

To: Land Title Association of Colorado  
From: Cathy Wanstrath, LTAC lobbyist  
Subject: **Legislation of Interest to LTAC**  
Date: January 29, 2010

**H.B. 1007** (Rep. Judd, Sen. Brophy): **"Concerning an Adjustment of Fees Charged by a County Clerk and Recorder for Filing a Document with the County."** THIS IS AN LTAC BILL, IN COOPERATION WITH THE COUNTY CLERKS AND THE BAR ASSOCIATION. Currently a county clerk charges \$5/page to file certain documents, with an additional fee for documents that require multiple entries in the grantor/grantee index. This bill would modify these fees by charging \$10 for the first page of a document and \$5 for each additional page and eliminating the additional fee for documents that require multiple entries in the grantor/grantee index. **SCHEDULED 2/4 IN HOUSE STATE AFFAIRS COMMITTEE**, about 10:00 a.m. *(All LTAC members are asked to call your Representative and request their support for the bill.)*

**H.B. 1046** (Rep. Tyler, Sen. Hudak): **"Concerning the Recorded Date of Receipt of Property Tax Payments by a County Treasurer's Office when the Payment has no United States Postal Service Postmark."** The bill specifies that, if a payment that has no USPS postmark is actually received in the treasurer's office no later than 5 days after the due date, the treasurer shall record the due date as the date of payment. If the payment is actually received in the office 6 or more days after the due date, the treasurer shall record the date of actual receipt as the date of payment. (Howe, Pankonin) **LTAC WILL MONITOR ONLY. PASSED THE HOUSE.**

**H.B. 1056** (Rep. Frangas, Sen. Carroll): **"Concerning the Disposal of Business Records Containing Personal Identifying Information."** The bill prohibits a public or private entity in Colorado that uses paper or electronic documents or records during the course of business that contain personal identifying information from disposing of such documents unless, prior to the disposal of the documents, the entity shreds the paper document or erases the electronic document, rendering it "indecipherable and irretrievable". **SCHEDULED 2/11 IN HOUSE JUDICIARY COMMITTEE.** (J. Wolff, R. Rosenthal)

**H.B. 1084** (Rep. Acree, Sen. Williams): **"Concerning Measures to Encourage the Voluntary Cleanup of Unoccupied Real Property."** Under current law, a person who goes into the yard of a foreclosed home or other unoccupied property to clean up trash, remove weeds, or water the lawn may be considered a trespasser and, if the person injures himself/herself while doing so, may have a claim against the landowner for negligence. This bill specifies that such persons, who are **unpaid and volunteer** to do such cleanup, have the implied consent of the landowner to do so, and are owed an intermediate duty of care concerning hazardous conditions on the property that is more than is owed to trespassers, but less than is owed to guests or business customers. Sections 2 and 3 of the bill amend the civil and criminal trespassing laws, respectively, to exempt persons who engage in such activity, but only to the extent of that activity and so long as they do no actual damage to the property. This bill has no direct impact on the title industry. **MONITOR ONLY. HEARD AND LAID OVER TO 2/1 IN HOUSE JUDICIARY COMMITTEE.** (Schreiber, Evans)

**H.B. 1085** (Rep. J. Kerr, Sen. Tapia): **"Concerning Land Surveying, and in connection therewith, Altering Licensure Criteria for Land Surveyor Applicants and Specifying Procedures for Issuance of a Surveyor's Affidavit of Correction."** It is the affidavit portion of the bill that is of interest. The bill outlines the errors that may be corrected by a surveyor's affidavit of correction, which is then submitted to the county clerk/recorder for recording. Section 6 of the bill requires court orders that establish corners or boundaries of disputed land boundaries to be filed in the grantor-grantee index of the county or counties in which the land lies. We need to determine exactly where the county clerk would record this (would the name of the grantor and grantee be known through this process?) **ON 2<sup>ND</sup> READING IN HOUSE, amended.** (Compton, Robinson)

**H.B. 1107** (Rep. Fischer, Sen. Carroll): **"Concerning Limitations on the Inclusion of Agricultural Lands within Urban Renewal Areas."** The bill places limits on when an urban renewal area may contain agricultural land. Section 4 of the bill requires urban

renewal plans to include a legal description of the urban renewal area, including the legal description of any agricultural land proposed for inclusion within the urban renewal area pursuant to the conditions specified in the bill. LTAC will monitor for potential underwriting issues. **SCHEDULED 2/2 IN HOUSE AGRICULTURE COMMITTEE.** (Howe, Berg)

