

# **NC ASSOCIATION OF REALTORS®**

## **LEGISLATIVE COMMITTEE MEETING**



**MARK ZIMMERMAN, CHAIRMAN  
LOLITA MALAVE, VICE-  
CHAIRMAN**

**RALEIGH, NORTH CAROLINA  
April 23, 2013**

**NCAR Legislative Committee Agenda**  
**North Carolina Association of REALTORS®, Inc.**

**April 23, 2013**

Sheraton Hotel

Raleigh, North Carolina

Presiding:

Mark Zimmerman - Chairman  
Lolita Malave - Vice-Chair

- |       |   |                                |
|-------|---|--------------------------------|
| I.    | Call to Order   | Mark Zimmerman                 |
| II.   | Approval of Minutes                                       | Mark Zimmerman                 |
| III.  | Legislative Policy Statement                              | Patrick Morgan and Cady Thomas |
| IV.   | Discussion of Legislative Issues                          | Mark Zimmerman and Cady Thomas |
|       | A. Budget and Taxes                                       |                                |
|       | i. Budget/Tax Reform                                      |                                |
|       | ii. Housing Trust Fund                                    |                                |
|       | B. Regulatory Reform                                      |                                |
|       | i. Residential Inspections and Registrations              |                                |
|       | ii. Residential Design Guidelines                         |                                |
|       | iii. Boards and Commissions Consolidation                 |                                |
|       | C. Property Management Issues                             |                                |
|       | i. All Inclusive Leases                                   |                                |
|       | ii. Eviction Process                                      |                                |
|       | D. Appraisal Board Legislation                            |                                |
|       | E. Homeowners Association Legislation                     |                                |
| V.    | Questions from the Committee                              | Mark Zimmerman                 |
| VI.   | Questions from the Floor                                  | Mark Zimmerman                 |
| VII.  | Important 2013 Dates                                      | Mark Zimmerman                 |
|       | A. September 15-17, 2013 – Annual Convention in Asheville |                                |
|       | B. September 16, 2013 – Legislative Committee Meeting     |                                |
| VIII. | Adjournment   | Mark Zimmerman                 |

## **MINUTES**

### **North Carolina Association of REALTORS®**

#### **Legislative Committee Meeting**

**January 24, 2013**

#### **Call to Order**

Chairman Zimmerman called the meeting to order and welcomed the members in attendance as well as the guests. He recognized Past Chairwoman Amy Hedgecock and presented her with an appreciation plaque.

#### **Approval of Minutes**

Meeting minutes from the previous meeting were presented and approved as written.

#### **Legislative Discussion**

Chairman Zimmerman called on Cady Thomas and David McGowan to give an overview of what was happening at the General Assembly and the issues NCAR was pursuing or working on during the long session.

Ms. Thomas and Mr. McGowan discussed the most important topics for the upcoming legislative session: budget and taxes, regulatory reform efforts, property management issues, residential design guidelines and boards and commissions consolidation.

#### **Regulatory Discussion**

Chairman Zimmerman called on Mr. McGowan to discuss proposed legislation by the NC Real Estate Commission and the NC Appraisal Board. Mr. McGowan also reminded the committee members and the guests about the call for REALTOR interest in participation on the various boards and commissions around the state.

#### **Announcement**

Chairman Zimmerman paused the discussion briefly to recognize new Legislative Committee member and former NC House of Representatives member, Darrell McCormick and thanked him for his service to NC and for all of his help and leadership on REALTOR issues.

#### **Coastal REALTORS Presentation**

Chairman Zimmerman next called on Adam Keifer and Alexis Pierson to give a presentation from a group of local coastal members. They made the request that NCAR support legislation about Sea Level Rise and the cost of homeowners insurance. Staff responded that they would research both issues and report back to the presenters.

#### **Questions from the Committee/Floor**

The Committee discussed various other issues not addressed in the staff presentation like repeal of the transfer tax in the 7 counties with local authority and homeowners' association issues. There was also a brief committee discussion regarding the college degree requirement in the Appraisal Board proposed legislation.

The questions from the floor centered on the tax reform discussion and engagement of state political coordinators.

