

Mortgage Bankers Association of Georgia Legislative Update Week #7 3/7/2008

Wow, what a week! We have just completed one of the toughest legislative weeks of the year as we approach the thirtieth legislative day on Tuesday, March 11th. This is the final day that one bill can be transferred from one chamber to the other. And everyone in the process has been jockeying to have their legislation perfected to pass out of one chamber to the other by Tuesday. As has been reported in weeks past, one of the major political maneuvers of this year has been a tax reform bill proposed by the Speaker of the House of Representatives, Glenn Richardson, with a bill called "The Great Plan". Speaker Richardson has traveled throughout this state over the last year promoting a total tax reform by eliminating all property Ad Valorem taxes and substituting a sales tax of goods and services. With support dwindling and time running being of the essence, the speaker and his political allies, proposed a constitutional amendment which need 120 of 180 house votes that would eliminate Ad Valorem taxes on automobiles, trucks, and motorcycles, install a cap on assessed evaluations of 2% on residential and 3% on commercial and provide \$74 million towards trauma care in this state. When the bill came to the House of Representatives on Wednesday of this past week, political posturing showed up in its finest. All Democrats, with the exception of seven, voted against a \$1.5 million tax relief so the Republicans could not take credit for a tax relief in this state. Therefore, SR 796 failed on the floor 110 to 62 failing to get a constitutional majority of 120 votes. This vote will go down as the single most important vote taken in the Georgia legislature in years and years and years. It is my strong opinion that political ramifications will take place because of the way individuals voted on this bill.

On top of the Speaker's tax plan going before the Georgia House and Senate, there were a very large number of bills brought before both bodies on the floor and moving swiftly through committees all week with this coming Tuesday, March 11, being the 30th or "Crossover" day. Issues revolving around water, transportation, banking, and taxes are just a few. "Crossover Day" is the last official legislative day any legislation can originate in the House or Senate and pass out of its original chamber. All legislation that passed out of its original chamber during the 2007 legislative session or 2008 legislative session is still "alive" for the original bill to move forward in the process. Keep in mind, however, that there will be a lot of "tacking on" or attaching legislative language to bills that are still alive in both chambers, so in reality, no language or ideas are really dead for the 2008 legislative session.

As reported to you last week foreclosure has been the focal point of financial legislation being negotiated under the "Gold Dome." Since the last day for bills to go from one chamber of the Assembly to the other is tomorrow, the Senate Banking Committee and Judiciary Committee have been deeply involved in committee meetings in these issues. Great efforts from your entire legislative team have been put to negotiations in an attempt to kill or amend legislation that is detrimental to our industry. SB 459, which requires advertisements on foreclosures to run for ten weeks passed out of Judiciary and is presently in Senate Rules Committee awaiting another vote to go to the floor. SB 496, the appraisal fraud bill, has now passed the Senate and is in the House Banking Committee. Two major foreclosure bills, SB 519, which was substituted and amended by us in committee dealing with notification of foreclosures from 30 days up to 60 days is now in Rules and will be on the floor Tuesday, March 11th, SB 531 passed out of committee with a requirement that the secured creditor must be listed and recorded by the clerk of the court. This is a major problem and we are currently working with leadership on floor amendments to make it a bill that we can live with. Realize that all these bills must still go through the process on the House side before anything is passed. We will be sure to keep you posted on these major bills.

We were most successful in holding up SB 575, the "Georgia Fair Lending Act," "The Predatory Lending Act," and SB 527, the "Foreclosure Rescue Fraud Prevention Act," both of these bills are extremely detrimental to our industry and are currently being held in the Senate Banking Committee.

Please understand that we are hard at work every morning, day, and night pushing your issues and positions on all possible legislation. The political process is fluid and unpredictable. This is especially true legislative days 30 through 40, which is pretty much all of March and a little bit into April, so we must continue to work together to foster positive results for your industry. As always, don't hesitate to contact our team with questions, comments, or anything at all. We're here for you! Have a great week!

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 Judiciary Read a Second Time 2/26/2008

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 Financial Institutions 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 Passed/Adopted 2/20/2008

House Second Readers Banks & Banking 2/22/2008

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.

House Judiciary Favorably Reported 2/19/2008

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 for the Department of Banking and Finance to participate in such a system; to provide for disbursement of fees minus expenses; to provide for changing license renewal dates.

