

Mortgage Bankers Association of Georgia Legislative Update Week #3

2/8/08

The Georgia General Assembly took off Monday to allow members to vote in the Georgia primaries on Tuesday morning in their respective districts and convened at 1:00 pm on Tuesday, February 5th. The General Assembly has now completed its fourteenth day of the session as of today, Friday, February 8. The week began with a lot of strife towards House Speaker Glenn Richardson. Many members of the House were responding negatively towards Richardson after his decision to demote four Republican lawmakers after their vote for the chairman of the Department of Transportation did not coincide with the speaker's wishes. Richardson had backed a candidate, Stacey Reece, and wanted the Republican voters to vote for his candidate, who was defeated by incumbent chairmen Mike Evans with a vote of 13-10. The four votes would have been enough to swing the election for Reece.

In other developments the Appropriations Committee and many other committees have been working diligently to ensure that the budgets they agreed upon are going to be sufficient to fund their projects. The House Appropriations Committee approved the Governor's \$300 million midyear spending plan and made some additions by adding additional funds of around \$30 million to schools.

The Senate has also adopted two pieces of legislation that would crack down on illegal immigrants. One of the bills would crack down on drivers that are convicted for a fourth time in five years for driving without a license or suspended license by recommending that they be charged with a felony. The legislation was met with some resistance from a few Senators that argued the bill would discriminate against minorities. Nonetheless the bill passed and will now be brought to the House for consideration. The other bill aims to punish local governments by cutting funding for not complying with federal officials that try to enforce immigration laws. An amendment added to the bill also includes penalties that would cut funding to public employers and welfare agencies that do not run names of new workers and welfare recipients through a federal database to verify that they are in the country legally. The House will now have the opportunity to hear debate and adopt both bills in the coming weeks.

The Democrats in the Capitol released a bill on Wednesday that would provide additional funding to metro Atlanta schools that agree to reduce property taxes in their district. The Republican majority in the Capitol along with Gov. Sunny Perdue have already expressed their opposition to the bill. The Senate also aims to make changes to automatic dialers and has produced legislation that requires a human voice to first connect to callers and not a recording. The bill is aimed to stop political candidates from mass calling with automatic dialing machines.

The Assembly is also in the midst of a border war over the state line with Tennessee. Two resolutions have been drafted in the House, by Rep. Harry Geisinger of Roswell, and the Senate, by Senator David Shafer of Duluth, that calls for the border to be expanded. The resolutions, which were signed by virtually every lawmaker, ask that Gov. Perdue solve the dispute with the Governor of Tennessee. Both resolutions claim that a survey conducted in 1818 was incorrect in assessing where Congress had previously established the border for the two states. The resolution would move the border 1.1 miles north and would grant Georgia access to the Tennessee River. The resolutions also seek to create a boundary commission that would include legislators from Georgia, Tennessee, and North Carolina, which shares a border with both states.

As for MBAG, there were multiple pieces of legislation that were passed and introduced this week. The bills that were introduced deal with a variety of issues ranging from security freezes to real estate transfer taxes. Amongst the bills that were introduced were; the proposal to create a public notice website, grantee-grantor index, freezes on the valuation of properties, and the issuance of tax exemptions. These bills are marked with a "*" below.

Along with the drafting of legislation there was also multiple pieces of legislation that were adopted. The House passed HB 422 which does not allow foreclosures on liens that are under \$2,000.00. The bill is now in the Senate Finance Committee and is read for its first read. The House also passed HB 921, which aims to create a nation-wide mortgage lenders and brokers automated licensing system. The Senate also has a similar bill, SB 375, which is currently in the Senate Banking and Financial Institutions Committee. More information can be found on these two bills below.

Like the House, the Senate was also busy with legislation pertaining to MBAG. The Senate passed SB 355, also known as the "Good-Funds Bill," which is designed to ensure that funds that are dispersed for closures are good. The bill passed as amended and allows for the disbursement of funds through cashier's check, certified check, checks backed by the United States and the State of Georgia, wired funds, and personal checks not more than \$5,000. There may be opposition in the House as some testimony in the Senate argued against the allowance of cashier's and certified checks. The House currently has a bill, HB 918, which deals with dispersing of settlement funds. As the House bill develops we will be sure to keep you further informed.

