

Summaries of Bills Enacted in 2007 of Interest to County Treasurers

NOTE: These summaries were taken from the 2007 Digest of Bills produced by the Office of Legislative Legal Services

HB 1024

CONCERNING A PROPERTY TAX EXEMPTION FOR PROPERTY OF THE FIRE AND POLICE PENSION ASSOCIATION.

By Representative Cerbo and Senator Tochtrop

For property tax years commencing on or after January 1, 2007, exempts real property owned, used, and occupied by the fire and police pension association and personal property owned and used by the association from the levy and collection of property tax.

EFFECTIVE May 31, 2007

HB 1051

CONCERNING THE NOTICE SENT BY A COUNTY TREASURER TO A TAXPAYER FOR UNPAID PROPERTY TAXES.

By Representative Fischer and Senator Sandoval

Requires the notice sent by a county treasurer to a taxpayer for unpaid property taxes to state that the amount of the delinquency must be paid by the date specified in the notice, which shall not be less than 15 days from the date of mailing of the notice. Requires the notice to further specify that the treasurer will advertise and sell a tax lien on the property if the amount of the delinquency is not paid.

EFFECTIVE February 20, 2007

HB 1106

CONCERNING THE INCOME THRESHOLDS USED TO DETERMINE ASSISTANCE GRANTS FOR ELDERLY AND DISABLED PERSONS.

By Representative Gallegos and Senator Bacon

For 2008, increases the yearly income thresholds used to determine whether an elderly or disabled person is eligible to receive a grant for real property tax assistance or for residential heat or fuel expenses, as well as the amount of the grant. Adjusts the thresholds by inflation for subsequent years.

EFFECTIVE August 3, 2007

HB 1142

CONCERNING ACCESS TO INFORMATION SUBMITTED TO A COUNTY ASSESSOR RELATED TO THE VALUATION OF A PROPERTY THAT PRODUCES OIL AND GAS.

By Representative Curry and Senator Isgar

Authorizes the executive director of the department of revenue to have access to all statements and documentation filed with a county assessor related to the valuation of an oil or gas leasehold or land. Establishes that notices of valuation for oil or gas lands and leaseholds shall be public records available for inspection.

EFFECTIVE April 16, 2007

HB 1157

CONCERNING REAL ESTATE FORECLOSURES.

By Representative Garcia and Senator Veiga

Requires a court in an action for unlawful detention of real property following a

foreclosure sale (sale) to dispense with appearances by the plaintiff and a hearing in certain circumstances. States that the acts of a deputy public trustee shall have the same effect as though performed by the public trustee. Entitles a public trustee to receive a \$100 fee for processing a rescission of a sale and a \$50 fee for rescheduling a sale after a rescission. Changes the time by which a public trustee or sheriff (officer) processing a foreclosure shall send notice of the foreclosure to persons on an amended mailing list provided by the holder of the evidence of debt from 60 to 45 days before the actual date of sale. Specifies that certain persons may cure a default in the terms of a lien being foreclosed, unless a court determines that there is a reasonable probability that a default other than nonpayment of sums due has occurred. States that the use of a good faith estimate shall not change or extend the period or effective date of a statement of all sums necessary to cure a default. Allows a bid submitted for a sale to be modified orally at the time of the sale only if the person amending the bid is physically present at the sale and modifies and reexecutes the bid. Changes the maximum period by which the officer may continue a sale for good cause or at the request of the holder of the evidence of debt from 9 to 12 months. States that a lienor who accepts a redemption amount less than the full amount of a lien or a holder of an evidence of debt who accepts a redemption amount less than the amount bid at sale before the redemption periods expire shall not be entitled to any excess proceeds from the sale. Directs a public trustee or sheriff to establish written policies for determining how the public trustee or sheriff shall accept documents or records in electronic form by July 1, 2007. If the successful bidder at a sale is the holder of the evidence of debt foreclosing the deed of trust or other lien, allows the successful bidder, the bidder's attorney or assignee, or the assignee's attorney to rescind the sale without a court order within 8 business days after the sale. Requires the public trustee to confirm the reinstatement by an indorsement that substantially meets a specified form. Allows the holder of the evidence of debt to direct the public trustee to reschedule a sale that was rescinded. Limits claims by a person arising from a rescission of a sale to actual damages. Specifies that moneys payable as a refund for overpayment of a cure or default or for overpayment of a redemption that remain unclaimed for one year are presumed abandoned and shall be paid to the state treasurer in accordance with the "Unclaimed Property Act". Shortens the period during which a lienor who wishes to redeem a property shall file a notice of intent to redeem from 10 to 8 business days after the sale. Changes the deadline for the holder of a certificate of purchase to provide a statement of all sums necessary to redeem and per diem interest from 14 to 13 business days after the sale. Shortens the maximum redemption period for the junior lienor with the most senior recorded lien from 20 to 19 business days after the sale. Clarifies the interest rate that a redeeming lienor is required to pay on the amount of the sale. Requires an officer to attach to the certificate of purchase issued following the sale a copy of the court order authorizing the sale and a copy of the mailing lists for notice of the sale. Specifies the information that a separate assignment of a certificate of purchase or redemption shall contain. States that the lien represented by a certificate of purchase shall have the same priority as the deed of trust or other lien foreclosed. States that the indemnity granted by a holder of an original evidence of debt that requests the release of a deed of trust without producing or exhibiting the original evidence of debt is limited to actual economic loss, along with court costs and reasonable attorney fees, and does not cover special, incidental, consequential, reliance, expectation, or punitive damages. Increases the amount of the corporate surety bond provided by a holder who requests the release of a deed of trust without producing or exhibiting the original evidence of debt from one to 1.5 times the original principal amount of the deed of trust. Changes the effective date of certain provisions of House Bill 06-1387 from July 1, 2007, to January 1, 2008.

