

## LEGAL UPDATE

Summer/2010

As you know, the law is always morphing, through legislative, administrative, and judicial action. This legal update is my effort to provide in a nugget format, some of those recent changes which I think are the most impactful for my friends and clients. So, take a look below, and see if any of these pique your interest. If you want more information, please send me an e-mail or call the office.

### **Texas Residential Construction Commission Abolished**

The Texas Residential Construction Commission (TRCC) was recently abolished after intense lobbying by dissatisfied homeowners, and a determination that the agency did more harm than good. After ten years of operation, the arbitration process established by the TRCC was found to be both plodding and costly. Ultimately, the Commissions failed to gain the trust of consumers as to its neutrality. *Residential construction standards and warranties will again be of a critical importance in negotiation and drafting, for both contractors and owners.*

**New Estates Code to replace the current Probate Code in 2014.** The current Texas Probate Code is difficult to use, due to organizational and indexing challenges, and duplicative provisions. The Texas legislature has authorized the Legislative Counsel to develop a new Estates Code to replace the current Probate Code in 2014. The new Estates Code to be formulated is not expected to make substantive changes in the law, but to make the current Probate Code more understandable and usable. Changes will have an effective date of January 1, 2014. However, as researches probate the current Probate Code, requests for substantive changes can be expected. *I will be looking for changes in probate law in the coming years.*

### **Continued title insurance coverage for property transferred to an inter vivos trust.**

The 2009 legislature directed the Texas Department of Insurance to adopt provisions which would provide for continuation of title insurance upon transfer of real estate by an individual (or husband and wife) to a trust after the date of the policy. As inter vivos trusts become more popular, this change is critical to permit individuals to retain coverage which would otherwise be lost or reduced upon conveyance to the trust. Inter vivos trusts are being used frequently as a method of avoiding probate. Many individuals are not even aware of the impact the conveyance of their homestead (for example) can have on their title insurance coverage. *This change could be a real benefit to individuals transferring their homestead to a trust.*

### **Operating under the new Texas Business Organizations Code.**

As of January 1, 2010, all Texas entities are governed by the Texas Business Organizations Code (TBOC), subject to some transitional rules. For entities formed after January 1, of 2006, this may represent no change. However, for entities formed prior to 2006, terminology in entity documents will become increasingly archaic in the coming years. *While the changes implemented by TBOC are largely changes in organization and terminology, a review of the impact of the changes on a particular entity is recommended.*

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