Another bill that was introduced this week was the public notice bill, SB 391, which proposes the creation of a website that will administer a variety of public notices to be maintained by the Secretary of State, will most likely be voted on in the Science & Technology Committee sometime next week.

Please know that we are here for you working to make sure your industry is impacted positively. Let us know what ever we can do to serve you! Our lobbying team has been at the capitol before the sun rises and after the sun sets looking out for and advocating your interests in all legislation that affects you and your members. We encourage you to get your members involved, if they feel strongly about a piece of legislation. The easiest way to do this is to call their local legislator(s). Also, please remember, it is essential you carefully read the weekly legislative updates to make sure the legislation listed does not affect you negatively or does affect you positively. We count on your feedback to lobby your interest.

Below you will find a list of bills and resolutions that are most important to the Mortgage Bankers Association of Georgia. If you would like to retrieve a complete copy of a bill or resolution you can access the information from the links below.

One certainty from all of these developments is that the 2008 Legislative Session will be hard to predict, but we will keep you updated every week on new legislation affecting your industry or movements in established legislation from 2007. If you have any questions, comments or anything at all, please do not hesitate to contact us.

Bills of Concern: Bills that did not make it through the process last year were held over and begin as active bills this session and are therefore listed below

* Bills that have moved since last report

Highlighted bills are bills that have the opportunity to be passed by both the House and Senate this Session

All status dates are 2007 carryovers, unless otherwise noted; bills introduced in 2008 can be found at the end of the report.

HB 35: Aims to define certain terms and provide that a person may request a security freeze on his or her credit report. Also, defines procedures and requirements to provide for the imposition and lift of a security freeze on a consumer's records by a consumer credit reporting agency

**Security Freeze – Oppose. This is the same bill we opposed last year.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb35.htm

Status: House Banks and Banking – Financial Institutions and Regulations Oversight 1/11/2007

HB 38: Aims to provide that a person may place a security freeze on his or her credit report by notifying the credit reporting agencies. It also defines certain terms, provides for procedures, and provides for a temporary or permanent lifting of such freeze. **Security Freeze -- Oppose

http://www.legis.ga.gov/legis/2007_08/fulltext/hb35.htm

Status: House Banks and Banking – Financial Institutions and Regulations Oversight Subcommittee 1/11/2007

HB 261: This bill permits homeowner associations to amend covenants to impose greater restrictions on individual homeowner's property without that homeowner's consent.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb261.htm

Status: House Judiciary 2/2/2007

HB 275: Aims to require notary publics maintain personal contact information with the clerk of court and other requirements.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb275.htm

Status: House Governmental Affairs 2/8/2007

HB 339: This bill adds "collection costs" to tax executions (it does not however, require commissioners to cancel fifa's)

http://www.legis.ga.gov/legis/2007_08/fulltext/hb339.htm

Status: House Ways and Means 2/10/2007

HB 421: This makes unlimited the amount of acreage that can qualify of conservation use ad valorem tax treatment.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb421.htm

Status: House Ways and Means 2/15/2007

***HB 422:** Aggressive homeowner associations would be prohibited from foreclosing liens which total less than \$2,000.00.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb422.htm

Status: House Passed/Adopted 2/5/2008.

Senate Judiciary Read and Referred 2/6/2008.

