

To: Land Title Association of Colorado  
From: Cathy Wanstrath, LTAC lobbyist  
Subject: **Legislation of Interest to LTAC - KILLED BILLS HAVE BEEN DELETED**  
Date: June 4, 2009 -- final report for 2009 session

**H.B. 1005** (Rep. Marostica, Sen. Veiga): Concerning the Authority of a Special District to Establish Special Improvement Districts within the Boundaries of the Special District." With specified requirements, grants a special district the authority to establish special improvement districts within the boundaries of the special district and levy special assessments on property specially benefited by such improvements. **SIGNED BY THE GOVERNOR 4/2.** (Edgar, Evans)

**H.B. 1014** (Rep. Judd, Sen. Isgar): "Concerning the Provision of Additional Resources to the Division of Real Estate to Provide Oversight of Conservation Easements for Which a State Income Tax Credit is Claimed." **Eliminates the cap** on the amount of the fee paid to the Division of Real Estate by an appraiser in connection with submitting an appraisal for review (it was \$600), and an entity that holds a conservation easement in connection with an application to be certified (it was \$5,810). Requires conservation easement holders to pay an annual fee to cover the costs of the Division in reviewing appraisals of conservation easements. Repeals the provision specifying that the certification of a conservation easement holder is effective for a 3-year period. **SIGNED BY THE GOVERNOR 2/26.** (Bernard, J. Wolff)

**H.B. 1085** (Rep. Rice, Sen. Heath): "Concerning the Regulation of Mortgage Loan Originators, and, in connection therewith, Modifying the Mortgage Broker Licensing Act to Conform to the Federal 'Secure and Fair Enforcement for Mortgage Licensing Act of 2008' and Exempting Certain Financial Institutions from the List of Prohibited Practices Under the Act." Throughout this act, changes the term "mortgage broker" to "mortgage loan originator". Requires state-licensed mortgage loan originators to register with the nationwide mortgage licensing system and registry established pursuant to the SAFE act by July 31, 2010, and to obtain a unique identifier through the registry for use on residential mortgage loan application forms, solicitations or advertisements, business cards or web sites. Banks and other entities subject to federal banking regulation are exempt. **PASSED THE HOUSE**, amended per LTAC recommendation. **SIGNED BY THE GOVERNOR 5/21.** (Rice, Compton, Schreiber)

**H.B. 1109** (Rep. Priola, Sen. Veiga): "Concerning the Extension of Foreclosure Protection to Purchasers of Residential Properties as to which Formal Foreclosure Proceedings have not yet been Commenced." Amends the definition of a 'residence in foreclosure' under the 'Colorado Foreclosure Protection Act' to include a residence that is subject to a mortgage loan that is delinquent or in default but against which a foreclosure action, while authorized, may not yet have been commenced. **SIGNED BY THE GOVERNOR 3/20.** (Condie, Sapp)

**H.B. 1155** (Rep. Weissmann, Sen. M. Carroll): "Concerning Title Insurance, and, in connection therewith, Requiring Justifications to be Filed with the Commissioner of Insurance." Requires justification for a new or amended title insurance rate or fee to be filed with the Commissioner of Insurance, rather than retained at the principal Colorado office of the title insurance company or agent. States that such filing shall include the effective date of the rate or fee, and that the effective date shall be at least 30 days after the commissioner receives the filing. **SIGNED BY THE GOVERNOR 3/18.** (J. Wolff, Evans, Howe)

**H.B. 1190** (Rep. Levy, Sen. Mitchell): "Concerning the Enactment of the 'Uniform Unsworn Foreign Declarations Act'." This bill is from the Colorado Commission on Uniform State Laws. Enacts the uniform law drafted by the national conference of commissioners on uniform state laws. However, it **EXCLUDES** the use of unsworn declarations for declarations required to be recorded for the purpose of conveying and recording title for real property. **SIGNED BY THE GOVERNOR 4/16.** (Bernard, Compton)

**H.B. 1197** (Rep. McNulty, Sen. Harvey): "Concerning a Requirement that the Division of Housing Report Data Regarding Home Foreclosures in the State." This is an attempt to provide **official** foreclosure data from every county, and to issue a report at least quarterly summarizing the information. Data shall include foreclosure filings and

foreclosure auction sales, as well as the number of homeowners who cured a default. *Amended to say that the term "foreclosure" shall only refer to a property that has been sold at auction.* **SIGNED BY THE GOVERNOR 4/3.** (Rice, Cook)

**H.B. 1198** (Rep. McGihon, Sen. Morse): "Concerning the 'Uniform Power of Attorney Act'." Enacts the uniform act, drafted by the national conference of commissioners on uniform state laws. Repeals the "Uniform Statutory Form Power of Attorney Act." **SIGNED BY THE GOVERNOR 4/9.** (Rosenthal, Edwards)

**H.B. 1207** (Rep. C. Gardner, Sen. Veiga): "Concerning Procedures to Enforce a Lien Related to Real Property." Makes numerous mostly technical changes to foreclosure law. This bill was initiated by the public trustees. All LTAC members should review the details. Parts of this bill would be effective September 1, 2009, and other parts January 1, 2010. **SIGNED BY THE GOVERNOR 4/22.** (Ruybal, Greg Wolff, Walter)