**Announcements**

Chairman Zimmerman thanked the Committee for their service and reminded everyone about the RPAC hospitality suite taking place at the Hilton all day. Committee members asked that the meeting times be lengthened and that the room be bigger.

**Adjournment**

Chairman Zimmerman reminded the Committee of the upcoming important dates to remember and upon no further discussion; he thanked the committee for their work and adjourned the meeting.

**Respectfully Submitted,**

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**Cady Thomas**  
**Director of Government Affairs**  
**North Carolina Association of REALTORS®**



The Voice of Real Estate in North Carolina

## **Legislative Committee Meeting April 23, 2013**

### **2013 Legislative and Regulatory Issues**

On January 30, 2013 the North Carolina General Assembly convened for the beginning of the 2013-14 Legislative Session. Republicans entered this “long session” with expanded control of the House and Senate Chambers and a newly elected Republican Governor Pat McCrory.

Over 1700 bills have been filed this legislative session and a great many of these bills require the attention of the NCAR Government Affairs staff, the Legislative Committee and our members. Several of these bills are highlighted for your review below.

#### **Tax Reform**

As you have heard, the North Carolina General Assembly will be taking on the monumental task of reforming our tax code during the 2013 Legislative Session. They, like NCAR, want to make sure North Carolina is an attractive place to live and work for many years to come. We applaud their efforts to support business however we want to ensure there are no unintended consequences to their decisions to reform the state’s tax system.

While a full package has been formally introduced by Senate or House Republicans or the Governor, NCAR knows that the initial proposal will come from the Senate and will likely include the various ideas which have been discussed by **Senator Bob Rucho (R-Mecklenburg)** and introduced in several bills thus far. Please note that this is a fluid discussion and what we have here may change before a bill is introduced for consideration by the North Carolina General Assembly.

Currently there are four bills filed in the NC Senate and one in the NC House. These bills are expected to be changed as they move throughout the process and we are watching them carefully and continuing to have discussions with leadership at the NCGA and the Governor’s staff to ensure protection of the real estate industry, your clients, our members and the overall economy of North Carolina. The bills as introduced are as follows:

1. [Senate Bill 363](#) – Repeals most state and local privilege taxes and replaces them with a simplified business privilege tax. This bill has been introduced by **Senator Andrew Brock (R-Davie)**.
2. [Senate Bill 394](#) – This bill is a comprehensive overhaul of the state's tax code. It includes eliminating the mortgage interest deduction, along with the property tax deduction. This is a bipartisan bill introduced by **Senators Dan Clodfelter (D-Mecklenburg), Fletcher Harsell (R-Cabarrus), Clark Jenkins (D-Edgecombe) and Wesley Meredith (R-Cumberland)**.
3. [Senate Bill 669](#) – Specifically addresses the state personal income tax rates by phasing in reductions over the next two years. This bill was introduced by **Senators Bob Rucho (R-Mecklenburg), Bill Rabon (R-Brunswick) and Phil Berger (R-Rockingham)**.
4. [Senate Bill 677](#) – This legislation specifically addresses the state corporate income tax rates by phasing in a reduction and ultimately repealing it altogether. This bill was introduced by **Senators Bob Rucho (R-Mecklenburg) and Bill Rabon (R-Brunswick)**.
5. [House Bill 998](#) – This is a placeholder bill for the House overall tax reform plan. Currently the bill only addresses tax consideration of depreciation changes for businesses. This legislation was introduced by **Reps. David Lewis (R-Harnett), Mitch Setzer (R-Catawba), Tim Moffitt (R-Buncombe) and John Szoka (R-Cumberland)**

As we assess the impact of this legislation, we wanted to provide you, as members, an update on our efforts to support state leaders who believe we must change our tax code, and at the same time, ensure that we protect the rights and interests of homeowners and property owners along the way.

Our message continues to be the same that NC needs to approach tax reform in a way that does not harm our overall economy, and housing's fragile recovery. To that end, we will be discussing legislation, informing our members and engaging the public about the particulars of tax reform.

