Texas
- mandatory performance bonds on “build on your lot” type projects
- extension of the 1 year warranty on workmanship to 2 years
- making the “star builder” program mandatory
- requiring additional continuing education and requiring new registrants to take a one day course either before or shortly after their registration
- licensing of all trades in the residential construction industry

At the conclusion of the hearing, TAB was tasked by the committee to work with all groups and the committee as the bill moves forward. Much work remains to be done, but rest assured TAB is following up with all committee members in detail and TAB leadership is meeting immediately to plan our next course of action on the many issues surrounding the continuation of the TRCC.

Thanks again to all who participated and showed support.

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81st Legislative Session Update

GOVERNOR – On Monday, Governor Rick Perry announced the state will invest \$50 million through the Texas Emerging Technology Fund (ETF) in the Texas A&M University System to create the National Center for Therapeutics Manufacturing. The center will be an international destination for research and development of medications to combat diseases such as cancer, diabetes and influenza, and will serve as a model for future national facilities that will protect the nation from bio-terror threats and attacks. Governor Perry said, “There is no question that the biotechnology industry is essential to developing products that can improve and save lives, and Texas is working to foster continued growth of this industry within the state.” This ETF award came under fire from House Appropriations Committee chair

Representative Jim Pitts (R-Waxahachie), who charged that the governor and Texas A&M University bypassed lawmakers to award the grant by transferring \$50 million from the Texas Enterprise Fund to the Emerging Technology Fund for the grant. Chairman Pitts said, “It is my personal goal to get something in the appropriations bill that will prevent this from happening again.”

SENATE – The Senate was in session Monday through Thursday of this week. On Tuesday, they spent six hours debating SB 175 by Senator Florence Shapiro (R-Plano). It would cap the number of students that state universities admit under the top 10% rule which requires state universities to automatically admit any student that is in the top 10% of his or her graduating class. SB 175 would cap the number of students admitted under the top 10% rule at 50% of the incoming freshman class. The bill received tentative approval on Tuesday and was finally passed on Wednesday. On Wednesday, the Senate approved SB 730 by Glenn Hegar (R-Katy) which would prohibit employers from prohibiting employees from keeping a legal firearm in his/her locked vehicle in the employer’s parking lot. And, they passed SB 572 by Senator Florence Shapiro (R-Plano) - Jacob’s Law named after Jacob Fox who died in a daycare van after being left behind in 103 degree temperatures. The bill requires training of providers transporting children whose chronological or developmental age is nine years or younger. Also on Wednesday, the Senate honored Lt. Governor David Dewhurst for his upcoming induction into the Texas Rodeo Cowboy Hall of Fame. Senator Troy Fraser said (to the Lt. Governor), “We get a lot of honors in politics, but I know the fact that you like being a cowboy makes this a big deal.” After a brief session on Thursday, the Senate adjourned for the weekend.

Total number of bills reported out of Senate Committees this week: 110

Total number of bills passed by the Senate this week: 23

Total number of bills passed on the Local and Uncontested Calendar: 0

HOUSE – The House was in session Monday through Thursday of this week. They debated their first bills of the session on Wednesday. The first bill to pass was HB 873 by Representative Dawnna Dukes (D-Austin) which would increase the financial incentives to lure movie and TV producers to the state. Representative Chris Turner (D-Arlington) was the first freshman legislator to pass a bill this session – HB 1637, which would allow shift workers to qualify for the shared work unemployment compensation program. His fellow freshmen stood in solidarity behind him as veteran lawmakers grilled him all in good fun before unanimously passing his bill. The House passed two rather interesting bills - HB 693 by Vicki Truitt (R-Southlake) would exempt falconers from Structural Pest Control Service licensure as commercial applicators. (Apparently, falconry is often used as a form of pest control to deter large populations of “nuisance birds” from airport runways and urban areas.) Another bill, HB 968 by Representative Mark Homer (D-Paris) would allow *any* individual to use a crossbow

during open archery season if the individual has a valid archery hunting stamp. (Under current law, only a licensed individual with an upper limb disability may hunt deer, turkey, or javelina with a crossbow during open archery season.) On Thursday, the House had its first Local and Consent calendar. The House will reconvene next Monday at 11:00 a.m. (rather than their usual 2:00 p.m. Monday start time, in order to give House committees more time to hear bills on Monday afternoon).

Total number of bills reported out of House Committees this week: 56

Total number of bills passed by the House this week: 16

Total number of bills passed on the Local and Consent Calendar: 8

BUDGET – The Senate Finance Committee has sent SB 1, the Senate’s proposed budget for 2010-11, to the printer. The Senate proposed budget totals \$177 billion. This total includes \$14.2 billion in federal stimulus funds. In the final days of deliberations, the committee members did vote to ban the expenditure of state funds for embryonic stem cell research. But, a proposal to limit state funding to Planned Parenthood was not approved. Committee chair Steve Ogden (R-Bryan) announced that he expects the Finance Committee to vote the bill out of committee this coming Monday. Ogden is anticipating that the bill will be considered by the full Senate by the end of next week.