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

Status: House Adopted/Passed 2/7/2008

Senate Read and Referred Banking & Financial Institutions Favorably Reported

2/27/2008

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 Passed/Adopted 3/5//2008

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. HB 1093 deals with Liquidated damages and demand. HB 1093 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 Favorably Reported 2/27/2008

HB 1147: Aims to revise certain time periods for filing material-men's and mechanics' liens. HB 1147 also aims to provide for certain notices regarding waiver of lien or claim upon bond, to set filing fees for such liens, and to provide that certain notices shall be sent by registered or overnight mail or statutory overnight delivery. In addition to the above, HB 1147 also aims to provide that certain liens are unenforceable if an action is not commenced within 12 months.

http://www.legis.ga.gov/legis/2007_08/sum/hb1147.htm

Status: House Judiciary Second Readers 2/12/2008

HB 1180: Aims to change certain provisions regarding the payment of interest or penalties; having to do with tax collectors and tax commissioners.

http://www.legis.ga.gov/legis/2007_08/sum/hb1180.htm

Status: House Ways & Means Second Readers 2/14/2008

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, Recommitted 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 Passed/Adopted 2/8/2008

House Ways & Means Second Readers 2/12/2008

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: Senate Passed/Adopted 2/20/2008

House Judiciary Second Readers 2/22/2008

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 Read a Second Time 2/20/2008

MAJOR BILL SB 459: Aims to provide that real estate sales made under power of sale contained in mortgages, deeds, or other lien contracts on residential property shall be advertised biweekly for ten weeks.

http://www.legis.ga.gov/legis/2007_08/sum/sb459.htm

Status: Senate Judiciary Favorably Reported with Committee Substitute 2/29/2008

***MAJOR BILL SB 465:** Aims to change the requirement of sending matter relating to sales made under the power of sale, mailing or delivery of notice to debtor, and procedure.

http://www.legis.ga.gov/legis/2007_08/sum/sb465.htm

Status: Senate Banks & Financial Institutions Favorably Reported 3/5/2008

MAJOR BILL SB 475: This bill proposes revisions to the "Georgia Fair Lending Act." SB 475 aims to provide for prohibited practices and limitations relating to covered home loans and high-cost home loans. The bill also aims to create specific and numerous consumer protections for covered home loans and high-cost home loans; to provide for penalties and enforcement.

http://www.legis.ga.gov/legis/2007_08/sum/sb475.htm

Status: Senate Read and Referred Banks & Financial Institutions 2/19/2008

MAJOR BILL SB 489: "Credit Loan Enhancement Act of 2008." SB 489 aims to provide for licensing of lenders by the Department of Banking and Finance and to provide for requirements necessary for issuance of a license by the department, as well as the revocation or suspension of a license. SB 489 will also provide for amounts of loans and interest rates and prohibit multiple loans in certain situations.

http://www.legis.ga.gov/legis/2007_08/sum/sb489.htm

Status: Senate Banks & Financial Institutions Read and Referred 2/20/2008

***MAJOR BILL *SB 496:** Prohibits soliciting or facilitating fraudulent appraisal of value of property offered as security for mortgage loan.

http://www.legis.ga.gov/legis/2007_08/sum/sb496.htm

Status: Senate Passed/Adopted 2/29/2008

House Banks & Banking Second Readers 3/5/2008

***MAJOR BILL *SB 519:** Aims to change the requirement for mailing or delivery of notice to debtor.

http://www.legis.ga.gov/legis/2007_08/sum/sb519.htm

Status: Senate Banks & Financial Institutions Favorably Reported 3/5/2008

***MAJOR BILL * SB 527:** "Foreclosure Rescue Fraud Prevention Act." Aims to provide that deeds or other conveyances of interests in property purporting to be an absolute conveyance of title but was made a security for the performance of an obligation shall be deemed to be an equitable mortgage.

http://www.legis.ga.gov/legis/2007_08/sum/sb527.htm

Status: Senate Read and Referred to Banks & Financial Institutions 2/28/2008

(Not going to move out of Committee this session.)

***MAJOR BILL *SB 531:** Aims to require a foreclosure to be conducted by the current owner or holder of the mortgage, as reflected by public records. SB 531 also aims to provide for the identity of the secured creditor to be included in the advertisement and in court records.

http://www.legis.ga.gov/legis/2007_08/sum/sb531.htm

Status: Senate Banks & Financial Institutions Favorably Reported 3/5/2008

SB 532: "New Home Access Act." SB 532 aims to require new at-grade residential structures to include certain accessibility features. The features are designed for disabled persons and the bill includes 7 measures for which a house must be suited.

http://www.legis.ga.gov/legis/2007_08/sum/sb531.htm

Status: Senate Read & Referred to Regulated Industries & Utilities as of 2/28/2008

***SB 540:** Aims to provide that, on and after January 1, 2009, in order to be a legal organ, a newspaper shall agree to participate in and participate in a joint legal organ Internet website that contains all legal notices in a searchable format.

http://www.legis.ga.gov/legis/2007_08/sum/sb540.htm

Status: Senate Read and Referred Science and Technology 3/4/2008

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 Passed/Adopted 2/12/2008

House Ways & Means Second Readers 2/14/2008

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

Mo Thrash
Six Concourse Parkway
Suite 3200
Atlanta, Georgia 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