**H.B. 1213** (Rep. Gagliardi, Sen. Schwartz): "Concerning the Creation of the Housing Development Grant Fund in the State Treasury to be Administered by the Division of Housing for Purposes Associated with Increasing the Supply of Affordable Housing in the State." This bill was initiated by the Colorado Division of Housing. The fund shall consist of all moneys appropriated to it by the General Assembly, all moneys collected by the Division for purposes of the Act from federal grants, and other gifts and donations. Upon the approval of the State Housing Board, authorizes the division to make a grant or loan from the fund to improve, preserve or expand the supply of affordable housing in Colorado. **SIGNED BY THE GOVERNOR 5/2.** (Rosenthal, Sloan)

**H.B. 1227** (Rep. Frangas, Sen. Hudak): "Concerning the Protection of Neighborhoods from Negative Impacts Associated with Rental Properties." Expands the definition of the criminal offense of equity skimming to include the act of continuing to collect rent from a tenant after foreclosure and sale of the property to another person. **SIGNED BY THE GOVERNOR 4/21.**

**H.B. 1254** (Rep. Judd, Sen. Harvey): "Concerning Additional Consumer Protections Relating to Like-Kind Exchanges Mediated by Exchange Facilitators." Regulates as deceptive trade practices certain actions of exchange facilitators who, for a fee, facilitate like-kind exchanges of real property for purposes of deferring applicable federal taxes. **SIGNED BY THE GOVERNOR 4/16.** (Evans, Sapp)

**H.B. 1260** (Rep. Ferrandino, Sen. Veiga): "Concerning Designated Beneficiary Agreements. Authorizes 2 competent adults who are not married to enter into a designated beneficiary agreement, making each adult a designated beneficiary of the other. In the absence of a superseding legal document that controls, a designated beneficiary agreement entitles each party to certain financial protections regarding ownership of real and personal property. The beneficiary agreement also allows each party to inherit through intestate succession upon the death of the other designated beneficiary. **SIGNED BY THE GOVERNOR 4/9.** (Bernard, Edwards)

**H.B. 1276** (Rep. Ferrandino, Sen. M. Carroll): "Concerning a Delay in the Foreclosure of Residential Property for Eligible Borrowers." Requires the Division of Housing to set qualifications for, train and retain foreclosure counselors to assist eligible borrowers in the deferment of a foreclosure sale. Requires a notice to be posted on the front door of a property that is the subject of a notice of election and demand that provides information regarding how to pursue a mortgage foreclosure deferment. Allows an eligible borrower the opportunity to defer a foreclosure sale on a residential property for 90 days. Requires the borrower to contact a foreclosure counselor within 21 days after the notice of election and demand is received by the Public Trustee. **LTAC requested a clarification amendment to the bill, and this was included in amendments done in committee.** This bill was initiated by the Governor's Office. **SIGNED BY THE GOVERNOR 6/2.** (Rice, Kujawski)

**H.B. 1287** (Rep. McGihon, Sen. Mitchell): "Concerning Changes to the Colorado Probate Code". This bill comes from the Colorado Commission on Uniform State Laws. Makes changes to the "Colorado Probate Code", as drafted by the national conference of commissioners on uniform state laws. The provisions of the Act apply to governing instruments executed by decedents dying on or after July 1, 2010. The bill clarifies the spousal and

elective shares already provided in the code, and also addresses aspects of intestate succession and the parent-child relationship resulting in adoptions and surrogate arrangements. Nothing is said about real property. **SIGNED BY THE GOVERNOR 5/21.** (Condie, Edwards)

**H.B. 1316** (Rep. Solano, Sen. Shaffer): "Concerning Public Dissemination of Personal Information of a Person Working in the Criminal Justice System." **AS DRAFTED**, permits a peace officer, judge, magistrate or prosecutor to request that a public record containing his/her address or telephone number be kept confidential if the person has reason to believe he or she or his/her family could be the victim of harassment or in danger of bodily harm. **This section was removed in committee** (Section 2 of the bill). This leaves only a provision that makes it a crime to post the personal information of law enforcement officials, including a judge, magistrate or prosecutor, or their families, on the internet if the dissemination of the information poses an imminent and serious safety threat. This is just a definition change, since this is already law for "peace officers". **SIGNED BY THE GOVERNOR 5/21.** (Rice, Cook)

**S.B. 40** (Sen. Hodge, Rep. Soper): "Concerning the Regulation of Manufactured Homes." This is a technical cleanup to the manufactured housing bill passed last session (HB 08-1260). All LTAC members who work with manufactured housing are encouraged to read this bill. One goal of this bill and last year's effort is more uniformity among counties in forms and processes. Changes in this bill effective 7/1/09. **SIGNED BY THE GOVERNOR 3/9.** (Cook, Edwards)