As part of this effort, NCAR recently launched a new advocacy website - [www.TaxReformFacts.org](http://www.TaxReformFacts.org) to begin a discussion about tax reform in North Carolina, its impact on our economy and homeowners throughout the state. The site is part of a strategic campaign which includes targeted online ads in key parts of the state, to engage the public in our conversation.

NCAR is discussing the various provisions of tax reform discussed and we ask that you speak with your legislators and reiterate the importance of the real estate market to North Carolina's overall economy. Specifically, we need to protect the industry during responsible tax reform by protecting the following areas:

*Mortgage Interest and Property Tax Deductions*

- The Mortgage Interest Deduction is vital to the stability of the American housing market and economy.
- Reducing or eliminating the MID is a de facto tax increase on home owners and homeownership. The MID reduces the carrying costs of owning a home, and it makes a real difference to hard-working American families.
- The MID benefits primarily middle- and lower income families: 63 percent of families nationally who claim the MID earn less than \$100,000 per year. Replacing the MID with a tax credit or lowering rates would not necessarily reduce taxes for the middle class.
- There is no guarantee a tax credit or reduced rates would remain in place in the future.
- A poll of North Carolinians shows almost 60% oppose eliminating the MID or Property Tax Deduction.
- Progress has been made recently in bringing stability to the housing market – any changes to the MID now or in the future could place the housing market and the broader economy under stress, destroying wealth accumulation that is the foundation for a healthy middle class.
- If the MID was eliminated or reduced, market pressures on home prices would destroy wealth accumulation of hardworking middle-class families and the dreams they've worked hard to achieve such as college, retirement or starting a small business. The wealth of most middle-class families is connected to their home. North Carolinians bought their homes with the understanding that mortgage interest is tax-deductible, and many of them have steadily paid down their mortgages to build equity in their home. Eliminating or reducing the MID would destroy the hard-earned equity of all home owners.

#### *Transfer Taxes*

- Imposing an additional “transfer-tax” on the sale of land or a home, using the term “conveyance fee”. But it’s really just a home tax.
- This is the same tax that voters and homeowners fought hard against in 2007 and was defeated 24 times on 24 local ballots with an average 78% margin against the tax.
- The Home Tax strips people of their hard-earned equity: the equity many people plan to use for their children’s education or for their own retirement.
- It was a bad idea then, and it’s still a bad idea today. The home tax, coupled with a tax on all the services involved in the transfer of real property, could devastate the weakened real estate market and hurt North Carolina’s overall economy.
- Skin in the Game - 49% of all revenues collected by county governments come from property taxes. That’s \$5.9 billion in revenue paid by homeowners to fund county governments. City governments tend to rely even more heavily on property taxes. Property owners and homeowners are paying their fair share of taxes – funding county and local governments across the state.

#### *Service Taxes*

- Given the change in our economy, North Carolinians are using more and more services. One option that has been proposed is to increase the number of services upon which NC charges taxes.
- As much as an 8% tax on services has been proposed.
- To require this tax on all services on a HUD statement would have a detrimental impact on real estate transactions. Imagine an 8% tax on the services provided by an attorney; an 8% tax

on the appraiser; an 8 % tax on the home inspector; and an 8% tax on the services for using a broker.

- It would add thousands to the cost of a typical home and unfairly target property owners.
- Owning a home will become more difficult. A new series of taxes that pile on to property owners isn't reform; it just makes families pay more.
- Most homeowners have lost value in their home – and housing prices are just now starting to make a comeback. The last thing we need is to burden homeowners trying to sell their home in this economy.
- It would increase the cost of new single-family and multi-family housing construction. On average, labor costs would rise \$60 per laborer per week.

Now is not the time to load up the housing industry with new taxes and fees — which could hurt our recovering economy. Ask your legislators to protect the fragile housing and real estate market during this discussion and debate over tax reform and to maintain the Mortgage Interest Deduction and Property Tax Deductions in any tax reform package as they are vital to encourage homeownership.

## **Other Budget Issue**

### **Housing Trust Fund**

Support of the North Carolina Housing Trust Fund continues to be an area of intense focus for the North Carolina Association of REALTORS and the Government Affairs staff. As you may recall, in 2011, appropriations for the North Carolina Housing Trust Fund were drastically cut. However, NCAR staff and other Trust Fund advocates worked closely with House & Senate Appropriations committees to restore a \$10 million appropriation for 2012.