PORTIONS EFFECTIVE June 1, 2007 and January 1, 2008

HB 1177

CONCERNING THE ADJUSTMENT OF THE RATIO OF VALUATION FOR ASSESSMENT FOR RESIDENTIAL REAL PROPERTY.

By Representative Judd and Senator Sandoval

Sets the ratio of valuation for assessment for residential real property for the 2007 and 2008 property tax years at 7.96% of actual value.

EFFECTIVE May 31, 2007

HB 1251

CONCERNING STATUTORY IMPLEMENTATION OF THE CONSTITUTIONAL PROPERTY TAX EXEMPTION FOR QUALIFYING DISABLED VETERANS CREATED BY THE REGISTERED ELECTORS OF THE STATE THROUGH THE APPROVAL OF REFERENDUM E AT THE 2006 GENERAL ELECTION, AND MAKING AN APPROPRIATION THEREFOR.

By Representative Gallegos and Senator Wiens

Makes the statutory changes necessary to implement the property tax exemption for qualifying disabled veterans created by the registered electors of the state through the approval of referendum E at the 2006 general election.

EFFECTIVE April 15, 2007

HB 1265

CONCERNING THE FORM OF A REQUEST TO A PUBLIC TRUSTEE TO RELEASE A LIEN OF A DEED OF TRUST.

By Representative McNulty and Senator Tochtrop

Specifies the form that may be used to make a written request to a public trustee to release a lien of a deed of trust.

EFFECTIVE July 1, 2007

HB 1279

CONCERNING THE CLARIFICATION OF THE GENERAL ASSEMBLY'S INTENT TO INCLUDE MACHINERY USED TO PRODUCE ELECTRICITY IN THE EXEMPTION FROM SALES AND USE TAX FOR PURCHASES OF MACHINERY USED TO MANUFACTURE TANGIBLE PERSONAL PROPERTY.

By Representative McKinley and Senator Romer

Exempts from sales and use tax purchases of machinery and machine tools used to produce electricity from a renewable energy source, including wind. Exempts from sales and use tax purchases of machinery and machine tools used to produce electricity in a facility for which a long-term power purchase agreement was fully executed between February 5, 2001, and November 7, 2006.

EFFECTIVE May 23, 2007

HB 1322

CONCERNING MEASURES TO PREVENT MORTGAGE FRAUD, AND, IN CONNECTION THEREWITH, EXTENDING THE PROHIBITION AGAINST CERTAIN ACTS TO INCLUDE MORTGAGE LENDERS, MORTGAGE LOAN APPLICANTS, REAL ESTATE BROKERS, REAL ESTATE AGENTS, REAL ESTATE APPRAISERS, AND CLOSING AGENTS; PROHIBITING CERTAIN PRACTICES; CHANGING THE MENTAL STATE REQUIRED TO BE PROVEN AS AN ELEMENT OF A VIOLATION; AND MAKING AN APPROPRIATION.