HB 479: This bill provides that a city can order a property owner to remove graffiti and upon the failure of removal, the city can remove it and impress a lien on the property.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb479.htm

Status: House Judiciary 2/21/2007

HB 663: Relates to banking and finance, so as to enact the "Basic Credit Opportunity Act of 2007"; to provide for findings of the General Assembly; to provide for a short title; to provide for purposes; to provide for definitions; to provide for licensing of lenders by the Department of Banking and Finance; to provide for penalties for violations; to provide for fees payable to the department; to provide for requirements necessary for issuance of a license by the department; to provide for the form and contents of an application; to provide for revocation or suspension of a license; to provide for the operation of related businesses; to provide for amounts of loans and interest rates; to prohibit multiple loans in certain situations; to provide for enforcement of loan agreements; to provide for disclosure forms for the customer; to provide for reports to credit bureaus; to require maintenance of financial records by licensees; to provide for reports to be filed with the commissioner; to provide for desist orders; to provide for appeals from actions of the department; to provide for nonenforcement of credit opportunity loans.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb663.htm

Status: House Banks and Banking 3/20/2007

HB 718: Relates to licensing of mortgage lenders and mortgage brokers, so as to provide for authorization of mortgage loan officers; to provide for a definition; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Department of Banking and Finance.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb718.htm

Status: House Banks and Banking 3/27/2007

HR 421: Aims to authorize The General Assembly to provide by general law for increases in the state real estate transfer tax and the state intangible recording tax. The General Assembly is authorized to provide by general law for the allocation of such additional funds to the Georgia Housing Trust Fund, as provided by law, for the specified purpose of assisting low and moderate income citizens of this state in obtaining and maintaining affordable housing. Moneys appropriated for such purposes shall not lapse. The General Assembly may provide by general law for the administration of such fund by such authority as the General Assembly shall determine."

http://www.legis.ga.gov/legis/2007_08/fulltext/hr421.htm

Houses Ways and Means 3/1/2007

SB 2: Relates to tax exemptions, so as to provide that property titled to a person who is in this country illegally shall not be entitled to any tax exemption

http://www.legis.ga.gov/legis/2007_08/fulltext/sb2.htm

Status: Reading Pending

SB 58: Aims to require the payment of intangible taxes to each county where the property lay within multiple counties.

http://www.legis.ga.gov/legis/2007_08/sum/sb58.htm

Status: Senate Passed 2/13. House Second Readers since 2/15/2007

SB 63: Relates to mechanics and materialmen, so as to provide a definition for "single-family residential real estate," and aims to provide for an exemption to certain liens for single-family residential real estate.

http://www.legis.ga.gov/legis/2007_08/fulltext/sb63.htm

Status: Senate Judiciary 1/29/2007

SB 64: Aims to provide for a special designation for certain liens filed against the wrong real estate.

http://www.legis.ga.gov/legis/2007_08/fulltext/sb64.htm

Status: Senate Judiciary 1/29/2007

SB 65: Aims to provide a definition of "single-family residential real estate," and to provide for certain requirements prior to entering into a contract to perform work on single-family residential real estate. Under this bill, 'Single-family residential real estate' means an owner occupied structure designed for use as a dwelling unit for one family, including but not limited to houses, condominium units, or any combination of manufactured homes and lots.

http://www.legis.ga.gov/legis/2007_08/fulltext/sb65.htm

Status: Senate Judiciary 1/29/2007

We are working with Senator Seabaugh on all of the lien bills (SB63, SB64, SB65)

SB 217: This bill would permit one homeowner association to enforce covenants that exist in another subdivision.

http://www.legis.ga.gov/legis/2007_08/fulltext/sb217.htm

Status: Senate Special Judiciary 2/22/2007

SB 271: Relates to redemption of property sold for taxes, so as to change the period of time within which a tax deed shall ripen by prescription. This bill states that a title under a tax deed properly executed on or after July 1, 2007, at a valid and legal sale, shall ripen by prescription after a period of one year from the recordation of that deed in the land records in the county in which said land is located.

http://www.legis.ga.gov/legis/2007_08/fulltext/sb271.htm

Status: Senate Passed/Adopted 3/27. In House Second Readers since 3/29/2007

Bills Introduced in 2008:

HB 130: Aims to provide protection from identity theft, so as to provide for security freezes. It also defines certain terms and provides for procedures for placing, removing, and temporarily lifting a security freeze. This bill as passed through committee allows for a fifteen minute freeze release by the consumer and a fee of up to ten dollars to be charged by the effected credit bureau.