The House Appropriations Committee is also close to finishing its work on the House version of the state budget. In a question and answer session on the House floor this week, Appropriations Committee chair Jim Pitts (R-Waxahachie) and Federal Stimulus Fund Subcommittee chair Myra Crownover (R-Lake Dallas) explained that the federal stimulus funds would be detailed in a separate article in the House budget bill as well as through the other articles where those funds were applied. Various House members continue to raise questions about how the federal stimulus funds will affect the budget process. Pitts and Crownover continue to offer reassurance that the full House will have the opportunity to review the House budget proposal and its treatment of federal stimulus funds.

The differences between the House and Senate versions of SB 1 will be worked out during a conference committee. The House will substitute its version for the Senate version contained in SB 1. The Senate will reject the House version, as always, and the differences will be worked out by a joint conference committee.

In addition to the SB 1, two other budget-related bills require passage: (1) the supplemental appropriations bill, to appropriate additional funds needed in the current biennial budget, totaling almost \$1 billion, and (2) HB 6, the Hurricane Ike recovery bill, totaling approximately \$800 million.

STIMULUS FUNDS – The House Select Committee on Federal

Economic Stabilization Funding held its second out-of-town public hearing in San Antonio last Saturday where the turnout was less than 100 people throughout the day. The focal point for the impact of the federal stimulus funding in the House has shifted from the House Select Committee on Federal Economic Stabilization Funding to the House Appropriations Committee. As Appropriations federal stimulus fund subcommittee chair Myra Crownover explained to the House this week, the Select Committee is serving as a fact-finding panel, while her subcommittee is overseeing the flow of the federal funds through the various existing state/federal fund formulas.

ENVIRONMENT – The House Natural Resources Committee:

HB 177 by Brandon Creighton (R-Conroe) would require commercial injection well operators to monitor groundwater and test shallow soils on site. *It was left pending.*

HB 178 by Brandon Creighton (R-Conroe) would establish siting criteria under which the location of injection wells would be prohibited. *It was left pending.*

HB 179 by Brandon Creighton (R-Conroe) would require Texas Commission on Environmental Quality to adopt comprehensive rules to regulate injection wells and provide for a temporary moratorium on injection well permits. *It was left pending.*

HB 1890 by Brandon Creighton (R-The Woodlands) would require groundwater conservation districts to be notified of permits for injection wells located within their territory. *It was left pending.*

HB 2063 by Bill Callegari (R-Houston) would authorize groundwater conservation districts to enforce their rules against any person by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction. *It was left pending.*

HB 2374 by Ryan Guillen (D-Rio Grande City) would authorize municipalities in economically distressed areas to use money from the residential plumbing assistance fund to pay costs to connect a residence to a water distribution system. *It was left pending, but the committee reconvened on Thursday and it was voted out favorably.*

The **Senate Natural Resources Committee** took up:

SB 1190 by Robert Duncan (R-Lubbock) is the same as HB 2063 above. *It was left pending.*

SB 1386 by Kel Seliger (R-Amarillo) would base priority groundwater management area designations to be based on the area's 50-year (rather than 25-year) water needs. *It was left pending.*

SB 1472 by Mario Gallegos (D-Houston) would require air permit applications to attend a public meeting to answer questions regarding the permit. *It was left pending.*

HUMAN RESOURCES/EMPLOYMENT – On Wednesday, Governor Rick Perry joined employers and employees of O'Hair Shutters in Lubbock, where he reiterated his decision not to implement an unprecedented expansion of the state's unemployment insurance program as proposed in recent federal stimulus legislation. He also

reaffirmed his call to continue fostering the state's competitive economic climate through proven job creation programs. The governor said, "My focus has been, and continues to be, cultivating an environment that creates more jobs for Texans. Because Texans prefer a paycheck over an unemployment stipend, I will continue to call on lawmakers to cultivate an economic climate that decreases burdens on employers, encourages investment and creates more jobs for Texans."

In response to the Governor's Press Conference, Senator Rodney Ellis (D-Houston) said, "The recession has hit Texas. According to the Texas Comptroller of Public Accounts and the U.S. Federal Reserve, the Texas economy will lose between 180,000 to 300,000 jobs in 2009, and the unemployment rate is expected to rise from 6% to 8.2%. Texas families are hurting and are worried about how they are going to keep their homes and pay their bills. They want help and they want action, but all they're getting from Austin is political posturing. Governor Perry has said he will reject that funding simply because we would have to make small changes to our unemployment insurance system. This is the definition of penny-wise and pound-foolish. I doubt Texans think sending a half-billion of our tax dollars to other states while doing nothing to save the state's faltering unemployment trust fund is the best way to pull ourselves from this recession. In addition, if Texas rejects that money, businesses in our state will suffer the consequences. Should Texas fail to act, by September 2009 our unemployment trust fund could be \$749 million below the floor. Two things happen then: an automatic 'deficit tax' will be triggered on nearly all businesses to make up the shortfall; and, funding could end for important economic development programs."