**H.B. 1118** (Rep. J. Kerr, Sen. Hudak): "Concerning the Regulation of Distressed Real Property by a Board of County Commissioners." The bill specifies that the regulation of distressed real property is a matter of purely local concern and adds an enumerated power so that the board of county commissioners may adopt ordinances related to this matter. **HEARD AND LAID OVER IN HOUSE LOCAL GOVERNMENT COMMITTEE.** (Burns, J. Wolff)

**H.B. 1129** (Rep. Bradford, Sen. Harvey): "**Concerning Consequences Related to a Higher Actual Valuation of Property for the Purpose of Levying the Property Tax.**" Requires a taxpayer to initially pay property tax based on the valuation from the previous year if the value of land or improvements increases by more than 300% and is not based on a change in classification of the land or improvements or an addition or modification thereto, and if the taxpayer is appealing the increase in valuation. Requires a revised tax statement to be sent to a taxpayer after a final order or decision on appeal. **SCHEDULED 2/2 IN HOUSE LOCAL GOVERNMENT AND FINANCE COMMITTEES.** (J. Wolff, Bernard)

**H.B. 1133** (Rep. Massey): "**Concerning Amendments to the 'Colorado Foreclosure Protection Act'.**" The bill repeals subpart 3 of the "Colorado Foreclosure Protection Act", enacted in 2006, and the corresponding definition of an "equity purchaser". It retains subpart 2, regulating foreclosure consultants. **SCHEDULED 2/8 IN HOUSE JUDICIARY COMMITTEE.** (Jones, Pankonin, Compton)

**H.B. 1141** (Rep. T. Carroll, Sen. Tochtrop): "**Concerning a Requirement for Mortgage Companies to be Registered by the Division of Real Estate.**" Requires mortgage companies to register with and be regulated by the Division of Real Estate under the "Mortgage Loan Originator Licensing and Mortgage Company Registration Act." Sets standards for mortgage companies to be registered, including that they be registered on the nationwide mortgage licensing system and registry created by federal law in 2008. **ON 2<sup>ND</sup> READING IN HOUSE.** (Burns, Rosenthal)

**H.B. 1151** (Rep. Swalm, Sen. Williams): "**Concerning the Disclosure in Connection with the Sale of Residential Real Property of Its Proximity to an Airport.**" The bill requires the Real Estate Commission, by rule, by January 1, 2011, to require each seller's property disclosure for residential real property to disclose the proximity of the property to an airport, airpark or military airfield, if the property is within 5 miles of such an airport. The obligation to provide the disclosure is upon the seller. **ASSIGNED TO HOUSE BUSINESS AFFAIRS/LABOR COMMITTEE.** (Edwards, Robinson)

**H.B. 1158** (Rep. C. Gardner, Sen. Hodge): "**Concerning Clarification of the Right to Use Wind Resources.**" The bill clarifies the ownership of the right to use wind flowing across real property within this state, and specifies that, for purposes of determining the priority of uses between a severed mineral interest and a severed wind interest, the first interest severed is dominant. Nothing in this bill would affect wind interests acquired prior to the effective date of the bill. **SCHEDULED 2/8 IN HOUSE AGRICULTURE COMMITTEE.** (Cook, Evans, Fix)

**H.B. 1168** (Rep. Levy, Sen. Steadman): "Concerning a Limitation on the Ability of an Insurer to Obtain Repayment of Benefits from an Injured party who Recovers Damages from the Party Responsible for the Injury in Situations when the Injured Party Would Not be Fully Compensated if the Benefits are Repaid to the Insurer." This bill would essentially eliminate subrogation for insurance companies. When an injured party recovers damages that he/she believes are not sufficient to fully compensate him/her, the injured party must notify the insurer in writing that the recovery obtained is less than the sum of all of the injured party's damages. The insurer would have to file a civil action or seek a declaratory judgment to determine "the extent to which the payer of benefits may be entitled to share in the recovery." The "payer of benefits" is defined, and the definition includes "...other insurance policy or plan, or any other payer of benefits", so it appears to cover all lines. **SCHEDULED 2/4 IN HOUSE JUDICIARY COMMITTEE.** (Jones, Walter)

