



CAPITOL NEWS & NOTES

2014 Legislative Session



April 18, 2014

SESSION WRAP-UP

ALABAMA REALTORS® BIG WINNER IN 2014 SESSION!

AAR ended the final day of the legislative session with the passage of three priority bills in addition to the three priority bills that passed earlier in the session. With the abrupt ending of the legislative session week, several key associations and others found no time remaining for the bills or bill that they hoped to pass in 2014.

In an election year where most associations passed only one bill, AAR passed all six of the legislative agenda items approved by the Government and Political Affairs (GPA) Committee for the 2014 legislative session.

Another important component of the AAR governmental affairs team is the AAR Bill Read Committee (BRC) comprised of GPA Chair Julie Minto, Vice Chair Shawn Reeves, Past GPA Chair Pam Segars-Morris, Keith Kelley, Mugs Mullins, Pratt Thomas, and Bill Watts. This is a time consuming and thankless job.

The committee reads and reviews all of the legislation that is filed each session for issues which may affect and impact your profession. This year, 624 bills were introduced in the House of Representatives and 479 were introduced in the Senate. Your BRC worked tirelessly to analyze these bills and provide feedback to the AAR governmental affairs team. As a result of their effort, 48 bills were flagged and monitored this session. Eight bills, identified by the BRC as threats to the REALTOR® profession, were opposed by AAR. Six of those bills died and two passed with AAR amendments.

AAR PRIORITY LEGISLATION THAT PASSED IN 2014

AAR'S LANDLORD TENANT LAW OFFERS SIGNIFICANT IMPROVEMENTS

AAR has worked to improve the Landlord Tenant Law for the past four years. SB291 is the result of working together with the Alabama Association of Justice, Attorney General Luther Strange, attorneys, judges, real estate professionals and other interested parties to come up with a bill that helps Alabama property owners protect and maintain their investments and is fair to the tenant. SB291 passed just before Spring Break and will be signed into law soon. **Special thanks to bill sponsors Sen. Del Marsh, R-Anniston, and Rep. Paul Beckman, R-Prattville.**

BILL HIGHLIGHTS

- The time to return deposits is extended from 35 to 60 days.
- The time for a tenant to claim a deposit is reduced from 180 to 90 days before the deposit is forfeited.
- Breach of a rental agreement for material noncompliance is reduced from 14 to 7 days from posted notice.
- The right to cure breach of a lease is limited to 4 times in a 12-month period. **Previously there was no limit.**
- The definition of abandonment has been expanded to include no electrical service for 7 consecutive days.

ALABAMA HOME BUYER'S INITIATIVE ACT

The AAR-backed Home Buyer's Initiative was signed by Governor Robert Bentley into law as Act #2014-88. This allows the Alabama Housing Finance Authority (AHFA) to establish a new program to promote homeownership and reallocate Mortgage Guaranty Funds to a modified new home owner program. The program is more adaptive to changing housing markets. **Special thanks to bill sponsors Sen. Cam Ward, R-Alabaster, and Rep. Mike Hill, R-Columbiana.**

NOTE: AHFA's Mike King will speak on the components of the program at AAR's Summer Conference in June. Register now at www.alabamarealtors.com.

PER-UNIT BUSINESS LICENSE ACT

The AAR priority Per-Unit Business License Act to ban unfair business license taxes on the residential rental market was signed into law by Governor Robert Bentley as ACT #2014-15. The act prohibits a city or county from imposing a business license tax on a per-unit basis for residential real estate. This bill died in the Senate last year on the final day in 2013. This year the bill started in the Senate. **Special thanks to bill sponsors Sen. Vivian Davis-Figures, D-Mobile, and Rep. Jim Patterson, R-Meridianville.**

KILGORE LOT TAKEDOWN BILL RECEIVES FINAL PASSAGE

On the final day of the session, the Kilgore Lot Takedown Bill or HB46, sponsored by Rep. Chris England, D-Tuscaloosa, passed the Senate and received final passage. AAR worked with the Alabama Homebuilder's Association on this legislation. Sen. Gerald Allen, R-Tuscaloosa was quick to point out on the floor of the Senate on the final day of session that both groups supported and pushed for the legislation. The bill prohibits any ban on pre-sale lots in proposed subdivisions prior to approval and helps remedy a contract interpretation in Kilgore Development, Inc. v. Woodland Place, LLC. **Special thanks to bill sponsors Rep. Chris England and Sen. Gerald Allen.**

ACRE FUNDING BILL GETS PRAISE FROM LEGISLATORS, FINAL PASSAGE

Early on the final day of the session, a priority AAR bill was also a priority for the Alabama Senate. Spearheaded by Sen. Greg Reed, R-Jasper, the bill passed with no discussion except positive accolades for AAR and its members getting behind the legislation. Sen. Reed took a point of personal privilege to praise licensees who saw fit to impose a fee upon themselves to benefit the industry and provide needed funds for the school. Also rising to praise the efforts of AAR was Sen. Roger Bedford, D-Russellville, and Sen. Rodger Smitherman, D-Birmingham. Those Senators along with Sen. Rusty Glover, R-Mobile, and Sen. Paul Bussman, R-Cullman, requested that the bill be placed high on the calendar and moved to the Senate floor.