On Thursday, the Texas Workforce Commission announced that Texas' seasonally adjusted unemployment rate rose to 6.5% in February, while the U.S. unemployment rate climbed to 8.1%. Texas' unemployment rate continues to trend well below the national rate. The Texas unemployment rate is up slightly from 6.4% in January and 4.5% in February 2008. Texas' seasonally adjusted nonagricultural employment fell by 46,100 in February. Revised data showed Texas employers lost 55,900 jobs in January. Texas recorded a net loss of 62,000 in the past 12 months, compared with job losses of 4.2 million nationwide during the same period. Texas Workforce Commission (TWC) Chairman Tom Pauken said, "Texans are facing tough economic times now with significant statewide job losses. However, the Texas unemployment rate remains far below that of other large states and the nation as a whole." TWC Commissioner Representing Labor Ronny Congleton said, "The numbers of reported job losses make unemployment more challenging, and TWC is intensifying our assistance to job seekers." TWC Commissioner Representing the Public Andres Alcantar said, "Texas is feeling the effects of the national and global economic conditions with job losses across many industries last month."

PROPERTY – House Border and Intergovernmental Affairs Committee:

HB 2275 by Richard Raymond (D-Laredo) would create a task force to develop uniform standards for subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties. In support were representatives of Webb County Commissioners Court, Community Associations Institute, and Texas Land Developers Association. *It was reported out favorably and recommended for the Local and Consent calendar.*

HB 3313 by Yvonne Gonzalez Toureilles (D-Alice) would authorize counties to obtain a lien against property to secure payment of a fee for the installation, operation, and maintenance of street lights. In support were representatives of Hidalgo County. *It was left pending but the committee reconvened on Thursday and voted it out favorably.*

House County Affairs Committee:

HB 2833 by Marissa Marquez (D-El Paso) would authorize the commissioners court in counties within 50 miles of a international border to regulate residential land development in the unincorporated area of the county. In support were representatives of County Judges & Commissioners Association of Texas, Texas Conference of Urban Counties, El Paso County, and City of El Paso. In opposition were representatives of El Paso Association of Builders, Texas Association of Builders, Tropicana Homes, Texas Land Developers Association, and Texas Landowners Council. *It was left pending.*

House Business and Industry’s Subcommittee on TRCC, Property, Landlord and Tenant issues:

HB 1513 by Wayne Smith (R-Baytown) would provide that construction contract trust funds paid to a creditor are not property or an interest in property of a debtor who is a trustee. *It was left pending.*

House Defense and Veteran’s Affairs Committee:

HB 143 by Ruth Jones McClendon (D-San Antonio) would authorize the commissioners court to regulate the platting or clearing of a tract of land larger than two acres. *It was left pending.*

HB 1013 by Frank Corte (R-San Antonio) would allow a county to adopt orders regulating the installation and use of outdoor lighting within five miles of a military installation. *It was left pending.*

HB 2919 by Susan King (R-Abilene) would make changes to land use authority to ensure compatible development with military facilities. *It was left pending.*

House Land and Resource Management Committee:

HB 4 by Rob Orr (R-Burleson) would require a public meeting and a record vote of the governing body of a governmental entity prior to initiation of a condemnation proceeding; and would provide that an entity’s power of eminent domain would expire on September 1, 2011, unless the entity submits a letter to the comptroller by December 31, 2010 stating that the entity is authorized by the state to exercise the

power of eminent domain. *It was left pending.*

HB 1125/HJR 14 by Frank Corte (R-San Antonio) proposes a constitutional amendment to require the state or political subdivision of the state that takes, damages, or destroys property to prove by clear and convincing evidence that the contemplated use of the property is public and necessary. *They were left pending.*

HB 1385/HJR 65 by Yvonne Davis (D-Dallas) proposes a constitutional amendment that would set guidelines for compensation for the taking of property that is a homestead or farm. *They were left pending.*

HB 1432 by Jim Jackson (R-Carrollton) would allow an owner of real property that is acquired by eminent domain to repurchase that property if the public purpose is canceled. *It was left pending.*

HB 1483 by Jim Pitts (R-Waxahachie) would make changes to civil statutes relating to eminent domain. *It was left pending.*

HB 1534 by Lon Burnam (D-Fort Worth) would require property valuation information to be provided for property to be acquired by eminent domain. *It was left pending.*

HB 1536 by Lon Burnam (D-Fort Worth) would eliminate the power of eminent domain for a gas corporations when constructing a pipeline in Tarrant County. *It was left pending.*

HB 2685 by Bill Callegari (R-Houston) would require a copy of the landowner's bill of rights to be given to the owner of the property on or before the date the eminent domain authority makes an offer. *It was left pending.*

HJR 31 by Charles "Doc" Anderson (R-Waco) proposes a constitutional amendment to prohibit the state or a political subdivision from taking private property through eminent domain if the primary purpose of the taking is for economic development or to benefit a particular private party. *It was left pending.*

House Licensing and Administrative Procedure Committee:

HB 2763 by Edmond Kuempel (R-Seguin) would make changes to the regulation of industrialized housing and buildings. *It was voted out favorably.*

House Urban Affairs Committee:

HB 459 by David Leibowitz (D-San Antonio) would give a county the power of abatement for unsafe buildings that are a public nuisance. *It was voted out favorably as substituted.*

HB 554 by Jose Menendez (D-San Antonio) would authorize the governing body of a municipality to establish a Model Codes Advisory Board to review and recommend the adoption of and an amendment and/or addition to national model codes to govern the construction, renovation, use, or maintenance of buildings in the municipality. *It was voted out favorably as substituted.*

HB 722 by Donna Howard (D-Austin) would allow municipalities to regulate the location of facilities that supply drinking water. *It was left pending.*

HB 3065 by Dwayne Bohac (R-Houston) would allow a municipality

to require registration of a vacant building. *It was left pending.*

Committee Reports:

HB 761 by Brandon Creighton (R-Conroe) would increase the punishment for committing a property crime in a declared disaster area. *It was reported favorably from the House Defense and Veterans Affairs Committee.*

HB 2275 by Richard Raymond (D-Laredo) would create a task force to develop uniform standards for subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties. *It was reported favorably as substituted from the House Border and Intergovernmental Affairs Committee and recommended for the Local and Consent calendar.*

SB 252 by Craig Estes (R-Wichita Falls) would authorize municipalities with a population of less than 10,000 to enter into an agreement with an owner of real property in or adjacent to an area in the municipality that has been approved for funding under a revitalization or redevelopment program to prohibit ad valorem tax increases on the owner's property for a limited period. *It was reported favorably from the Senate Agriculture and Rural Affairs Committee.*

Passed the Senate:

SB 820 by Robert Duncan (R-Lubbock) would authorize the governing body of a municipality to establish a Model Codes Advisory Board to review and recommend the adoption of and an amendment and/or addition to national model codes to govern the construction, renovation, use, or maintenance of buildings and building systems in the municipality. *The committee substitute was adopted and it passed the Senate by a vote of 30 to 1. (Tommy Williams was the only "no" vote.)*

TAXATION – Texas Comptroller Susan Combs announced state sales tax revenue in February totaled \$1.74 billion, down 2.6% compared to February 2008. Comptroller Combs said, "State sales tax collections declined in February as important sectors such as retail trade and construction continue to struggle. While state sales tax revenue has grown 2.8% through the first half of fiscal 2009, further declines are expected as the economy continues to weaken."

Senate Government Organization Committee:

SB 1008 by Craig Estes (R-Wichita Falls) would abolish the Board of Tax Professional Examiners and transfer its functions to the Texas Board of Licensing and Regulation. In support were representatives of Texas Association of Appraisal Districts, Texas Apartment Association, and Texas Association of Realtors. *It was left pending.*

House Business and Industry's Subcommittee on TRCC, Property, Landlord and Tenant Issues:

HB 2257 by Helen Giddings (D-DeSoto) would require persons who file an instrument conveying commercial property, multifamily residential property, or vacant land to disclose the sales price of the

property. *It was left pending.*

At Wednesday's **House Ways and Means Committee** meeting, Chairman Rene Oliviera (D-Brownsville) announced that the committee has been referred almost 500 bills. He said, "I don't think anybody expected this volume. The committee will need to add an additional hearing each week, limit testimony, and establish some priorities for hearing the bills." The committee took up:

HB 62 by Jimmie Don Aycock (R-Killeen) would institute a property tax exemption for the residence homestead of disabled veterans with a disability rating of 100%. *It was left pending.*

HB 69/HJR 17 by Ryan Guillen (D-Rio Grande City) proposes a constitutional amendment to allow local taxing jurisdictions to freeze the ad valorem tax appraisals on the residence homestead of active duty reservists. *They were left pending.*

HB 132 by Warren Chisum (R-Pampa) would institute a blanket property tax exemption for charitable organizations and would repeal Section 11.184 of the Tax Code which provides exemptions for charitable organizations if approved by the governing body or the voters of a taxing unit. *It was left pending.*

HB 408 by Carl Isett (R-Lubbock) would allow disabled veterans or the unmarried surviving spouse of a disabled veteran to pay property taxes on his/her residence homestead in installments. *It was left pending.*

HB 742 by Kino Flores (D-Mission) would exempt from ad valorem taxes the residence homestead of a disabled veteran who has a service-connected disability rating of 100%; would institute a sliding scale for less than 100% disability. *It was left pending.*

HB 770 by Donna Howard (D-Austin) would continue a residence homestead exemption on a property during the time a replacement structure is constructed if the structure is rendered uninhabitable or unusable by a casualty, mold, or water damage. *It was left pending.*

HB 791 by Lon Burnam (D-Fort Worth) would expand the sales tax holiday for energy-efficient products (which is currently Memorial Day weekend) to include the period surrounding the July 4th holiday. *It was left pending.*

HB 803 by Lon Burnam (D-Fort Worth) would exempt energy efficient products purchased by persons receiving services under the Temporary Assistance for Needy Families or food stamp program from the sales tax. *It was left pending.*

HB 831 by Larry Taylor (R-League City) would institute an ad valorem tax exemption for nonprofit community business organizations. *It was left pending.*