**S.B. 45** (Sen. Morse, Rep. A. Kerr): **"Concerning Increasing the Rights of Homeowners, and, in connection therewith, Enacting the 'Homeowner Protection Act of 2010.'** Current law requires the holder of a residential mortgage to send written notice to a debtor 30 days prior to filing a foreclosure. This bill changes the time to 60 days and requires the notice to include various information. The holder would be required to negotiate for a mutually acceptable agreement prior to commencing a foreclosure. If such an agreement is not reached, and the holder commences foreclosure, the debtor would have the right to participate in mediation with the holder (paid for, of course, by the holder). There is much opposition to this bill from lenders and the Foreclosure Hotline, among others, and concern that the sponsor intends to use the title of this bill to amend in a construction defects bill. **ASSIGNED TO SENATE STATE AFFAIRS COMMITTEE.** (Edgar, Jones, Walter, Pankonin)

**S.B. 76** (Sen. M. Carroll): **"Concerning Unreasonable Insurance Claims Settlement Practices."** This is a repeat of her unsuccessful bill from last year, but with a broad title that is of concern in itself. The bill defines as an unfair claim settlement practice and a deceptive act or practice in the business of insurance the practice of providing compensation to induce or encourage the decision to deny or delay resolution of a claim or to cancel or rescind an insurance policy. In civil actions in which a jury is to determine whether an insurer's delay or denial of a claim was reasonable, the bill allows the court to instruct the jury that the willful payment of a financial incentive is prohibited and may be considered if the prohibited conduct caused or contributed to the delay or denial and the claimant's injury, damage or loss. Section 3 of the bill establishes a presumption of unreasonableness when a claim for benefits is denied or delayed and the person who makes the decision to delay or deny payment of the claim receives any personal financial incentive, including compensation, to deny or delay the claim. **ASSIGNED TO SENATE HEALTH/HUMAN SERVICES COMMITTEE.** (Compton, Rosenthal, Robinson) **LTAC OPPOSES THIS BILL.**

**S.B. 77** (Sen. Heath, Rep. Ferrandino): **"Concerning Regulation of Appraisal Management Companies."** In compliance with federal law, Colorado currently requires the licensing of real estate appraisers. In order to promote enhanced consumer protection, recently adopted federal guidelines now require mortgage lenders to use entities known as appraisal management companies, which hire licensed real estate appraisers, to value property for lending purposes. This bill authorizes the board of Real Estate Appraisers in the Division of Real Estate to regulate appraisal management companies. The definition of "Appraisal Management Company" at the beginning of the bill includes terms such as "real estate closing services provider, and "settlement services provider", but **title companies are not affected unless some part of the company engages in appraisal or appraisal review work.** **SCHEDULED 2/2 IN SENATE BUSINESS/LABOR/TECHNOLOGY COMMITTEE.** (Greg Wolff, Pankonin)

**S.B. 93** (Sen. Lundberg): **"Concerning the Orderly Resolution of Claims in Foreclosures Involving Junior Liens."** Under current law, the successful bidder at a foreclosure sale receives a certificate of purchase entitling the successful bidder to a confirmation deed upon the expiration of all redemption periods unless the property is redeemed by a junior lienor. However, in some situations, a junior lien is purchased by someone who refuses to accept payment from the COP holder and then exercises the statutory right to redemption afforded to lienors who have not been paid. The bill clarifies that the holder of the COP is entitled to pay off junior lienors for the amount of the lien plus allowable fees and costs. The junior lienor would be required to accept the tendered payment and to execute a release of the lien. **SCHEDULED 2/1 IN SENATE BUSINESS/LABOR/TECHNOLOGY COMMITTEE.** (Pankonin, G. Wolff, Edgar)

**S.B. 114** (Sen. Carroll, Rep. Weissmann): **"Concerning the 'Colorado Taxpayer Transparency Act of 2010'."** The bill extends the application of the Colorado Open Records Act (CORA) to all writings made, maintained, or kept by any entity that receives public moneys or performs a governmental or other public function and that relate to the receipt of the public moneys or the performance of that function. Each contract for the performance of a governmental or other public function entered into on or after the effective date of the bill shall specify that the records and files relating to the costs or any performance measure under the contract that are made, maintained or kept by any entity

that is a party to the contract shall be open for public inspection in accordance with CORA. **SCHEDULED 2/2 IN SENATE JUDICIARY COMMITTEE.** (Berg, Compton)