The Alabama Center for Real Estate (ACRE) bill will allow for an annual real estate licensee fee increase from \$2.50 to \$7.50 supporting ACRE effective October 1 of this year. **Special thanks to bill sponsors Rep. Terri Collins, R-Decatur, and Sen. Reed.**

LIMITED TRANSFERABILITY OF HISTORICAL TAX CREDIT EKES BY TO FINAL PASSAGE, MAKES PROJECTS VIABLE

With the teacher pay raise as a hot button item for the 2014 session, AAR was encouraged by members of the Legislature's leadership, including those in the Governor's office to not push for an all-out ban of the cap currently on the historic tax credit and the sunset provision. As recently as REALTOR® Day in March, revisions to the Historic Tax Credit bill were thought to be dead for the 2014 session.

However, a late filed bill, HB509, sponsored by Rep. Paul DeMarco, R-Homewood, gained steam late in the last week of the session. AAR supported the limited bill that allowed for the transfer or sale of the current historical tax credit during the final week and encouraged legislators to support the bill.

HB509 received final passage on the final night of the session. The new legislation will help to clarify that the credit is awarded on a calendar year, while an amendment added by the Senate will limit each tax credit to only one transfer. The Alabama Department of Revenue has been given the job of tracking the credits and promulgates the rules for transferability. Beginning in the January 1, 2014 tax year, the credit became transferable. **Special thanks to bill sponsors Rep. DeMarco, and Sen. Jabo Waggoner, R-Vestavia Hills.**

AAR MONITORED BILLS

VACATION OF ROADS PASSES WITH AAR AMENDED LANGUAGE

AAR Bill Watch identified HB148, sponsored by Rep. Ronald Johnson, R-Sylacauga, early in the session as a bill that needed an amendment. The bill passed this with the AAR language in place. This bill would allow for the vacating of roads in certain situations without unanimous consent by the County Commissions allowed for appeal process to the Courts.

AAR MEMBER TO SIT ON STUDY COMMISSION FOR LIENS

AAR Bill Watch expressed concern over HB451 that would have changed the priority of liens. Under the current law, a lien may be declared by persons who perform work on real or personal property. This bill would provide for the priority of future advances made pursuant to a future advance mortgage over the liens of persons who perform work on real property when the mortgage is recorded prior to a notice of commencement. This bill would provide that a mechanic's or materialman's lien would only apply to real property if it is recorded in the county where the property is situated and preceded by a notice of commencement. This bill would provide the procedure for the termination of a notice of commencement by a contractor.

AAR opposed this legislation and requested a public hearing on the bill. A solution could not be reached and HB451 died as a result. However, the dialogue resulted in the passage of HJR495 (resolution), sponsored by Rep. Marcel Black, D-Tuscumbia. The resolution establishes an interim Study Commission on the existing mechanics' and materialmen's lien statutes. The commission will be made up of 10 appointees that represent various industries that are affected by the current law, including a REALTOR® appointed by AAR. Other members of the commission include a Representative appointed by the Speaker, a Senator appointed by the Senate Pro Tem, and one member each from the General Contractor's Association, the Banking Association, the Associated Builder's and Contractor's Association, Alabama Land Title Association, Concrete Association, Subcontractor's Association, and the Alabama Law Institute.

The commission will convene within 60 days of the enactment of this resolution and will elect the chair and vice chair upon commencement of the first meeting. A report of the findings and recommendations of the board will be submitted no later than the 5th day of the 2015 Legislative Session. The commission members will have no other obligation following the submission of the commission report.

REDEMPTION OF PROPERTY PROCEDURES RE-DEFINED, LANDS ON GOVERNOR'S DESK

Another AAR monitored bill also passed the final day of the session. HB349 sponsored by Rep. Mike Hill, R-Columbiana, provides for the mechanism for redemption of property and the process for the excess funds arising from the sale of any real estate at a tax sale. Those entitled to redeem may do so by providing a circuit court order granting them this right or by proof provided to the tax collector or other official that the land has been redeemed by negotiated agreement from the purchaser at the tax sale and allows for the other documents that must be presented.