By Representative Marshall and Senator Groff

Adds definitions of the terms "borrower" and "residential mortgage loan" to the statutes governing mortgage brokers. Clarifies the application of the "Mortgage Broker Registration Act" to residential mortgage loans. Eliminates the exemption for federal housing administration (FHA)-approved mortgagees and appointed FHA correspondents. Specifies that a mortgage broker has a duty of good faith and fair dealing in all communications and transactions with a borrower. Prohibits a mortgage broker from recommending or inducing the borrower to enter into a transaction that does not have a reasonable, tangible net benefit to the borrower, as defined by rules of the director of the division of real estate (director). Gives the director additional rule-making authority and the authority to assess administrative fines of up to \$1,000 for a first offense and \$2,000 for subsequent offenses. Requires a mortgage broker to make an inquiry about, and to take into consideration, the borrower's current and prospective income and other factors prior to recommending, brokering, or originating a residential mortgage loan. Requires certain disclosures and prohibits the use of specified acts or practices, including those deemed unconscionable. Incorporates requirements of federal laws, including the "Real Estate Settlement Procedures Act". Establishes rules of conduct for situations in which a person acts as both a mortgage broker and a real estate broker or salesperson. Limits fees. In provisions relating to false and deceptive inducements to the creation of a mortgage loan by a mortgage broker or mortgage originator, adds mortgage lenders, mortgage loan applicants, real estate appraisers, and closing agents to the persons to whom the prohibitions apply. Reduces the mental state required to be proven in an action for violation of anti-fraud provisions from "knowingly" to "knew or reasonably should have known". Invokes the authority of the attorney general under the "Colorado Consumer Protection Act" to investigate and punish misconduct by mortgage brokers. Allows the attorney general to seek injunctions against persons violating anti-fraud provisions, prohibiting them from conducting further business for up to 5 years. Appropriates \$495,084 and 2.5 FTE to the division of regulatory agencies and \$383,206 and 4.0 FTE to the department of law for implementation of the act. Appropriates \$297,288 and 1.7 FTE to the department of public safety, Colorado bureau of investigation, from fingerprint processing fees for expenses related to criminal history record checks.

EFFECTIVE June 1, 2007

HB 1344

CONCERNING THE AUTHORITY OF A LOCAL GOVERNMENT TO LEVY AN INCREASED INCREMENT OF SALES TAX TO FINANCE LOCAL IMPROVEMENT EXPENDITURES.

By Representative Merrifield and Senator Kester

Authorizes the board of county commissioners of a county to levy a sales tax of not more than 2% to be used for public safety improvements (tax). Defines "public safety improvements" to include capital expenditures and operational costs associated with specified public safety organizations. Prescribes procedures for the board to propose and seek voter approval for the tax. Requires the department of revenue to collect and administer the tax in the same manner as other county sales taxes and to retain collection and administration costs. Prohibits public moneys from being expended to influence voting on the tax. Exempts the tax from the existing limit on total sales taxes levied by local governments. Increases the maximum rate of sales tax that a local improvement district may levy.

EFFECTIVE August 3, 2007

HB 1350

CONCERNING THE CREATION OF A VICTIM ADDRESS CONFIDENTIALITY

PROGRAM, MAKING AN APPROPRIATION THEREFOR, AND REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT.