HB 959/HJR 48 by Dennis Bonnen (R-Angleton) proposes a constitutional amendment to authorize the legislature to grant a \$5,000 homestead exemption for volunteer firefighters and emergency medical services volunteers. *They were left pending.*

HB 1008 by Joe Moody (D-El Paso) would institute a property tax exemption for the residence homestead of disabled veterans with a disability rating of 100%. *It was left pending.*

HB 1129/HJR 57 by Jim McReynolds (D-Lufkin) proposes a

constitutional amendment to authorize a hospital district to establish an ad valorem tax freeze on the residence homesteads of disabled or elderly persons and their surviving spouses. *They were left pending.*

HB 1139 by Fred Brown (R-Bryan) would eliminate the sunset date for counties that impose a hotel occupancy tax. *It was left pending.*

HB 1155 by Jim McReynolds (D-Lufkin) would authorize previously qualified disabled veterans and surviving spouses of disabled veterans to transfer his/her residence homestead exemption to a new residence homestead. *It was left pending.*

HB 1257 by Ken Legler (R-Pasadena) would authorize installment payments of ad valorem taxes on property owned by a business located in a disaster area if the business had less than \$5 million in gross receipts. *It was left pending.*

HB 1328 by Ruth Jones McClendon (D-San Antonio) would institute a property tax exemption for property on which a solar or wind-powered energy device is installed or constructed. *It was left pending.*

Senate Finance Committee:

SB 792 by Jane Nelson (R- Lewisville) would authorize the governing body of a fire control, prevention, and emergency medical services district or crime control and prevention district to impose a tax on receipts from the sale, production, distribution, lease, or rental of gas and electricity for residential use. *It was left pending.*

SB 947 by Robert Duncan (R-Lubbock) would define goods-in-transit as tangible personal property that is stored under a contract of bailment by a public warehouse operator at one or more public warehouse facilities in this state that are not in any way owned or controlled by the owner of the personal property. *It was left pending.*

Committee Reports:

HB 1038 by Ken Paxton (R-McKinney) would require a chief appraiser to consider the value of other residential property located in the same neighborhood (even if the property was sold at a foreclosure sale within the past three years or has a market value that has declined because of a declining economy) in determining the market value of a residence homestead. *It was reported favorably as substituted from the House Ways and Means Committee. It is on Monday's House calendar.*

Passed the Senate:

SB 576 by Wendy Davis (D-Fort Worth) would authorize the board of directors of a reinvestment zone and the governing body of the municipality or county that creates a reinvestment to enter into agreements to provide for the construction of a road, sidewalk, or other public infrastructure in or out of the zone. *It passed the Senate unanimously.*

WORKERS' COMPENSATION – House Business and Industry's Subcommittee on Workers' Compensation and HOA:

HB 32 by David Leibowitz (D-San Antonio) would prohibit

discrimination against or discharge of an employee who has sustained an injury and instituted a common law proceeding against an employer who does not have workers' compensation insurance. In support were representatives of Association of Texas Professional Educators and Texas AFL-CIO. In opposition were representatives of Texas Association of Responsible Nonsubscribers, Texas Alliance of Nonsubscribers, Texas Retailers Association, Texas Hotel & Lodging Association, Texas Automobile Dealers Association, Texas Association of Business, Associated Builders and Contractors of Texas, CHRISTUS Health, National Federation of Independent Business-Texas, Texas Restaurant Association, HEB Groceries, Inc., and Texas Association for Home Care. *It was left pending.*

HB 33 by David Leibowitz (D-San Antonio) would require employers that do not carry workers' compensation insurance to report to the Texas Department of Insurance's Division of Workers' Compensation data relating to each work-related injury sustained by an employee and any related benefits paid to the employee and certification that the employer will not, before the 10th day after the date of the accrual of an employee's cause of action against the employer to recover damages for personal injury or death sustained by the employee, enter into a contract with the employee that affects a procedural or substantive right of the employee to recover damages in that action. In support was a representative of Texas AFL-CIO. In opposition were representatives of Texas Association of Responsible Nonsubscribers, Texas Alliance of Nonsubscribers, Texas Retailers Association, Texas Hotel & Lodging Association, Texas Automobile Dealers Association, Texas Association of Business, Associated Builders and Contractors of Texas, CHRISTUS Health, National Federation of Independent Business-Texas, Texas Restaurant Association, HEB Groceries, Inc., and Texas Association for Home Care. *It was left pending.*

HB 673 by Burt Solomons (R-Carrollton) would authorize the Office of Injured Employee Counsel to refuse to provide or to terminate their services to any claimant who is abusive or violent or threatens any employee of the office. *It was left pending.*

HB 699 by John Zerwas (R-Katy) would require a court in a trial initiated by an insurance carrier to appoint an attorney to represent a claimant (if requested by the claimant) if the court determines that the claimant has made a good faith unsuccessful effort to retain counsel. In support was Marianne Bogel representing herself. In opposition were representatives of Texas Association of Business, Texas Trial Lawyers Association, Liberty Mutual Group, Association of Fire and Casualty Companies of Texas, Associated Builders and Contractors of Texas, and Property Casualty Insurers Association of America. *It was left pending.*

