



Tennessee Association of REALTORS®, Inc.

MEMO

To: TAR Members

From: Chris Sexton, Director of Governmental Affairs

Date: July 16, 2010

Re: 2010 State Legislative Review

The Tennessee General Assembly adjourned their annual legislative session June 10 after passing hundreds of new laws and debating thousands of potential bills and resolutions. For the Tennessee Association of REALTORS® the 106th General Assembly was a huge success based on some good long-term planning and grassroots activity by the organization. While tracking over 100 total bills, the team was able to make sure that REALTORS® continue to lead the way for real estate public policy in Tennessee.

Real Estate Taxes

The foremost major success of 2010 for TAR is clearly the bills that were NOT filed – there were no bills filed in 2010 that would create, increase or change ANY transfer taxes or development taxes for local governments. The past few years the TAR lobbyists and grassroots leaders worked hard to educate members of the Tennessee General Assembly on the importance of keeping real estate taxes and fees low in the struggling real estate market. The County Powers Relief Act, which was passed as a compromise in 2006 with the cities and county governments, continues to work across the state and remains viable for the foreseeable future. 2011 will be a new General Assembly and it is impossible to tell if they will want to review the County Powers Relief Act but it is important for TAR members to continue to talk to their legislators and express the importance of this act remaining unamended.

Real Estate Commission

The Tennessee Real Estate Commission, Auctioneers Commission and the Appraiser's Commissioner were all up for legislative review this year. Every 4 to 6 years all state agencies come under review and are usually renewed. The State House and Senate were unable to work out some differences in the legislation that would renew these three commissions, along with about 15 other state regulatory commissions, sending them into a “wind-down” phase that would cause them cease to exist on July 1, 2011.

While no one expects TREC or these other regulatory boards and commissions to end next year, we have encouraged the House and Senate Government Operations Committees to work out their differences and make sure that the real estate licensees and the public who are dependant on these organizations do not see any level of diminished services.

Bad Bills

Just like in other legislative sessions, there were some pieces of proposed legislation that the association did not think would be beneficial to the industry or consumers. Once again TAR was successful in either having these bills defeated or amended into an acceptable format. Some include:

- House Bills 57, 126, 128 and 130, which would all have required various forms of energy audits prior to the sale and/or lease of both commercial and residential property. TAR continued to support the idea of having home inspections and whatever other type of inspection the buyer chooses, but mandating an energy audit should not be the role of state government.
- House Bill 2891 would have required that real estate licensees be responsible for making sure that a person who rents a property is not a sex offender IF the property is within 1,000 feet of a school, playground, park, day care or athletic field. While community safety is critical, making a real estate licensee or member of the general public the policing force on this issue is misplaced and onerous.
- Senate Bill 3723 would have increased water tap fees in Davidson County – while not specifically a REALTOR® issue, this issue does effect all new construction and TAR worked closely with the Homebuilders Association of Tennessee.
- Senate Bills 902 and 3381 would have allowed for certain persons who were victims of a crime to break their lease on their residence. While everyone can sympathize with victims, the case for the state allowing citizens to break contracts based on certain circumstances is flawed.

Other Bills of Interest

- House Bill 3314 protects private property rights and establishes that any person in control of land owes no duty of care to keep such land safe for entry or use by others for recreational non-commercial aircraft operations or recreational non-commercial ultra light vehicle operations on private airstrips.
- House Bill 3191 was from the Appraisal Institute and was amended at the request of TAR. The final version of the bill enacted the “Tennessee Appraisal Management Company Registration and Regulation Act,” making various changes to the Appraisal Management Company law. This bill has since become a model piece of legislation several groups in other states have looked to mirror.
- House Bill 3229 was a compromise between the Great Smoky Mountain Association of REALTORS® and the Smoky Mountain Vacation Lodging Association. It calls for the Real Estate Commission to have additional oversight and control over the Vacation Lodging Services in Tennessee.
- House Bill 3057 was brought by the Homebuilders of Tennessee in a situation to put banks and homebuilders on more equal footing during a foreclosure situation. Specifically, it requires deficiency judgments to fully satisfy the contractual obligation. It establishes a rebuttable presumption that the foreclosure sale purchase price of a property is the fair market value, while also requiring the debtor to pay for difference between the total amount owed minus the costs related to the foreclosure sale if the debtor can overcome presumption by proving the foreclosed property sold for materially less than its fair market value.