AAR OPPOSED BILL IMPOSING LIABILITY ON PROPERTY OWNERS WHEN HUMAN TRAFFICKING OCCURS ON THEIR PROPERTY

Rep. Jack Williams, R-Birmingham, proposed HB481 to strengthen Alabama's laws against human trafficking. The bill also proposed criminal liability on landlords/property owners who own property where these crimes may have occurred whether the property owner had knowledge of the crimes or not. AAR supported the spirit of the legislation to impose stricter penalties for human trafficking but opposed the portion of the bill which unfairly imposed criminal liability on landlords and property owners without culpability and/or knowledge of activity which may have occurred. HB481 did not pass.

AAR OPPOSED BILL LIMITING ABILITY TO PURSUE JUDGMENTS FOR UNPAID RENTS AND LEASES

Sen. Cam Ward, R-Alabaster, proposed SB427 which would severely impact a creditor's ability to recover account balances. AAR opposed the legislation. Alabama Appleseed, Alabama Arise, and Legal Services Corporation Alabama, among others pushed legislation to limit the garnishment of wages and bank accounts in actions brought on contract (credit cards, auto loans, hospital accounts receivable, residential leases, etc.) or in tort. SB427 did not pass.

REALTOR®-BACKED TAX COALITION BILLS PASS LEGISLATURE

Tax reform was a backdrop for the 2014 session and included several REALTOR®-backed bills including HB105, the Taxpayers' Bill of Rights. AAR remains active in the Business Association Tax Coalition (BATC) who proposed to strengthen the current laws dealing with taxpayers in the past few sessions. A description of that bill as well as other BATC legislation is listed below.

HB105 - Taxpayers' Bill of Rights, sponsored by Rep. Paul DeMarco, R-Homewood. The bill which has gone as far as the Governor's desk in previous sessions but was vetoed due to technicalities would create an independent administrative hearing process for tax appeals. Under the bill, an Independent Alabama Tax Tribunal will hear the disputes over assessments involving income, privilege, sales, use rental and lodging taxes issued by the Department of Revenue, by cities or counties or by private auditing firms. These appeals are currently heard by hearing officers appointed by the Alabama Revenue Commissioner. It is believed that passage of the bill will save both administrative costs and legal fees for Alabama taxpayers pursuing the appeal process. The bill does not repeal the current law that allows for a further appeal to the circuit courts. Virtually every business group favored the bill except the National Federation of Independent Business (NFIB) to date. HB105 passed and has been signed into law.

HB151 - The Small Business Tax Relief Act, sponsored by Rep. Barry Moore, R-Enterprise. This bill would allow for an increase in the business estimated sales tax payment threshold from \$1,000 to \$2,500, thus requiring fewer businesses to make advanced payments but will not change the actual tax due by the business. HB151 passed and has been signed into law.

HB108 - Business Tax Streamlining Act, sponsored by Rep. Greg Wren, R-Montgomery. By creating an online filing system this bill would provide businesses with a one-stop-shop for filing business personal property taxes. Further, it would allow businesses claiming \$10,000 or less in business personal property tax to file a short form that would not require itemization of their property. HB108 passed and has been signed into law.

HB97 - Tax Elimination Act, sponsored by Rep. Jim Patterson, R-Meridianville. This bill gives the Alabama Department of Revenue the authority to suspend taxes and fees when the cost of collecting the tax exceeds the amount of revenue the tax brings in. HB97 passed and has been signed into law.

SPECIAL THANKS TO:

House Speaker Mike Hubbard, Auburn

Senate Pro-Tem Del Marsh, Anniston

House Rules Chairman Mac McCutcheon, Huntsville

Senate Rules Chairman Jabo Waggoner, Vestavia Hills

House Minority Leader Craig Ford, Gadsden

Thanks to all of our members and officers and the Governmental and Political Affairs Committee for responding to our Calls to Action. In addition, those who came to REALTOR® Day on March 12 helped at a critical juncture.

IF AAR WASN'T THERE, WHO WOULD BE?

Support your local, state and national associations!

HOW TO IDENTIFY YOUR LEGISLATOR

http://www.legislature.state.al.us/house/house_zipsearch.html

<http://www.legislature.state.al.us/misc/zipsearch.html>

HOW TO CONTACT YOUR LEGISLATOR

http://www.legislature.state.al.us/house/representatives/houseroster_alpha.html

http://www.legislature.state.al.us/senate/senators/senateroster_alpha.html

House: 334-242-7600 Senate: 334-242-7800