HB 2428 by Joe Deshotel (D-Beaumont) would make doctors performing a medical examination required under the workers' compensation system immune from liability under the same statute that grants immunity to a designated doctor; however, it would not grant immunity to a doctor performing a service at the request of an insurance carrier, injured employee or injured employee's

representative. *It was left pending.*

HB 2429 by Joe Deshotel (D-Beaumont) would require insurance carriers to provide the employer with return-to-work coordination services on an ongoing basis to facilitate an employee's return to employment upon notice that an injured employee is eligible to receive temporary income benefits. In support were representatives of Texas Association of Business and Texas Medical Association. In opposition was Marianne Bogel representing herself. *It was left pending.*

To look up any bill, visit the [Texas Legislature Online](#).

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Bills of Interest

***Update on HB 1511:** On Tuesday, the House Insurance Committee unanimously voted out (with a 9 to 0 vote) HB 1511 that would make fire sprinklers optional in new residential construction of houses under 7500 sq. ft. even if the local codes were amended to require their use. The bill now goes to the House Calendars Committee for consideration to be placed on the House Calendar. It will hopefully be scheduled for a vote by the full House in the coming days. Please look for a call to action soon requesting letters of support to your Representatives for this very important bill.

HB 194 (Roberto Alonzo, D-Dallas) Relating to use of a credit score by a business or lender. Adds Chapter 73 to the Business and Commerce Code to prohibit businesses from using credit scores to discriminate against customers in the price or rate the business charges, including a utility service. Further prohibits persons who make credit extensions from discriminating against a borrower in the rate of interest based on the borrower's credit score. Provides that a violation is a deceptive trade practice and is actionable as such under Subchapter E, Chapter 17 of the Business and Commerce Code.

HB 655 (Burt Solomons, R-Carrollton) Relating to payment to a trustee or substitute trustee after public sale of foreclosed property. This bill relates to payment to a trustee or substitute trustee after public sale of foreclosed property. The bill aims to make the purchase price for the property be paid within one hour after acceptance of a bid by the trustee or substitute trustee. Current law states the purchase price must be paid immediately.

HB 2393 (Kirk England, D-Grand Prairie) Relating to providing notice of foreclosure to certain lien holders. Requires sales of property under contract liens governed by Chapter 51 of the Property Code, and POA foreclosure sales governed by Chapter 209 of the Property Code, to include notice of the sale to each lien holder of the property.

HB 3441 (Tim Kleinschmidt, R- Lexington) Relating to certain construction liens under the Texas Residential Construction Commission Act. Amends the TRCC Act to provide that a mortgage lien is not invalidated by a builder's failure to provide the required contract provisions.

SB 354 (Craig Estes, R-Wichita Falls) Relating to transactions involving residential mortgage foreclosures. This bill creates a new Chapter to the Business and Commerce Code that addresses and defines the role of a "Foreclosure Consultant." A foreclosure consultant is defined as one who performs, or represents that they can perform, services in connection with the prevention or postponement of foreclosure proceedings. There are many exemptions to the definition such as attorney and loan officers. Any services offered by a Foreclosure Consultant must be accompanied by a required disclosure and they cannot acquire any interest in the property nor receive compensation for any loan made to the homeowner that exceeds eight percent. The bill also places restrictions on "Equity Purchasers."

SB 722 (Eddie Lucio Jr., D- Brownsville) Relating to requiring counseling before closing certain home loans. Requires mortgage borrowers of less than \$125,000 to undergo counseling if the loan is an exotic loan such as: interest only loans, variable interest rate loans, loans with prepayment penalties, loans with balloon payments, etc.

SB 723 (Eddie Lucio Jr., D- Brownsville) Relating to imposing an additional duty on mortgage brokers with respect to mortgage applicants. Creates a fiduciary duty of a mortgage broker towards mortgage applicants in the origination of a mortgage loan.

SB 766 (Royce West, D- Dallas) Relating to notices required and the opportunity to cure default in connection with foreclosure of a lien against residential property. This bill relates to foreclosed property and states that if a tenant lives in property purchased at a tax foreclosure sale the new landlord must give 90 days (a change from 30 days) notice to vacate if the purchaser chooses not to continue the lease. The bill further stipulates that at 21 days before a foreclosure notice a foreclosing lien holder "shall mail" written notice by certified mail and that the debtor who receives the notice must inform any tenant affected within five days. The debtor has 30 days to cure the default (an increase from 20 days). Any failure to comply with the notice requirements voids the foreclosure and any debtor who does not comply with the tenant notification is liable for an amount equal to two months lease.

SB 980 (Eddie Lucio Jr., D-Brownsville)/SB 2309 (Yvonne Davis, D-Dallas) Relating to reporting of certain information regarding foreclosure sales of residential real property. Requires a person who

purchases property at a foreclosure sale to file certain information with the county clerk, including the deed and a form created by TDHCA with information on the property, the date of sale and any other information TDHCA finds appropriate. Requires certain information to be collected and reported by a mortgage servicer under a foreclosure sale.