**S.B. 54** (Sen. Scheffel, Rep. A. Kerr): "Concerning an Increase in the Civil Penalties Recoverable by the State under Statutes Related to Fair Trade." Changes the maximum civil penalty that may be imposed for violations of the 'Colorado Consumer Protection Act' to \$500,000 (now \$100,000), and clarifies that only the Attorney General or a district attorney can bring such a claim (not a private action). Increases the maximum civil penalty that may be imposed for violations of the 'Colorado Antitrust Act of 1992' from \$100,000 to \$250,000. This bill was initiated by the Attorney General. **SIGNED BY THE GOVERNOR 4/20.**

**S.B. 78** (Sen. Newell, Rep. Rice): "Concerning the Abandonment of Portions of the State Highway System to Local Jurisdictions." Allows the State Transportation Commission to determine that all or a portion of a state highway no longer functions as a part of the state highway system. Specifies that, upon agreement with the county or municipality containing the highway or portion thereof, the highway or portion thereof shall be considered as abandoned and shall become either a county road or a city street. (Present law requires such abandonments to be recorded in the office of the county clerk/recorder.) **SIGNED BY THE GOVERNOR 4/22.** (Ruybal, Sutherland)

**S.B. 84** (Sen. Scheffel, Rep. Scanlan): "Concerning Documents Related to the Role of the Office of the Secretary of State as Filing Office for Secured Transactions." Specifies that the document that must be filed with the Secretary of State to assign the ability to amend a financing statement must provide the date that the initial financing statement was filed or recorded and need not provide the name of one of the debtors. Repeals the requirement that the Secretary include a check digit in secured transaction file numbers. Authorizes the Secretary to issue evidentiary documents electronically. **SIGNED BY THE GOVERNOR 4/20.** (Compton, Greg Wolff)

**S.B. 87** (Sen. M. Carroll, Rep. Peniston): "Concerning Increased Accountability Requirements for Special Districts." Requires information about special district audits and budgets to be posted on the official web site of the division of local government in the Department of Local Affairs. **Requires the contract for purchase and sale of residential real property to contain a disclosure statement to the buyer about special taxing districts, with modifications in wording from the current disclosure (item 8.4 in the current contract).** The bill no longer requires that a seller of residential real property provide to a purchaser a list of all special districts that are taxing authorities in which the property is located. **SIGNED BY THE GOVERNOR 6/1.** (Edwards, Ruybal)

**S.B. 111** (Sen. Bacon, Rep. Court): "Concerning Continuation of the 'Notaries Public Act'". This is a routine "sunset" bill, continuing the Notaries Public Act until 2018. It

allows the Secretary of State to suspend a notary public commission or issue a letter of admonition as a means of discipline, an intermediate step not now available. Presently the only action available in the case of violation of the Act is denial of appointment or reappointment, or revocation of the commission. The bill requires a notary public to make a journal entry for each notarial act, not just those affecting title to real property. It also says the Secretary of State MAY promulgate rules to require notaries to complete a training program. Amended on Senate floor to remove the provision of concern to LTAC and the Colorado Bar Assn., which would have prevented an attorney from notarizing a document that attorney had "prepared, explained, or recommended to the principal". In House committee, the Dept. of Regulatory Agencies obtained an amendment REMOVING the existing exemption for attorneys and title companies from the requirement that notaries keep a journal. With the final amendments, the bill is silent on this matter, and thus we will return to present law. (Title company/title agent notaries do not have to keep journals, since the original documents must be kept in the regular course of business.) SIGNED BY THE GOVERNOR 4/22. (Evans, Bernard)

**S.B. 137** (Sen. Renfroe, Rep. Baumgardner): "Concerning the Timely Payment of Debts in Relation to a Waiver of the Right to Attach a Property Lien." Requires a property lien waiver to contain a statement that all debts associated with the lien have been paid or will be paid. Makes it a class I misdemeanor to knowingly fail to timely pay the debts covered by the lien waiver. SIGNED BY THE GOVERNOR 4/20. (Condie, Sloan)

**S.B. 249** (Sen. Penry, Rep. A. Kerr): "Concerning the Applicability to Small Common-Interest Communities of Recently Enacted Provisions of the 'Colorado Common Interest Ownership Act'." In certain of the applicability sections of the CCIOA that exempt some small communities from all but specifically enumerated provisions of CCIOA, adds provisions enacted after 2004 to those with which such small communities must comply. These include provisions such as trimming of vegetation and accessibility for the disabled. No impact for title insurance. UNAMENDED. SIGNED BY THE GOVERNOR 5/14.

**S.B. 276** (Sen. White, Rep. Pommer): "Concerning the Property Tax Exemption for Qualifying Seniors, and in connection therewith, Lowering for a Specified Property Tax Year the Maximum Amount of Actual Value of the Primary Owner-Occupied Residence of a Qualifying Senior that is Partly Exempt from Property Taxation." For property tax year 2009 ONLY, reduces to zero the amount of senior property tax exemption. This amounts to \$90 million, and was an essential piece of balancing the state's budget. Effective upon signature. SIGNED BY THE GOVERNOR 6/4.