Before 2012 budget discussions began, the NC Attorney General and the Attorneys General of 47 other states entered into the Federal Mortgage Settlement with the country's five largest loan servicers: Ally (formerly GMAC), Bank of America, Citi, JPMorgan Chase and Wells Fargo. The settlement gave North Carolina approximately \$338 million in assistance to be used to provide North Carolina consumers and struggling homeowners by reducing principals and refinancing mortgages at lower interest rates. It also included new rules for mortgages such as robo-signing and inadequate documentation, and will prevent unnecessary and improper foreclosures.

These funds were distributed in a variety of ways but the General Assembly did have some control over a portion of the money granted to North Carolina. The end result was a restoration of the full funding sought by the Housing Trust Fund, but unfortunately the appropriation was changed from recurring to non-recurring. This means that the Housing Trust Fund is not automatically included in as a line item in the 2013 budget.

Thus far, we are pleased that the Governor's proposed 2013-2015 budget appropriates \$9.4 million for the Housing Finance Agency. The NCAR Government Affairs staff is working very hard on this issue and we are seeking input from members on the various aspects of the proposal. We are reaching out to our friends and allies to ensure that we work with our elected leaders to enact positive tax reform while promoting homeownership, investment in NC and the State's overall economic viability.



## **Regulatory Reform**

Regulatory Reform continues to be a primary focus of the North Carolina General Assembly during the 2013 legislative session. While there are numerous components of this reform, the House Regulatory Reform Committee is responsible for identifying and implementing different aspects of a reform package for the House and the Senate is choosing to do reform in one combined legislative effort.

### **House Regulatory Reform Committee**

This committee will be chaired by Rep. Tim Moffitt (R-Buncombe) and builds upon the work the House did during the 2011-2012 legislative session. While many issues will be included in the scope of this committee's work, there are two primary issues of interest to the North Carolina Association of REALTORS® that were included as priorities in our 2011-2012 legislative agenda and those have once again been carried over to 2013. Those issues have fallen under the purview of the House Regulatory Reform Committee and are as follows:

### **Zoning/Design & Aesthetic Controls**

It came to NCAR's attention in 2010 that cities were overstepping the intent of laws giving cities and counties the authority to enact zoning ordinances related to health, safety and general welfare of its communities by expanding those ordinances to include aesthetic and design standards. As this went beyond the boundary of the law, it unnecessarily increases the cost of housing, and evades personal property rights. Therefore, the NC Association of REALTORS® requested a bill to be introduced and **Senate Bill 731 (Zoning/Design & Aesthetic Controls)**, <http://www.ncleg.net/Sessions/2011/Bills/Senate/PDF/S731v3.pdf>, was sponsored by **Sen. Dan Clodfelter (D-Mecklenburg)**.

While the bill passed the Senate in 2011 with bi-partisan support, the House did not hear the bill during the short session in 2012. Although Speaker Tillis expressed support of these efforts, the bill did not pass the House. NCAR, the NC Home Builders Association and the NC Housing Coalition sought to have this legislation reintroduced in 2013.

**House Bill 150, Zoning/Design & Aesthetic Controls** was introduced by **Reps. Nelson Dollar (R-Wake), Bill Brawley (R-Mecklenburg), Tim Moffitt (R-Buncombe) and Jonathan Jordan (R-Ashe)**, was introduced and received the support of Speaker Tillis and was co-sponsored by the Chair of the Regulatory Reform Committee.

This legislation would clarify that municipalities do not have the authority to regulate the appearance of single-family residential structures except under limited circumstances such as local/national historic districts, historic landmarks, restrictive covenants or limitations or requirements pertaining to structural safety and sound building.

The necessity of this legislation arose from numerous instances where local governments are violating state statute by improperly imposing design requirements on residential construction. Examples include minimum house size, incorporation of certain color schemes, requirements on exterior cladding material, garage size and placement, minimum window spacing, and variety in floor plans. One especially egregious example is a local zoning ordinance that currently requires an eight foot deep front porch over 40 percent of the front of the house. This adds roughly \$9600 to the cost of a 60 foot wide house.