By Representative Romanoff and Senator Tupa

Establishes the address confidentiality program (program) in the office of the secretary of state (secretary) to protect the confidentiality of the address of a relocated victim of domestic violence, a sexual offense, or stalking. Requires the secretary to designate a substitute address for a program participant and to receive and forward mail. Permits a participant to be served by mail. Provides a program participant with 5 additional days to respond to certain notices sent by mail. Requires the secretary to designate application assistance centers whose employees and volunteers may be application assistants. Establishes application requirements. Requires the secretary to certify as a program participant any applicant who properly completes an application and certain other people identified in the application. Entitles a program participant to an address confidentiality program authorization card. Establishes the length of the program certification at 4 years and how it may end or be renewed. Requires the department of revenue, through its local driver's license examination facilities, to provide certain information to a program participant relating to voter registration. Requires a program participant to notify the secretary of certain information changes. Requires the secretary to cancel a program participant's certification in certain circumstances and establishes cancellation procedures. Establishes that a program participant and not the secretary is responsible for requesting that a state or local government agency use a substitute address as the participant's residential, work, or school address when creating a new public record. Establishes when a substitute address may not be used. Creates a process whereby a state or local government agency may request the secretary to disclose a participant's actual address. Requires the secretary of state to establish an expedited process for disclosure to a criminal justice official or agency. With certain exceptions, prohibits a program participant's actual address from being used in a public record. Establishes when a program participant's actual address may be disclosed in a proceeding before a court or administrative tribunal. Requires the secretary to adopt rules in carrying out the program. Clarifies that program participation does not affect an order relating to the allocation of parental responsibilities or parenting time. Prohibits program participation from being considered as evidence of domestic violence, a sexual offense, or stalking, or from generally being considered for purposes of making an order allocating parental responsibilities or parenting time. Creates a \$28 surcharge to be paid by offenders who commit crimes of domestic violence or stalking. Requires the moneys collected from the surcharge to be used to pay the costs of the program. Establishes the order of crediting a payment for the surcharge in relation to other surcharges, fees, or payments. Permits the general assembly to appropriate additional general fund moneys for the costs of the program, but only if the moneys in the address confidentiality program surcharge fund are otherwise insufficient to cover the costs of the program. 2 years after the act becomes law, requires the legislative service agencies of the general assembly to conduct a post-enactment review of the implementation of the act. Appropriates \$109,789 and 1.5 FTE to the department of state for the implementation of the act.

EFFECTIVE May 31, 2007

SB 90

CONCERNING COUNTY AUTHORITY TO VEST TITLE TO A VACATED ROADWAY.

By Senator Kopp and Representative Kerr

Permits a board of county commissioners to provide that title to a vacated roadway shall vest, subject to an easement, in the owner of the land abutting the vacated roadway, in other owners who use the vacated roadway as access to their land, or in a legal entity that represents any owners who use the vacated roadway as access to their land.

EFFECTIVE September 1, 2007

SB 157

CONCERNING EXERCISE OF THE POWER OF EMINENT DOMAIN BY URBAN RENEWAL AUTHORITIES.

By Senator Ward and Representative Rice

In addition to any other notice required by law, within 30 days of the commissioning of a study to determine whether an area is a slum, blighted area, or a combination thereof, requires an urban renewal authority to provide notice to any owner of private property located in the area that is the subject of the study by mailing notice to the owner by regular mail at the last-known address of record. Requires the notice to state that the authority is commencing a study necessary for making a determination as to whether the area in which the owner owns property is a slum or a blighted area. Requires the authority to send notice of a determination that the area is not a slum, blighted area, or a combination thereof within 30 days of such determination to any owner of private property located in the area that is the subject of the study by mailing notice to the owner by regular mail at the last-known address of record.

EFFECTIVE September 1, 2007

SB 158

CONCERNING ASSETS EXEMPTED FROM EXECUTION IN DEBT COLLECTION PROCEEDINGS, AND, IN CONNECTION THEREWITH, INCREASING THE SCOPE AND VALUE OF ASSETS THAT MAY BE EXEMPTED.

By Senator Boyd and Representative Cerbo

Increases the value of property that is exempt from attachment or execution and amends the definition of "elderly" for purposes of exempt property to include persons 60 years of age or older. Adds refunds for child tax credits to the exemption for certain income tax refunds. Adds maintenance and other court-ordered domestic support obligations or payments to property exempt from attachment or execution. Adds a portion of public or private disability benefits or proceeds to property that is exempt from attachment or execution. Specifies that a debtor shall not avoid a consensual lien on property otherwise eligible to be claimed as exempt property. On and after July 1, 2007, revises the formula for computing the amount of wages that may be protected from garnishment or levy to reflect the state minimum wage. Increases the amount of the homestead exemption, and clarifies the amount of the exemption based upon who is occupying the home. Increases the time period within which the proceeds arising from the sale of a homestead are exempt. Exempts the proceeds from workers' compensation claims from levy, execution, or attachment.

