

Legislative Update
Tennessee Association of Realtors®
For the week ending February 29, 2008

GETTING DOWN TO BUSINESS

The General Assembly is finally getting down to business this week with several hundred bills scheduled to be heard in various legislative committees. TAR is currently tracking approximately 40 bills on that are scheduled to be heard in House and Senate Committees this week. Here are a few bills of interest.

HB 2639 by Representative Fitzhugh (D, Ripley) would increase the maximum aggregate principal amount of bonds and notes that the THDA may have outstanding at any one time from approximately 2 billion dollars to nearly 3 billion. The bill should be on the House floor by the end of the week and has already passed the Senate. Because this bill will directly impact the ability of Tennesseans to purchase good, affordable low-income housing TAR is supporting this legislation.

HB 0649 by Representative Mike Turner (D, Nashville), as amended, will require new construction of all gated communities to allow for entrance of emergency vehicles by assuring that the gate is wide enough for emergency vehicles and that there would be an electronic key available to first responders to open the gate. This bill would apply to gated apartment communities and subdivisions but not single-family residences. The Homebuilders Association and the Apartment Association negotiated the amendment with Representative Turner who is a Captain in the Nashville Fire Department. The bill is scheduled to be heard in the House State and Local Government Committee on Tuesday, March 4.

HB 0360 is legislation that was proposed in 2007 that would require information concerning homeowners' associations and any deed restrictions to be attached to the residential property condition disclosure. TAR's Legislative Affairs Committee took a position in opposition to this bill because there is already a disclosure as to whether there are covenants or restrictions on the form and homeowners' associations are often informal and can quickly change. Asking a homeowner to negotiate finding a copy of these association rules and its members is unlikely to happen in the real world and the licensee will be left trying to find out this information. The bill is scheduled to be heard in the House Industrial Impact Subcommittee.

HB 3262 amended would require a disclosure on all new construction within 500 ft of a limited access highway that the property could be in a high noise zone. The TAR Legislative Affairs have taken a position in opposition to this legislation because:

- (1) Real estate licensees and homeowners do not disclose nor could they guarantee air quality, sound quality or sight-lines;
- (2) Real estate licensees and homeowners do not disclose airports, railroads, industry, shipyards, farming or roads unless these items are specifically attached to the property;
- (3) This type of disclosure could adversely and unnecessarily impact the value of a property, as some individuals may be less concerned than others. Traditionally the market takes care raising or lowering the cost of real estate based on location and proximity to various landmarks;
- (4) Urban-in-fill, high-rise condominiums present an especially interesting problem in that these units may be in high-density areas (like in the Gulch area of Nashville) but the builders for these properties have already taken into account the noise by using specific types of construction materials. And should the 500 feet be measured to the edge of the development's plat or to the exact unit sold - the condo on the top floor is further away from the road than the bottom unit;
- (5) It has been requested that this disclosure of a potential noise zone continue to be disclosed to all subsequent buyers of the property. Currently there is no mechanism in place to transfer this type of disclosure that is initially made by the developer to the first buyer to all subsequent buyers.

The Homebuilder's Association and the Realtors are both opposed to this legislation. While everyone acknowledges that individuals who are unhappy with their home purchase do to an environmental factor is a terrible occurrence, trying to remedy the situation with a non-material fact disclosure is not the solution. The bill is scheduled to be heard in the House Local Government Subcommittee and the Senate State and Local Government Committee this week.

HB 2759 by Representative Bibb (D, Springfield) would lower number of days within which regional planning commission must either approve or disapprove plat before plat is deemed approved by default to 35 days from 60 days. The bill is scheduled to be heard in the House Local Government Committee.

SB 2935 as mentioned previously enacts the Tennessee Condominium Act of 2008 and is an update of the Horizontal Property Act of 1963. The Tennessee Bar Association and their Real Property Subcommittee crafted this legislation and have accepted an amendment that satisfies the concerns of TAR's legal counsel. At this time TAR is monitoring the bill but is comfortable with the legislation. If you would like to know more about the bill, you may click on <http://tarnet.com/govaff/condoact.php>. The legislation is scheduled to be heard on Tuesday, March 4 in the Senate Commerce, Labor and Agriculture Committee and Wednesday, March 5 in the House State Government Subcommittee.

SB 4225 was requested by the City of Columbia to enact an adequate facilities tax of \$1.50 per square foot of residential development and \$3.00 per square foot for commercial development. This request for additional taxes is in addition to the impact fee which the city of Columbia already already collects. TAR and the Southern Middle Tennessee Association of Realtors is very concerned about having to impose additional real estate taxes during the current market situation. Along with the Homebuilders Association, TAR is adamantly opposed to this legislation. Due to House and Senate rules this legislation could be heard on the House and Senate floor without ever being presented in committee.

SCRAP METAL THEFT UPDATE - SIDESTEP

SB 2400, the Scrap Metal Theft legislation being sponsored in the House by Representative Mike McDonald (D, Portland) took a quick sidestep this last week. After unanimously passing the House Judiciary Committee on February 20, the bill was erroneously sent to the House Finance Committee. The Finance Committee re-referred the bill to the correct committee, the House Government Operations Committee. The Government Operations Committee will review how the bill creates rules and regulations and then send it back to the House Finance Committee. It is scheduled to be reviewed on Wednesday, March 5, by the Government Operations Committee.

And as always, if you have any questions or concerns about pending legislation you are welcome to contact J. Bucy at jbucy@tarnet.com or Russ Farrar at russ.farrar@farrar-bates.com