
Government Affairs Update



North Carolina Association of REALTORS®, Inc.

North Carolina State Capitol
Grounds

Volume XVIII

4511 Weybridge Lane, Greensboro, NC 27407

May 1, 2009

(The North Carolina Association of REALTORS® Government Affairs Update is published weekly during the legislative session by the NC Association of REALTORS®, Inc. as a service to its membership. This report is sent via email to REALTORS® across North Carolina. If you have any questions, please call the NC Association of REALTORS® Government Affairs Department at 1-800-443-9956.)

North Carolina News:

Commercial Real Estate Broker Liens

Reps. Darrell McCormick (R-) and Pryor Gibson (D-Anson) introduced **HB 1356 (Commercial Real Estate Broker Lien Act)**, <http://www.ncga.state.nc.us/Sessions/2009/Bills/House/PDF/H1356v1.pdf>, which will allow a commercial real estate broker to attach a lien to a property for which they are owed a commission for a sale or lease transaction. The broker will have up to two years to file the lien. This bill passed the House Committee on Commerce, Small Business, and Entrepreneurship this week and was referred to the House Committee on Judiciary II.

Homeowner's Insurance

There were two important occurrences in the ongoing debate and discussion of homeowners' insurance in NC this week. First, a bill that would require any accumulated surplus in the Beach Plan to remain in the Beach Plan in order to pay for losses, reinsurance costs, and other operating expenses, <http://www.ncga.state.nc.us/Sessions/2009/Bills/House/PDF/H742v1.pdf>, introduced by **Rep. Tim Spear (D-Washington)**, was passed by the House Committee on Insurance. The bill now heads to the House Judiciary II Committee.

Second, Wake County Superior Court Judge Ronald Stephens dismissed a case brought by several coastal counties and other parties which tried to stop the new insurance rates approved in 2008 from going into effect today. This decision allows increases of as much as 29.8% in coastal counties and decreases of as much as 6% in western counties. One party to the lawsuit has stated they would appeal Judge Stephens' decision to the NC Court of Appeals. Last month, a different Wake County judge ordered the state's new insurance commissioner, Wayne Goodwin, to reconsider deductible and surcharge increases for homeowners covered by the Beach Plan.

The N.C. Association of REALTORS® staff has been engaged in these issues and are working with various stakeholders, including the NC Department of Insurance and representatives of the insurance companies, insurance agents and home builders, as well as with legislative leadership, to develop legislation that improves the insurance market and provides relief for coastal property owners.

Foreclosed Rental Properties

SB 953 (Protect Tenants in Foreclosed Properties) introduced by Sen. Martin Nesbitt (D-Buncombe), <http://www.ncga.state.nc.us/Sessions/2009/Bills/Senate/PDF/S953v3.pdf> was passed by the Senate this week and will next be heard by the House. This bill is aimed at protecting tenants from being evicted due to a foreclosure by the landlord. The original Senate bill forbid the purchaser of a foreclosed rental property from evicting a tenant who is subject to a Section 8 lease, until the lease term has expired.

Further, the purchaser would have had to give the tenant 90 days notice that the lease will not be renewed. Prior to the passage of **SB 953**, it was amended to remove the special treatment of Section 8 leaseholders. The bill now requires that purchasers of foreclosed properties must allow all existing tenants to remain in the property for a period of not less than 60 days. Additionally, it does allow summary ejectment proceedings to be commenced if tenants are not paying their rent within that 60 day time period.

Mortgage Licensing Act

HB 1523 (S.A.F.E. Mortgage Licensing Act), introduced by **Rep. Dan Blue (D-Wake)**, <http://www.ncga.state.nc.us/Sessions/2009/Bills/House/PDF/H1523v2.pdf>, was passed by the House Committee on Financial Institutions this week and was referred to the House Committee on Finance. The bill is intended to conform North Carolina's mortgage licensing act with the Federal requirements that were enacted as part of the Housing and Economic Recovery Act of 2008.

National News:

Mortgage Reform Bill H.R. 1728

On April 23, 2009, NAR President Charles McMillan testified before the House Financial Services Committee (HFSC) regarding H.R. 1728, "The Mortgage Reform and Anti-Predatory Lending Act of 2009." President McMillan testified that REALTORS® support the need for mortgage reform, and generally support H.R. 1728; however, he recommended that a few adjustments be made to ensure that the legislation does not cause unintended consequences and unduly restrict the marketplace.

One concern is that the broad definition of mortgage originator that could overreach and encompass some of the everyday activities of REALTORS®, including providing advice to consumers to help them find fair and affordable mortgages. He also suggested that the inclusion of just 30-year fixed rate mortgages in the safe harbor provision is too narrow. In both instances, the legislation's rules could significantly hurt real estate professionals' ability to help navigate the consumer through the home buying process, as well as limit the traditional mortgage products available to the consumer during the home buying process. The HFSC is currently preparing to "mark-up" this legislation during the week on April 26th with the expectation that it will be voted on by the full House in early May. NAR is continuing to work with members of the HFSC to ensure that final language contains provisions that ensure the appropriate protections for consumers and does not unnecessarily restrict the marketplace. President McMillan's testimony can be found at the following link: <http://tinyurl.com/cdnwf8>