



BLACK|MANN & GRAHAM L.L.P.

Attorneys At Law

8584 Katy Freeway, Suite 420

Houston, TX 77024

Phone: 713-871-0005

Fax: 713-871-1358

Partners

Gregory S. Graham¹

Shawn P. Black²

Ryan Black³

Senior Lawyers

David F. Dulock

Diane M. Gleason

Daniel S. Engle⁴

Margaret A. Noles

Associates

Nick Stevens

Syndy Davis

Brandon Pieratt

Ambria Wilmore

Of Counsel

David M. Tritter

Calvin C. Mann, Jr.

Thomas E. Black, Jr.⁵

Retired Partner(s)

Calvin C. Mann, Jr.

Thomas E. Black, Jr.⁵

¹ Also Licensed in Georgia

² Also Licensed in Kentucky and New York

³ Also Licensed in District of Columbia

⁴ Also Licensed in New York

⁵ Also Licensed in New York and Washington

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To: Clients and Friends

From: David F. Dulock

Subject: Texas Legislative Update I – Bills Effective Immediately

This legislative update summarizes bills from the 2021 Regular Legislative Session that are effective immediately and that we consider are of interest to our clients.

1. PERFORMANCE OF A REAL PROPERTY EVALUATION FOR USE BY CERTAIN FINANCIAL INSTITUTIONS ([House Bill 2533](#))

Prior to the June 15, 2021 effective date of House Bill 2533, Texas Occupations Code Chapter 1103 (“Real Estate Appraisers”) required certified and licensed appraisers to comply with the Uniform Standards of Professional Appraisal Practice (USPAP). House Bill 2533 amends Sections 1103.003, .004 and .405 to make Chapter 1103 compatible with the federal regulations by the OCC-Treasury, FDIC and NCUA allowing licensed or certified appraisers to perform evaluations without complying with USPAP when a USPAP compliant appraisal is not required for certain financial transactions.

Section 1103.003 (Definitions) is amended by adding subsections (4-b), (6-c), and (7-a) to define “Automated valuation model,” “Federally regulated financial institution,” and “Non-bank financial institution,” respectively.

Section 1103.004 (Applicability of Chapter) is amended to state in the introductory statement that Chapter 1103 “does not apply to” (in place of “does not prohibit”) the real property valuation and similar activities regarding value or price of real property described in subsections (1) through (6). Section 1103.004 is further amended by making conforming changes to subsections (1) through (3). Section 1103.004 also is amended by adding subsections (4) through (6) to provide that Chapter 1103 does not apply to the following:

(4) an employee of a federally regulated financial institution or any other person engaged by the institution who performs an evaluation of real property for use by the institution in a transaction for which the institution is not required to use a licensed or certified appraiser under federal regulations adopted under Title XI, Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. Section 1833e) or under applicable state law;

(5) an employee of a non-bank financial institution (*i.e.*, a Chapter 156 licensed mortgage loan company, a Chapter 157 registered mortgage banker, and a Chapter 342 regulated and licensed lender) or any other person engaged by the institution who provides an analysis, assessment, opinion, conclusion, notation, or compilation of data concerning the value of an interest in real property for use by the institution; or

(6) the procurement or use of an automated valuation model defined in Section 1103.003(4-b).

Section 1103.405 (Professional Standards) is amended by adding subsection (b) to provide that a certified or licensed appraiser is not required to comply with the USPAP standards described by subsection (a) to provide:

(1) an evaluation of real property described by Section 1103.004(4); or

(2 pages)

(2) an analysis, assessment, opinion, conclusion, notation, or compilation of data concerning the value of an interest in real property described by Section 1103.004(5) for use by a non-bank financial institution.

Section 1103.405 is further amended by making a conforming change to subsection (a) to account for the exceptions in subsection (b) and by adding subsection (c) to provide that a document provided under Section 1103.004(4) or (5) must contain on the first page of the document the following notice:

This is not an appraisal performed in accordance with the Uniform Standards of Professional Appraisal Practice.

Section 4 of House Bill 2533 makes the amendments to Sections 1103.003, .004 and .405 prospective—*i.e.*, the amendments apply only to an evaluation, document, or action related to a real property transaction commenced on or after the June 15, 2021 effective date of House Bill 2533 and such evaluation, document, or action commenced before June 15, 2021, is governed by the law applicable immediately before June 15, 2021, and that law is continued in effect for that purpose.

2. AUTHORITY OF THE TEXAS DEPARTMENT OF INSURANCE TO RESCIND A CERTIFICATE OF COMPLIANCE ISSUED FOR AN IMPROVEMENT FOR PURPOSES OF COVERAGE THROUGH THE TEXAS WINDSTORM INSURANCE ASSOCIATION ([House Bill 3564](#))

A property owner must obtain a property inspection before receiving windstorm and hail insurance from the Texas Windstorm Insurance Association (TWIA). Prior to the June 14, 2021 effective date of House Bill 3564, Section 2210.2515(k) of the Insurance Code permitted the Texas Department of Insurance (TDI) to rescind the certificate of compliance for an improvement if it found that the improvement did not comply with the applicable building code under the TWIA plan of operation. House Bill 3564 amends Section 2210.2515(k) to provide that the TDI may not rescind a certificate of compliance after issuing the certificate under Section 2210.2515. The above amendments made by House Bill 3564 apply to a certificate of compliance that is in effect or issued on or after the June 14, 2021 effective date of House Bill 3564.

No attempt was made by this legislative update to summarize all the bills effective immediately that could affect mortgage lending or mortgage lenders or loan originators. This legislative update is simply an attempt to advise our clients as to those bills that we believe are of interest to our clients. The above summaries are not complete descriptions of these bills, and you are advised to review the entirety of any bill summarized above that you believe affects your business. You may request copies of these bills from us or you may click on the hyperlink in the title to each bill.

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