HB 130 passed the house on 1/30/2008 with three floor amendments, the most important of which was to change the cap on the price that could be charged to freeze and unfreeze an account was change from \$10 to \$3.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb130.htm

Status: House Passed/Adopted 1/30/2008. Senate Read and Referred Banking and Finance 1/31/2008

HB 130 is a companion bill with SB 361

***SB 361:** Aims to permit a consumer to place a security freeze on his or her credit report; to provide a method for placing and removing a security freeze; prohibits the release of a credit report that is subject to a security freeze. Allows certain fees to be charged in connection with a security freeze; regulates changes to a credit report that is subject to a security freeze, and prohibits certain uses of a consumer's personal information.

Status: Senate Banking and Finance Favorably Reported 2/6/2008

http://www.legis.ga.gov/legis/2007_08/sum/sb361.htm

***HB 918:** Relates to general provisions concerning mortgages, conveyances to secure debt, and liens, so as to provide for the disbursement of certain settlement funds after closing even though such funds are not collected funds; to provide that lenders shall provide loan funds in the form of collected funds at or prior to closing; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb918.htm

Status: Second Read in House Judiciary 1/16/2008

Lawyers have caused many more losses over the years from thefts from escrow accounts than the problem of lender checks not being honored. Our good funds statute has worked well over the years. It does not need to be changed.

HB 918 is a companion bill with SB 355.

***SB 355:** States that settlement agents may only disburse settlement proceeds from an escrow account after receipt of one of the following specified negotiable instruments, even if they are not "collected funds" (defined as funds actually credited to the settlement agent's escrow account):

- 1) A check drawn to the escrow account of a licensed Georgia attorney or real estate broker, if the settlement agent has reasonable grounds to believe the check will constitute collected funds within a reasonable period
- 2) A check issued by the United States or the State of Georgia
- 3) A personal check not exceeding \$5,000 per loan closing.

At or before closing, the lender must deliver loan funds to the settlement agent in the form of collected funds.

SB 355 currently approves Cashier Checks or Certified Checks as appropriate disbursement.

http://www.legis.ga.gov/legis/2007_08/fulltext/sb355.htm

Status: Senate Passed/Adopted with Floor Amendment 2/7/2008

-The Amendment stuck sections; A,B, & C. It also allows checks to be disbursed if funds are immediately available.

The disbursement check cannot be a check that can be refused. Disbursement can also be an escrow account of another firm.

***HB 921:** Relates to licensing of mortgage lenders and mortgage brokers, so as to create a nation-wide automated licensing system for mortgage brokers and mortgage lenders; to provide legislative findings; to provide for the Department of Banking and Finance to participate in such a system; to provide for rules and regulations; to provide for disbursement of fees minus expenses; to provide for changing license renewal dates; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb921.htm

Status: House Adopted/Passed 2/7/2008

HB 921 is a companion bill with SB 375.

SB 375: Aims to create a nation-wide automated licensing system for mortgage brokers and mortgage lenders.

Status: Read and Referred to Senate Banking and Finance 1/30/2008.

http://www.legis.ga.gov/legis/2007_08/sum/sb375.htm

HB 974: Aims to require recorded deeds to disclose the inclusion or exclusion of mineral rights.

Status: Second Readers in House Judiciary 1/28/2008.

http://www.legis.ga.gov/legis/2007_08/sum/hb974.htm

HB 1018: Aims to provide for additional filing fees for recording an instrument that requires cross-indexing to other previously recorded documents; to provide for additional filing fees for recording an instrument that cancels, satisfies, or releases certain liens; to require that clerks perform certain functions with regard to lien cancellations or requests for cross-indexing; to provide for recording by electronic means.

