



LEGISLATIVE MATTERS

An update on local, state and federal issues of interest to the real estate industry.

Dulles Area Association of REALTORS® Government Affairs Newsletter

Summer 2013

New State Laws Effective—July 2013

The 2013 session of the General Assembly was dominated by transportation — the bill that finally passed is expected to provide much-needed funds for areas of the commonwealth where roads and public transit options need the most work.

While transportation got the most airtime, the Virginia Association of REALTORS®, in collaboration with local Association of REALTORS®, including DAAR, also led the charge on a number of other bills involving the business of real estate. Some of them will have a significant impact, while others are more technical. All are designed to make Virginia's Realtors' jobs a little easier.

The following is a list and summary of REALTOR®-led legislation during the 2013 Virginia General Assembly Session:

REALTORS® are shielded from liability if a public record is inaccurate. (HB 2073) Realtors and brokers were being sued because of incorrect information in MLS listings — even when that information came from public records. Because Realtors frequently rely on government records, client disclosures, or information from other professionals — such as surveyors or engineers — when they advertise properties, these kinds of suits would turn ordinary property transactions into research, insurance, and litigation nightmares. We were able to pass an immunity law for Realtors. It says, essentially, that Realtors and brokers cannot be held liable for incorrect information they obtain from a reputable source in a civil lawsuit or in a regulatory proceeding at the Real Estate Board. Companies will still want their agents to double check data, and it is important to remember that an agent can still be held liable if they are grossly negligent or act in reckless disregard of the truth. *Introduced by Del. David Yancey*

You must disclose if a home was once a meth lab (HB 1593) Once a house is used to manufacture illegal methamphetamines, it's currently an uncertain and difficult path to make it safe again. Starting July 1, 2014, you must disclose to any potential buyers if the seller has actual knowledge that a home was once used to create meth, unless the home has been cleaned to Virginia Department of Health guidelines. (This is similar to the law requiring disclosure of Chinese drywall.) The Health Department guidelines won't become final until 2014, which is why there is a delayed effective date. *Introduced by Del. David Bulova*



DAAR Members Met with Delegate Randy Minchew and David Ramada during REALTOR® Day on the Hill in Richmond on February 6th, 2013



Sue Smith, Carolyn Thomas, Jeanette Newton, Tony Arko, Sue Puleo, Rita Huggins-Halstead, Beckwith Bolle, Bob Butcher and Gwen Pangle following a meetings with lawmakers to discuss issues of

"Overcrowded" is now clearly defined (SB 841) Real estate agents need to know about the potential for conflict in two sets of requirements for the number of people who can live in a rental house. HUD has a "two persons per bedroom" in many situations (but not all) as a maximum occupancy standard. If you violate the HUD standard, you may be violating the fair housing laws. The Virginia Uniform Statewide Building Code contains a minimum occupancy standard which requires at least 50 square feet per person per bedroom. Real estate agents need to measure the square footage of bedrooms in rental housing to make sure you comply with the building code standards. This legislation frames these two sets of requirements in state law. *Introduced by Sen. Mamie Locke*

POA & Condo Disclosure Packets must include owner-occupied v. rental units (HB 1807) With so many buyers relying on FHA financing, it's important to know whether a seller is able to accept it. That's a huge issue with condos, because each complex has to be "certified" by FHA before the government will back a loan. FHA has specific guidelines for that certification; one important factor is the number of owner-occupied units. If potential buyers knew up front whether a particular complex met that FHA requirement, it could save a lot of trouble — why bother making an offer if you know you can't get FHA financing because there are too many rental units? Unfortunately, not every condo complex would provide that information, so buyers and their Realtors would often have to get deep into the transaction before learning whether financing was even available. That will change on July 1, 2013, when that information — the number of owner-occupied vs. rental units in a complex — must be disclosed with the standard POA/condo packet given to prospective buyers. Seeing the right ratio won't guarantee that FHA will approve a loan, but it will at least let Realtors know if they can save themselves and their clients some time and hassle. *Introduced by Del. Jackson Miller*

All fair housing cases involving Realtors will be heard by the Real Estate Board (HB 1480) Fair-housing cases against non-real estate licensees are heard by the Fair Housing Board. Fair housing cases against real estate licensees are heard by the Virginia Real Estate Board. Because a growing number of fair housing cases are filed against the real estate agent and the non-licensure property owner, the same case could be heard by both boards. The new law gives the REB jurisdiction in all cases where one of the cases involves a licensed real estate agent. *Introduced by Del. Peter Farrell*

Electronic payments are treated like other payments (HB 1509) More and more landlords and property managers are beginning to accept electronic payments from tenants. The new law says that if a tenant fails to make an electronic payment on the designated date, the landlord can pursue civil action as if it had been a bad check. This allows the landlord to recover a civil penalty in most cases of \$250, costs of court, and attorney's fees. *Introduced by Del. Greg Habeeb*

