THE [signature] AUSTIN LETTER

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Dear Client:

With the report this week that home foreclosures are on the rise in the Austin area, **what about the proposed Congressional change to Texas' law** (**currently very favorable to homeowners**) **that exempts your homestead from foreclosure in the event of bankruptcy**?

As far back as 3/02/01, we alerted you to the current move in Congress to change a provision that is written into the Texas Constitution. Texas and only four other states (Florida, Iowa, Kansas and South Dakota) **prevent creditors from seizing homes and ranches in bankruptcy court – no matter the value of the home**. If you owned a multi-million dollar mansion or lived on a big ranch, but went belly-up, you could take bankruptcy and keep your fancy digs.

Congress has been trying for years to change that provision. In fact, several years ago, Congress passed a bankruptcy reform bill that was pocket-vetoed by President **Bill Clinton**. Financial institutions and others made another push for reform after **George W. Bush** became president and have met with some success – especially after the excesses of Houston-based Enron's execs came under heavy fire.

Congress has passed the Bankruptcy Reform Act and a conference committee has for months been trying to reconcile the differences between the House and Senate versions. The compromise, as it now stands, is you can keep your fancy home or big ranch from being seized to pay creditors – no matter how valuable – **as long as you purchased it at least 40 months prior to the bankruptcy filing**.

The word we get now from Washington is that, even though a compromise has been reached on the Texas homestead exemption provision, **Republicans who oppose a marginal provision related to abortion are stalling the federal bankruptcy measure**. The provision prohibits people who attack or block access to abortion clinics from declaring bankruptcy to avoid paying court-ordered fines.

The longer this drags out, the less likely it is that this version of the Bankruptcy Reform Act will see the light of day. Congress has much weightier and volatile matters – such as Iraq and the War on Terrorism – facing its members right now. And, Democrats and Republicans are jockeying every day, seeking any possible advantage for the 11/5/02 national General Election. **If the Act is not passed by year-end**, **it dies**. A new Congress will be convened in January and the process starts all over again. Meantime, the Texas homestead exemption law stays as is.

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This month, Texas is starting its second fiscal year of the biennium. And, despite the talk about a $5 billion to $12 billion shortfall for the next biennium, revenue collections kept pace with revenue projections for the first half of the budget cycle.

Texas fiscal health is probably more important to the Austin area than to any other area of the state. **This is where the bulk of state money is spent** and where more families depend upon a state paycheck than anywhere else. And of course, the Austin area pays the same taxes and contributes as much proportionately to the state's budget as any other region of the state.

So, it was good news all around when State Comptroller **Carole Keeton Rylander** reported the books were closed on fiscal year 2002, a balanced budget was in place for 2002-2003 and there is nearly $1 billion in the Rainy Day fund to boot. "**Our state budget is balanced**," said Rylander, "**and that sets us apart from a majority of states drowning in red ink**."

Rylander also takes issue with those who predict a shortfall of as much as $12 billion during the next biennium (see our 9/13/02 edition). "As far as the 2004-2005 biennium that will begin next September, after the 78th Legislative Session, let me say that **I am the state's chief financial officer and my numbers of a $5 billion shortfall – not deficit – for the next biennium are concrete**," she said.

"There has been recent speculation of $7 billion, $10 billion and even a $12 billion shortfall," she continued. "These numbers are **based on 'wish lists'** of various agencies and also they are manufactured from faulty fabric that **ignores natural revenue growth** during 2004-2005, which will help offset spending needs."

So what does the state's CFO think will happen? "Our forecast for the coming year – and the outlook for revenues in 2004-2005 — is built on a modest to moderate recovery," Rylander said. "We believe the real gross state product will be 2.1% this calendar year and rebound to a more robust 4.6% next calendar year." Rylander is already sharpening her rhetoric for the budget battle, advising legislators when they return to Austin in January 2003: "**control spending**, **adopt cost-saving measures** and find **new revenue sources**, with **no tax increase**."

We mentioned the Rainy Day Fund. That will be an awfully tempting target for legislative budget writers. After all, it's like a billion dollar savings account and you can hear some legislators arguing we should **tap that fund – rather than raising taxes**. If so, they'll have to do battle with Rylander. "We should be working on building the balance in the Rainy Day Fund to at least $3 billion."

Her argument: "**Building the Rainy Day Fund, while other states have been draining their reserves has served us well**. It was a critical factor in obtaining the highest rating from Moody's, Standard & Poor's and Fitch on our short term notes and I believe we will make another $38 million for our Texas school children and other vital services during fiscal 2003 from this sale." The lines are already being drawn for a bloody budget battle.