SB 1026 (Eddie Lucio Jr., D- Brownsville) Relating to the establishment of the Texas secure loan pilot program by the Texas Department of Housing and Community Affairs. Creates a pilot program at TDHCA to provide 1st and 2nd lien mortgage loans to low income families and individuals.

To look up any bill, visit the [Texas Legislature Online](#).

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Important Upcoming Hearings

House Criminal Jurisprudence Subcommittee on Property Crime: Monday, March 30 at 8:00 a.m. in JHR 110. TAB is tracking:

HB 1532 (Valinda Bolton, D - Austin) *Relating to the punishment for theft of copper or brass material.*

HB 2609 (Doug Miller, R-New Braunfels) *Relating to the prosecution and punishment of the offense of criminal trespass.*

House Judiciary and Civil Jurisprudence: Monday, March 30 at 2:00 or upon adjournment in room E2.010. TAB is tracking: **HB 556**

(Edmund Kuempel, R-Seguin) *Relating to the payment of attorney's fees in certain actions to recover possession of real property.*

HB 849 (Mark Strama, D-Austin) *Relating to the liability of the state for a violation of the federal Americans with Disability Act.*

HB 998 (Fred Brown, R- Bryan) *Relating to the hearing and final decision of certain occupational licensing contested cases by a State Office of Administrative Hearings administrative law judge.*

HB 1201 (Burt Solomons, R-Carrollton) *Relating to liability of an in-home service company or residential delivery company for negligent hiring.*

HB 1811 (Craig Eiland, D- Texas City) *Relating to the standard of causation in claims involving mesothelioma cause by exposure to asbestos fibers.*

HB 2435 (Larry Phillips, R-Sherman) *Relating to the location of an arbitration trial.*

***House Business and Industry Subcommittee on TRCC, Property, Landlord and Tenant issues:** Tuesday, March 31 at 10:00 a.m. or upon adjournment in room E2.030. TAB is tracking: **HB 311 (David**

Leibowitz, D-San Antonio) *Relating to certain fees authorized by the Residential Construction Commission Act.*

HB 1635 (Todd Smith, R-Eules) *Relating to the abolition of the Texas Residential Construction Commission.*

HB 1653 (Marc Veasey, D- Ft. Worth) *Relating to issuance of an optional license for certain builders.*

HB 2095 (Jessica Farrar, D- Houston) *Relating to the regulation of and claims against residential home builders.*

HB 2223 (Tan Parker, R- Flower Mound) *Relating to notice to certain homeowners regarding residential construction warranties.*

HB 2243 (David Leibowitz, D- San Antonio) *Relating to the licensing and regulation of residential construction contractors and the abolition of the Texas Residential Construction Commission.*

HB 2695 (Dan Gattis, R-Georgetown) *Relating to the abolition of the Texas Residential Construction Commission.*

HB 3348 (Dan Gattis, R-Georgetown) *Relating to regulation of residential construction.*

HB 3349 (Dan Gattis, R-Georgetown) *Relating to the operation of the Texas Residential Construction Commission.*

HB 3629 (Todd Smith, R-Eules) SB 1475 (Rodney Ellis, D-Houston) *Relating to the continuation and functions of the Texas Residential Construction Commission and the licensing and regulation of certain builders.*

House Natural Resources: Tuesday, March 31 at 8:00 a.m. in room E2.010. TAB is tracking:

HB 1341 (Betty Brown, R- Athens) *Relating to the recovery of certain rate case expenses by a water and sewer utility.*

HB 1433 (Eddie Lucio III, D – Brownsville) *Relating to the amount of the annual water quality fee imposed on holders of wastewater discharge permits and on users of water.*

HB 2667 (Allan Ritter, D-Nederland) *Relating to performance standards for plumbing fixtures sold in this state.*

HB 3435 (Mike Hamilton, R-Mauriceville) *Relating to exempting utility property from impact fees and assessments in certain districts.*

HB 4299 (Patrick Rose, D-Dripping Springs) *Relating to rainwater harvesting and other water conservation initiatives.*

House Insurance: Tuesday, March 31 at 2:00 or upon adjournment in room E2.026. TAB is tracking:

HB 3073 (Charlie Geren, R-River Oaks) *Relating to charges at closing of certain real property transactions.*

House State Affairs: Tuesday, March 31 at 2:00 p.m. or upon adjournment in room JHR 140. TAB is tracking:

HB 3309 (Dan Gattis, D-Georgetown) *Relating to consolidation of certain proceedings on an application for a certificate of convenience and necessity.*

HB 4116 (Jim Pitts, R-Waxahachie) *Relating to establishing a uniform state policy regarding the purchases and acquisitions by or for*

the state or a political subdivision of the state or for the use or benefit of residents of this state.