Status: House Second Readers 1/30/2008 House Judiciary

http://www.legis.ga.gov/legis/2007_08/sum/hb1018.htm

***HB 1069:** Aims to create a grantor-grantee index by providing that the clerks of the superior courts shall include the address of the grantee in certain recorded instruments.

http://www.legis.ga.gov/legis/2007_08/sum/hb1069.htm

Status: House Judiciary Second Readers 2/5/2008

***HB 1080:** Revises the code on the taxation of intangibles, real estate transfer tax; now taxes \$1 for the first \$1000.00 and \$0.10 to every \$100.00 on the deed thereafter.

http://www.legis.ga.gov/legis/2007_08/fulltext/hb1080.htm

Status: House Ways and Means Second Reader 2/5/2008

***HB 1082:** Tax sales; procedures for sales under tax levies and executions. Aims to change certain provisions regarding procedures for sales under tax levies and executions.

http://www.legis.ga.gov/legis/2007_08/sum/hb1082.htm

Status: House Ways & Means Second Readers 2/5/2008

***HB 1083:** Aims to make changes that deal with the procedures in the issuance of tax executions.

http://www.legis.ga.gov/legis/2007_08/sum/hb1083.htm

Status: House Ways & Means Second Readers 2/5/2008

***HB 1093:** The bill relates to furnishing of cancellation by grantee or holder upon payment, liability for failure to comply, cancellation of instrument after failure to comply, and liability of agents. Deals with Liquidated damages and demand. Aims to change certain provisions relating to the demand for liquidated damages.

http://www.legis.ga.gov/legis/2007_08/sum/hb1093.htm

Status: House Judiciary Second Readers 2/5/2008

***HR 1153:** Urges the Congress of the United States to enact a "Homeowners & Banks Protection Act" for the protection of homeowners and banking institutions. Urges the creation of a federal agency to protect federal and state chartered banks and include specific mortgages for a specific time. Allow families time to reclaim their houses after foreclosures and to administrate the federal agency.

http://www.legis.ga.gov/legis/2007_08/sum/hr1153.htm

Status: House Banks and Banking Second Readers 2/5/2008

SB 43: Aims to prohibit certain employers from prohibiting employees from lawfully carrying and possessing firearms in locked motor vehicles; to provide for immunity for employers who allow employees to possess firearms in locked vehicles on the premises of such employer **unless the employer knew or, in the exercise of ordinary care, should have known that the person using such firearm would commit such criminal act on the employer's premises. Nothing contained in this Code section shall create a new duty on the part of the employer.**

http://www.legis.ga.gov/legis/2007_08/fulltext/sb43.htm

Status: Senate Judiciary, Recommended 1/14/2008

***SB 159:** Relates to tax exemptions, so as to change the date for filing applications for homestead exemptions.

http://www.legis.ga.gov/legis/2007_08/fulltext/sb159.htm

Status: Senate Finance Favorably Reported 2/6/2008

SB 374: Aims to revise certain time periods for filing materialmen's and mechanics' liens; to provide for certain notices regarding waiver of lien or claim upon bond; to set filing fees for such liens; to define certain terms; to provide that certain notices shall be sent

by registered or overnight mail or statutory overnight delivery; to provide that certain liens are unenforceable if an action is not commenced within 12 months.

Status: Read and Referred to Senate Judiciary 1/30/2008

http://www.legis.ga.gov/legis/2007_08/sum/sb374.htm

***SB 391:** Senate Bill 391 is a public notice bill that aims to create a website that will post all public notices for use by the public that will be monitored by the Secretary of the State.

http://www.legis.ga.gov/legis/2007_08/sum/sb391.htm

Status: Senate Science and Technology Committee Read and Referred 2/1/2008

***SR 686:** Requires the freezing of existing residential real property values and provides that residential real property and interests therein shall be appraised for ad valorem taxation purposes at their fair market value as of the date of the owner's acquisition thereof; to provide for conditions and limitations regarding valuation increases; to provide for authority of the General Assembly with respect to the foregoing; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

Status: Senate Finance Favorably Reported 2/6/2008.

http://www.legis.ga.gov/legis/2007_08/fulltext/sr686.htm

Mo Thrash
6 Concourse Parkway
Suite 3200
Atlanta, GA 30328
678-281-6445 (office)
404-790-0958 (cell)
678-281-6449 (fax)
mo@mccallaraymer.com

Bert Hummel
404-512-3566 (cell)
odhummel@gmail.com