PORTIONS EFFECTIVE May 14, 2007 and July 1, 2007

SB 203

CONCERNING THE REGULATION OF PERSONS PARTICIPATING IN MORTGAGE LOAN TRANSACTIONS, AND, IN CONNECTION THEREWITH, REQUIRING MORTGAGE BROKERS TO BE LICENSED, SPECIFYING PROHIBITED ACTS AND GROUNDS FOR DISCIPLINE OF LICENSEES, AND MAKING AN APPROPRIATION.

By Senator Groff and Representative Marshall

Changes the regulatory framework for mortgage brokers from registration to licensing. Requires mortgage brokers to be bonded and to maintain errors and omissions insurance coverage. Establishes education and examination requirements for persons seeking licensure. Defines the grounds for denial, revocation, or suspension of a license. Eliminates the exemption for federal housing administration (FHA) approved mortgagees and appointed FHA

correspondents. Authorizes the director of the division of real estate (director) to adopt rules as necessary to carry out the director's duties under the statute. Defines the procedure for administrative hearings, including the issuance of subpoenas by the director or an administrative law judge. Allows the director to seek and obtain injunctions in a court of law, to issue letters of admonition, to place licensees on probation, to suspend or revoke licenses, and to assess administrative fines of up to \$1,000 for a first offense and \$2,000 for subsequent offenses. Establishes grounds for such actions. Where a mortgage broker is employed by a brokerage firm, allows the director to discipline the firm for the employee's wrongful acts. Requires draft copies of documents relating to a mortgage loan on residential real estate to be provided to the borrower at least one business day before closing. Appropriates \$363,164 and 1.8 FTE to the division of real estate and \$245,648 and 2.8 FTE to the department of law for implementation of the act. Appropriates \$379,064 to the department of public safety, Colorado bureau of investigation, from fingerprint processing fees for expenses related to criminal history record checks. Applies the act to acts and omissions occurring, and mortgage broker licenses issued or renewed, on or after January 1, 2008.
EFFECTIVE January 1, 2008

SB 216

CONCERNING ADDITIONAL CONSUMER PROTECTIONS IN RESIDENTIAL MORTGAGE LOAN TRANSACTIONS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

By Senator Veiga and Representative Marshall

Creates a duty of good faith and fair dealing for mortgage brokers in their communications and transactions with borrowers, including the duty not to recommend or induce the borrower to enter into a transaction that does not have a reasonable, tangible net benefit to the borrower. Specifically lists acts and practices that are deemed unconscionable when committed by mortgage brokers or mortgage originators. In regard to such acts and practices, waives the otherwise applicable requirement that there be evidence of bad faith overreaching or unequal bargaining power before a court may find an act or practice unconscionable. Directs the banking board and the director of the division of real estate to adopt rules incorporating appropriate provisions of the "Interagency Guidance on Nontraditional Mortgage Product Risks" promulgated by the United States department of the treasury and other federal agencies. Removes the existing \$200 limit on mortgage broker registration fees. Appropriates \$392,242 and 1.5 FTE to the department of regulatory agencies, of which \$48,456 is allocated for the purchase of legal services from the department of law, for the implementation of the act. Appropriates an additional \$265,085 and 3.0 FTE to the department of law, consumer protection division, for the implementation of the act.
EFFECTIVE July 1, 2007

SB 249

CONCERNING THE APPLICATION OF EXISTING REGULATIONS TO PERSONS PERFORMING SERVICES IN CONNECTION WITH REAL ESTATE TRANSACTIONS, AND MAKING AN APPROPRIATION.

By Senator Veiga and Representative Rice

Directs the commissioner of insurance to assess an annual fee upon title insurers in an amount sufficient to support two additional full-time employees within the division of insurance (division) to conduct market analyses, investigations, and enforcement activities. Makes the annual fee payable on March 1 of each year. Requires the assessment of a one-time surcharge for startup costs, payable by September 1, 2007, and based upon such insurers' Colorado-derived

premiums as of March 1, 2007. Requires the division to report annually, beginning in January of 2009, to the joint budget committee and the business affairs committees of the house of representatives and the senate on the number of enforcement actions taken, market trends associated with title insurance and real estate transactions, and consumer complaints. Directs that this information also be posted on the division's web site. Appropriates \$143,448 and 1.7 FTE to the department of regulatory agencies, division of insurance, for the implementation of the act.
EFFECTIVE June 1, 2007