Licensing and Administrative Procedures: Wednesday, April 1 at 8:00 a.m. in room E2.016. TAB is tracking:

HB 1973 (Mike Hamilton, R-Mauriceville) *Relating to the licensing and regulation of pool-related electrical maintenance technicians and pool-related electrical maintenance contractors.*

HB 2697 (Roland Gutierrez, D-San Antonio) *Relating to the licensing and regulation of plumbers.*

HB 3129 (Tracy King, D-Eagle Pass) *Relating to the regulation of certain consumer transactions involving plumbing, air conditioning, and electrical services.*

Senate Intergovernmental Relations: Wednesday, April 1 at 9:30 a.m. in room E1.028. TAB is tracking:

SB 1205 (Royce West, D- Dallas) *Relating to community land trusts.*

SB 1448 (Royce West, D-Dallas) *Relating to the enforcement of municipal building and safety ordinances by tenants of buildings.*

Senate Government Organization: Wednesday, April 1 at 1:30 p.m. in room E1.036. TAB is tracking:

SB 1002 (Robert Deuell, R- Greenville) *Relating to the continuation and functions of the Texas State Affordable Housing Corporation.*

Senate Finance: Thursday, April 2 at 11:00 a.m. in room E1.036. TAB is tracking:

SB 20 (Tommy Williams, R-The Woodlands) *Relating to ad valorem taxation.*

SB 402 (Kevin Eltife, R-Tyler) *Relating to the authority of the voters of a municipality or a county to adopt a one-quarter cent sales and use tax in the municipality or county to provide property tax relief.*

SB 700 (Dan Patrick, R- Houston) *Relating to ad valorem tax relief.*

SB 771 (Tommy Williams, R-The Woodlands) *Relating to the determination of the value of property for ad valorem tax purposes.*

SB 1497 (Tommy Williams, R-The Woodlands) *Relating to binding arbitration of certain appraisal review board orders.*

SB 1591 (Steve Ogden R- Bryan) *Relating to the length of time certain property acquired by a charitable organization to provide low-income housing may be exempted form ad valorem taxation.*

Senate Transportation and Homeland Security: Monday, March 30 at 8:00 a.m. in room E1.016. TAB is tracking:

SB 686 (Wendy Davis, D- Ft. Worth) *Relating to the installation of natural gas pipelines in controlled access highway rights-of-way.*

House Business and Industry: Monday, March 30 at 9:00 a.m. in room E2.026. TAB is tracking: **HB 1824 (Ken Paxton, R-**

McKinney) *Relating to foreclosure of a property owner's association's assessment lien.*

HB 1976 (Burt Solomons, R-Carrollton) *Relating to the operation of property owners' associations.*

HB 1977 (Burt Solomons, R- Carrollton) *Relating to encumbrances that may be fixed on homestead property.*

HB 3017 (Dora Olivo, D-Missouri City) *Relating to the procedures for payment of property owners' association assessments and related costs.*

HB 3025 (Garnet Coleman, D- Houston) *Relating to regulation by a property owners' association of certain religious displays.*

HB 3081 (Kristi Thibaut, D- Galveston) *Relating to priority of payment relating to property owners' association assessments.*

HB 3254 (Dan Gattis, R- Georgetown) *Relating to property owners' association meetings and records.*

HB 3319 (Jessica Farrar, D- Houston) *Relating to the creation of property owners' associations and the extension of, addition to, or modification of deed restrictions in certain areas.*

HJR 76 (Burt Solomons, R- Carrollton) *Permitting an encumbrance to be fixed on homestead property for an obligation to pay certain property owners' association fees and fines without permitting the forced sale of the homestead.*

House Border and Intergovernmental Affairs: Monday, March 30 at 2:00 or upon adjournment in room E1.010. TAB is tracking: **HB 4004 (Joe Pickett, D-El Paso)** *Relating to the management and control of utility system.*

To review committee schedules and to further research a bill, visit the [Texas Legislature Online](#).

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The 2009 Star Awards Call for Entries is Open!

The Calls for Entries are now available for download at www.TexasBuilders.org. This year we have separate Calls for Entries for the following: Custom Builder, Volume Builder, Remodeler, Developer, Green Building and Individual Achievement.

The Star Awards recognizes excellence in all areas of the home building industry. Both members of the Texas Association of Builders (TAB) and non-members may enter to win one of these prestigious awards that recognize the industry's best from the Southwest region of the United States: Texas, Arkansas, Louisiana, New Mexico and Oklahoma.

All home building, remodeling and promotional projects completed between January 1, 2008 and July 13, 2009 may be entered for

consideration. If you meet our Early Bird submission deadline of 5 p.m., June 22, 2009, the entry fees are \$100 per entry for members, and \$200 per entry for non-members. The final deadline to receive entries is 5 p.m., Monday, July 13, 2009. The TAB member fee is \$125 per entry; the non-member fee is \$225 per entry.

The entries will be judged by a distinguished panel of industry experts. Finalists will be notified in September, and the 2009 Star Awards Gala will be held on Friday, October 30, at the Gaylord Texan Resort in Grapevine, Texas. The awards ceremony is held in conjunction with the annual Sunbelt Builders Show™ and Education Conference (www.SunbeltBuildersShow.com).

If you have questions or need additional information after you have downloaded the entries from www.TexasBuilders.org, please call TAB at (800) 252-3625.

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