Commercial appraisal management companies are regulated just like residential ones (HB 2222) Residential appraisal management companies are regulated by the Virginia Real Estate Appraiser Board, but there was a question about commercial AMCs... until now. Starting July 1, 2013, the REAB's authority clearly covers regulation of commercial AMCs. *Introduced by Del. Gordon Helse*

Virginia Residential Landlord Tenant Act [VRLTA] (HB 1734) This legislation makes some significant changes to the VRLTA, including authority for: landlords to have lease provisions for an early termination of the lease; real estate licensees to go to court and get judgment and possession against a tenant who appears in court; landlords or property managers to pay an abandoned security deposit to the Virginia Tax Department at the end of one year instead of having to hold that deposit in your real estate escrow account for seven years. *Introduced by Del. Manoli Loupassi*

Some issues with the handling of renters' escrow funds are fixed (HB 1736) This new law clearly sets forth how escrow funds must be handled by real estate licensees. Most funds must be placed in the real estate escrow account within five business days of receipt. The legislation makes it clear that an application deposit must be deposited in the real estate escrow account within five business days of the approval of the tenant's rental application. *Introduced by Del. Peter Farrell*



- Do You Know RPAC?
- Find out how to protect the future of your business.
- Visit <http://tinyurl.com/DAAR-RPAC>

Support the issues that matter the most to your business. Support RPAC!

The following is a list and summary of other real estate related legislation that moved forward during the 2013 Virginia General Assembly Session:

Revenues for Transportation – Please Note Grantor’s Tax Rate Increase Included for NOVA (HB 2313): The bill eliminates the per gallon tax on motor fuel and replaces it with a percentage-based tax of 3.5% for gasoline and 6% for diesel fuel. The bill imposes a \$64 annual registration fee on hybrid vehicles, alternative fuel vehicles, and electric motor vehicles. The bill raises the sales and use tax across the Commonwealth to 5.3%.

The bill establishes procedures for the collection of the state sales and use tax from online retailers, contingent upon federal approval. If the federal government does not pass authorizing legislation by January 1, 2015, the gasoline tax will be raised from 3.5% to 5.1%. The diesel fuel tax will remain at 6%, but the eligible refund is reduced to 0.9% for vehicles weighing less than 10,000 pounds. The bill increases the sales tax motor vehicles to a total of 4.15% over four years. The bill increases the share of existing general fund revenues used for transportation from 0.50% to 0.675%, phased in over four years.

The bill generates additional revenues in Northern Virginia. It increases the sales tax an additional 0.7% to a total of 6%, increases the hotel occupancy tax by 2%, and increases the real estate Grantor’s Tax to a total of \$0.25 per \$100 of value (\$2.50 per \$1000).

Here’s an example of the impact:

Before Grantor’s Tax Increase (.10 per \$100):

-Home sold for \$500,000: \$500 grantor’s tax

After Grantor’s Tax Increase: (.25 per \$100):

-Home sold for \$500,000: \$1,250 grantor’s tax



Deeds must be recorded with the Loudoun County Clerk of the Circuit Court's office by close of business Friday, June 28th to avoid the increase.

Finally, Northern Virginia localities must impose the authorized Commercial and Industrial Tax at \$0.125 per \$100 or dedicate equal revenues from other tax sources into a local transportation fund; if the locality does not, funding from the Authority will be reduced by the amount not dedicated to the local fund.

Solar Panels Disclosure (HB 2305) This bill adds to VREB’s online list of seller’s representations to prospective purchasers that the seller makes no representations on the right to install or use solar energy collection devices on the property. *Introduced by Del. David Ramadan.*

Home-Based Businesses (HB 2200): Unless the declaration or rules and regulations provide otherwise, no POA shall prohibit any lot owner from operating a home-based business in compliance with local laws. Associations may establish reasonable restrictions as to the time, place, and manner of operation and signage for a home-based business. *Introduced by Del. Webert*

Financing for Septic Repairs (HB 1448): Localities may create a loan program for the repair of property owners’ failed septic systems and allow for loan repayment through water or sewer billings, real property tax assessments, or other billings. *Introduced by Delegate Hodges*

Roll-Back Taxes (HB 1687): Gives localities the option to waive roll-back taxes when a property that qualifies for special land use valuation is rezoned for a more intensive use. *Introduced by Delegate Randy Minchew.*

Loudoun Board of Equalization (SB 1356): Authorizes the Loudoun County Board to appoint the members of its board of equalization rather than the circuit court. *Introduced by Senator Jill Vogel.*