

2012 LEGISLATIVE AND REGULATORY POLICY AGENDA

HOME INSPECTOR LICENSING

Recognizing that the home inspector has become an integral part of the residential real estate transaction, the Association will continue efforts to ensure that all home inspectors meet minimum standards of competency through a licensing/regulation/registration system managed by a board of home inspectors.

CERTIFICATE OF VALUE

The Association will continue to oppose the certificate of value or any form of sales price disclosure and support legislation that limits the ability of the state or subordinate political subdivisions to use certificate of value or any form of sales price disclosure on property transfer.

FINANCING STATE GOVERNMENT

There are several proposals being offered which would eliminate the Missouri income tax and replace it with an expanded sales tax on goods and services. As of late August 2011, there were 13 Constitutional amendments offered to accomplish this goal. The first nine initiatives would have imposed a sales tax on real estate services as well as leasehold and rents, these have been withdrawn. The remaining four exempt real estate services and all other professional services as well as a broad range of other taxes however, according to independent analysis, the resulting tax structure would cause such severe limitations on state revenue that a responsible General Assembly would be forced to remove those exemptions in subsequent years. Because of the uncertainty created by these proposals the Association opposes replacing the current tax system with this untried and risky proposal.

RECORDING FEES

The Association will continue to oppose increases in property recording fees that are unrelated to services provided to the transaction.

ACCESS TO PUBLIC RECORDS

The Association will continue to oppose attempts to limit access to public records relating to real property both in print and image format.

REAL ESTATE LICENSE LAW/MREC

The Association will continue to monitor changes in the real estate license law in other jurisdictions so as to ensure that the current statute provides appropriate protections for both consumers and real estate professionals.

The Association will support changes throughout state government that will allow the MREC to implement online license renewal and transfer, as well as process credit card transactions online and at its office.

The Association will seek to reduce the liability of the real estate licensee for acts by other parties who are charged with closing the transaction.

INCENTIVES FOR HOMEOWNERSHIP AND REAL ESTATE

The Association will continue to monitor legislation on and provide support for the continuation of the Historic Preservation Tax Credit and the Low Income Housing Tax Credit, as well as other programs aimed at increasing homeownership and real estate development in Missouri.

LENDING ISSUES

The current economy has created significant pressures on the financial services industry. This coupled with attempts by the Federal Government to impose unrealistic requirements on community banks and other sources of real estate credit has created a lending crisis that has significantly limited credit available to the residential real estate market. This coupled with a historically high unemployment rate has

resulted in an increase in the rate of foreclosures in Missouri. Some consumer advocates have proposed a “foreclosure freeze” which would prohibit lenders from exercising their legal right to attempt to recover their investment in the subject property. In other instances legislation has been introduced which would prohibit appraisers from using foreclosed property as a comparable in their considerations of value, a potential violation of the Uniform Standards of Professional Appraisal Practice, USPAP. Still others have proposed that usury laws be imposed on transactions, though for now those limits have not been proposed on loans secured by real property. The Association believes that the correct approach to all of these problems is to follow the National Association of REALTORS® in their efforts to support fair and reasonable federal laws and regulations dealing with lending and believes that for Missouri to attempt to impose their own solution to this problem would lead to a flight of capital from Missouri, therefore we oppose legislation that would impose new burdens solely on Missouri lenders.

LANDLORD/TENANT LEGISLATION

The ability of a property owner to receive a fair return on his investment and to be assured of recovering his property after the term of a rental agreement or lease, or in the event a tenant defaults on their obligation are key elements in a strong real estate investment market. Accordingly the Association supports legislation that assists owners in their efforts to recover access to their property and opposes legislation that forces additional duties on property owners without additional protection for their investment.

MUNICIPAL INSPECTIONS OF REAL PROPERTY

A number of cities are requiring property owners to have their property inspected by municipal employees as a condition of listing their property for sale. The inspection is similar to that required for an occupancy permit but the owner is not required to correct defects as they would in order to receive an occupancy permit. The inspections are only valid for up to 6 months and in order to be renewed an additional inspection and fee is required. The additional fees and time to schedule the inspection can have a chilling effect on the sale of the property and in the current economic climate any impediment to a timely sale in unacceptable. The Association opposes a requirement by

a city that owners apply for an occupancy inspection as a condition of listing a property for sale or keeping a property on the market. MAR also opposes any fines which would be imposed by a political subdivision for failure to apply for an occupancy inspection as a condition of listing a property for sale or keeping a property on the market. In all cases we believe that if an inspection is required, it should only be done at change of occupancy.

SMALL CLAIMS COURT

Small Claims Court actions are frequently used to settle a controversy without resorting to a more formal setting in circuit court. Every attempt is made to make the system simple and easy to use. However, it is still a legal action. Unless a person is very familiar with the process, legal counsel should be consulted.

Actions in Small Claims Court are limited to claims for money in the amount of \$3,000 or less. That amount was set in 1995. According to the web site “Measuring Worth”, a widely used and well documented resource for measuring currency inflation, that sum was equal to \$4,290 in 2010. The Association supports an increase in the amount in controversy being raised to \$5,000.

[i] Two real estate-centered tax credits, Historic and Low Income Housing, have provided significant incentives for real estate development in Missouri. The Association was closely involved in the creation of both programs. Development under the Historic tax credit has been responsible for economic renewal and revival in city centers across the state. The program also has been cited as a model and been adopted either in whole or in part by other states. The Low Income Housing Tax Credit has provided safe and affordable housing for thousands of Missourians, and is the centerpiece for most workforce housing initiatives in the state. According to cited studies, the programs return between eight and 10 dollars in economic activity for every dollar invested. The Home Ownership Purchase Enhancement (HOPE) program, which ended Aug. 31, 2010, provided an award of up to \$1,250 for qualified buyers. The program was administered by the Missouri Housing Development Commission using existing commission funds. The Commission should be encouraged to continue or expand this program.

[ii] USPAP is the comprehensive regulation of appraisal practice. Appraisers may make valuation judgements without following these standards however the valuations may not be used or considered if a loan is to be sold on the secondary market. Because of this it is difficult, if not impossible, for a lending institution to offer a fixed rate loan on such a property and any loan made would likely be at an interest rate and on terms that would be unacceptable to most buyers. Legislation on the state level which imposes duties in contravention of USPAP may render all appraisals unsuitable for loans sold on the secondary market.