

Legislative Update
Tennessee Association of Realtors®
For the week ending January 25, 2008

All Copper Theft Legislation – All the time

Last week the discussion on scrap metal and copper theft was a major issue on the Senate Commerce, Labor and Agriculture Committee agenda. The committee met and deliberated the legislation, and there was some discussion about what the next steps for the legislation should be. In the end, the committee passed the legislation unanimously to the Senate Floor with two amendments. The first amendment was a technical correction amendment, and the second amendment removed the provision that would have allowed vehicle seizure for any vehicle used in the transportation of stolen materials. The logic behind the second amendment was that often small-time thieves will borrow vehicles of friends and family to move the stolen items, and taking the vehicle of third parties seemed unfair. The bill is scheduled to be heard on the Senate Floor on Wednesday, January 30 or Thursday, January 31.

The debate has continued to be heated as to whether Memphis and other municipalities would be able to create stronger ordinances in dealing with scrap metal theft. When a state law supercedes a local ordinance on the same issue, it is called “preemption.” As mentioned in the update from last week, the local ordinance in Memphis has a provision called “tag and hold,” where scrap metal dealers are required to keep the items they purchase for up to 10 days. According to law enforcement, keeping the material for the police to examine is nearly the only way to recover and identify stolen materials. The scrap metal dealers continue to be vehemently opposed to having to keep the inventory for even one day. According to the dealers, this is due to fluctuations in the market price of the metal and a lack of space to store inventory. Thus, the scrap metal dealers want there to be preemption in the state law which does NOT have “tag and hold” as a provision and would supercede the local Memphis ordinance.

The Memphis Area Homebuilders and Realtors® continue to be an asset in the fight for Memphis’ local ordinance. Members of the General Assembly have been made very aware of the important work being completed by the coalition on the issue and how the new ordinance is an important tool in stopping the epidemic. The 2008 TAR Governmental Affairs Chair, Christie Wilson, has instructed TAR’s legal counsel and staff to do whatever is necessary to try and find a compromise that will preserve the ordinance in Memphis based on a request sent by Memphis Area Association of Realtors® president John Snyder.

Last week, TAR Legal Counsel and Lobbyist Russ Farrar hosted a meeting with other members of the coalition who want to preserve stronger regulations of scrap metal commerce at the local level and oppose preemption. The group of stakeholders who oppose preemption of the local ordinances include the Homebuilders Association of Tennessee, Tennessee Association of Chiefs of Police, Tennessee Sheriff’s Association, Tennessee Association of Realtors® and the Tennessee Municipal League. These groups have each agreed to communicate with legislators on the importance of the issue.

The talking points that have been developed by TAR and distributed for the coalition to use as they communicate with members of the General Assembly are:

- If local governments in working with their law enforcement and business community wishes to have higher standards to curb the epidemic of copper and scrap metal theft, they should have that opportunity.
- Local governments have been given the tools to fight epidemics before: Cookeville City Council voted to require that medicine containing pseudoephedrine be placed behind the counter well before the state law passed in an effort to curb the manufacture of crystal methamphetamines.
- The Memphis Police Department, along with the Memphis Chamber of Commerce, Memphis Homebuilders and Memphis Realtors, are committed to preserving the local ordinance in Memphis.
- This coalition of organizations wishes to pass the strongest legislation in an effort stop scrap metal theft in Tennessee, which means only supporting the two Senate Commerce Committee Amendments. We oppose amendments that will "water down" the legislation.

The coalition is working this week, contacting each member of the Senate individually in an effort to present this important aspect of the new law. We will continue to keep everyone up to date on our progress.

Septic Rules and Regulations

The Tennessee Department of Environment and Conservation has been hosting open meetings on new regulations for septic systems in Tennessee. The issue of septic regulations has been discussed by TAR for the past several years, and in 2007 TAR President Jewell McKinney created a working group chaired by TAR Governmental Affairs member Tad Craig to study the issue. This working group continues their efforts to understand the new and existing regulations being proposed by the department, as it pertains to new and alternative septic systems in Tennessee. Public hearings on the new rules have been attended by members of the working group. TAR staff have prepared legislation in a fall-back position should the new rules and regulations be unacceptable or in the event of increased obstructions to getting lands permitted for septic systems.

To view the summary and language of the new rules visit

http://www.tarnet.com/main/governmental_affairs/regulatory_affairs/ and click on "Proposed TDEC Alternative Septic System Rules."

State of the State

Governor Bredesen is giving his annual state of the state and budget speech on Monday, January 28 at 6:00 p.m. It is expected he will discuss how he plans to make up the \$300 million deficit in the 2008-2009 Tennessee Budget. It also marks the first step in the General Assembly being able to have budget hearings for the state budget they are constitutionally required to pass each year (i.e. it is the first action that must occur so that the legislature may adjourn!)