State employees' paychecks this month do not include an across-the-board pay raise – even though the Texas Legislature approved raises for both years of the biennium during its last session in 2001.

This is because legislators only budgeted $191.7 million **– enough to fund only the first year of the pay hike**. Funding for the second fiscal year, which starts this month, was contingent on tax revenues exceeding expectations. And, only a sharp economic rebound could have generated that. Obviously revenues have not exceeded the forecast amounts, so state employees don't have any more money in their jeans to spend around the Austin area.

Interestingly, the Legislature also **put state employees at #5 on a priority list for their pay raise**. Items ranked ahead of the raise included a financial assistance program for community and technical college students called Texas Grants II, funding for junior colleges and a judicial pay raise. "The practical reality is that to get to number five on the wish list, the pay raise, we would need to have an additional $191 million in my revenue estimate in this biennium" said Texas Comptroller **Carole Keeton Rylander**.

Rylander was critical of the way the legislature agreed to the pay raise for the second year, but failed to fund it at the time: "If the Legislature wants to have a pay raise, **they need to budget funds to pay for it**, **not bank on promises the revenue system may not be able to deliver**, and not put it fifth on a wish list."

Go figure. Shortly after *FORTUNE* magazine pegged Michael Dell's wealth at $16.49 billion for its "America's 40 Richest Under 40," *Forbes* magazine valued his wealth at only $11.2 billion in its ranking of the 400 richest Americans.

Obviously, the two mags used different methods of calculation: Dell's wealth did not drop (or gain) precipitously during that brief time span. In fact, the two publications agreed Dell was one of the richest individuals who saw their wealth *increase* this year over last year. For instance, **Bill Gates** and **Paul Allen** (whose biggest source of wealth is Microsoft) both saw their fortunes decline this year, compared to last year. But, don't feel sorry for them. Those two over-forty year olds are ranked by *Forbes* as #1 (Gates) with a net worth of $43 billion and #3 (Allen) with a $21 billion net worth. **Warren Buffett** is #2 with a $32 billion net worth

A large number of Texas residents are on the *Forbes'* list of 400 richest Americans: #4 **Alice Walton (**Wal-Mart) Ft. Worth, $18.8 billion … #11 Dell … #45 **Ross Perot** (computer services, real estate), Dallas, $3.7 billion … #67 **Robert M. Bass** (oil, investments), Ft. Worth, $2.5 billion … #73 **Robert Rowling** (hotels, investments), Dallas, $2.4 billion … #76 **Ray Hunt** (oil, real estate), Dallas, $2.3 billion … #92 **Richard Rainwater** (real estate, energy, insurance) Ft. Worth, $1.9 billion … and #100 **Charles C. Butt** (supermarkets) San Antonio, $1.8 billion. There are 29 other Texans on the list; none reside in Austin.

As most airlines struggle to try to make a profit while reeling from disastrous losses, **what will your air travel look like next year**?

First of all, there will ultimately be **fewer airlines competing for your travel business**, maybe not as early as next year, but perhaps in a couple of years. One of the credible estimates we've seen says the number of major **US carriers could drop from eight now to six**, **maybe five**. The shutdown of airlines is not likely – but consolidation is. The time is not right for mergers right now. But, the smart money is betting some will take place within the next few years.

In that environment, there will be a lot of changes affecting the way you travel. You've already seen some of them. **Fewer flights**, especially to smaller cities. You will have **fewer choices** and you will have **longer connection times** between flights. In other words, your air travel day will be a lot longer, from doorstep to doorstep, than it has been in the past.

Smaller planes, even turboprops, will be put on less heavily traveled routes. This reduction in capacity means **seats will fill up faster** and you will have to do more advance planning. Forget about ample meal service. Some planes will actually **eliminate galleys** to allow more seats. Freebies, such as newspapers, will be gone. Beverages will be more limited.

Deeply discounted leisure fares are likely to go the way of the dinosaurs. And, all those frequent flier miles you've piled up will become harder to use as the **airlines raise the bar on free trips and possibly will even limit destinations**. You can look for the airlines to change the way miles are awarded by **basing them on the price of the ticket**, **rather than miles flown**. American Airlines has been doing that for a few years on its highest elite status, Platinum Executive, rewarding those who spend more bucks with them. You're already seeing much **tougher rules for changing tickets** and more **limitations on baggage**. All in all, the friendly skies will be less friendly in the near future.

As **Dr**. **Louis Overholster** sagely observed: the future is not what it used to be! Hmmmm.

Sincerely

Neal Spelce

Editor/Publisher

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