The legislation received approval from the House Regulatory Reform Committee on Local Government after about 30 minutes of presentations from both sides of the argument, including testimony from our own Legislative Chair, Mark Zimmerman. It then passed the House overwhelmingly 98-18 and was sent to the Senate Commerce Committee where it will be heard on April 23, 2013.

NCAR staff is working with our allies to ensure a successful Committee hearing and Senate floor vote this week. Once it is passed the Senate, it will return to the House for a final concurrence vote as the wording has been modified in the Senate to ensure that current illegal ordinances are not grandfathered.

### **Regulatory Reform Act of 2013**

[Senate Bill 612](#), the **Regulatory Reform Act of 2013**, has been introduced by **Sens. Harry Brown (R-Onslow); Brent Jackson (R-Duplin) and Andrew Brock (R-Davie)**. This legislation would provide regulatory relief to the citizens of North Carolina by:

- Clarifying the preemption of city ordinances;
- Clarifying that similar rules apply to county ordinances;
- Clarifying what types of debris may be used as structural fill;
- Clarifying the laws relating to groundwater compliance boundaries;
- Extending the terms of certain environmental permits;
- Clarifying the prohibition on master metering to permit an all inclusive lease;
- Exempting certain properties from riparian buffer rules; and
- Providing the NC Rules Review Commission the authority to review existing rules.

Many of these provisions are issues NCAR has worked on for several years and we are very supportive of the Senators' efforts to streamline the regulatory processes for NC citizens. NCAR staff will continue to work closely with the bill sponsors and other stakeholders to ensure passage of this important piece of legislation.

### **Zoning Changes/Notice to Military Bases**

[House Bill 254](#) has been introduced by several Fayetteville area House members to provide additional notice to NC military installations of land use and zoning changes to properties situated within 5 miles of the base. Notice of proposed changes must be provided to the base commander no less than 10 days and no more than 25 prior to the public hearing being held for the rezoning.

The proposed changes requiring notice are:

- (1). Changes to the zoning map
- (2). Changes that affect the permitted uses of land
- (3). Changes relating to telecommunications towers or windmills
- (4). Changes to proposed new major subdivision preliminary plats
- (5). An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivisions total land area

[House Bill 433 \(Senate Bill 389\)](#) – Sponsored by **Reps. John Bell (R-Wayne); Skip Stam (R-Wake); Pat McElraft (R-Carteret) and Chris Whitmire (R-Transylvania)**, this legislation

would regulate the height of buildings and structures located within 5 miles of military installations in the state. It has passed the House and is awaiting hearing in the Senate.

NCAR Government Affairs staff has worked with the bill sponsors of both bills to address concerns and make sure development is not negatively impacted by the legislation.

### **Eminent Domain**

[House Bill 8](#), sponsored by **Reps. Skip Stam (R-Wake); Chuck McGrady (R-Henderson); David Lewis (R-Harnett) and Ken Goodman (D-Richmond)**, would amend the NC State Constitution to prohibit condemnation of private property except for a public use. It would also provide for the payment of just compensation with right of trial by jury in all condemnation cases. The constitutional amendment would be put before voters on the November 4, 2014 ballot. NCAR is closely following the progress of this legislation will continue to keep our members informed of any impact it may have.

## **Property Management Issues**

### **Residential Rental Inspections and Registrations**

North Carolina cities have historically been concerned about housing conditions in their jurisdictions, especially in older, poorer neighborhoods, and have appropriately adopted ordinances calling for minimum housing quality codes. The core of current NC law gives units of government the authority to respond to housing conditions that are unsafe, dangerous, and unfit for human habitation but does not authorize over burdensome registration programs which increase the cost of housing.

Unfortunately, some N.C. municipalities have substantially broadened these programs aimed at stemming blighted conditions and now apply them to all housing, or at least all rental housing, as part of a mandatory registration program, with many programs being tied into required permits and fees as a condition of operating rental property. Registration and inspection programs in these environments amount to a "housing tax" with no public benefit.

As a result, **Senate Bill 683 (Residential Building Inspections)**, <http://www.ncga.state.nc.us/Sessions/2011/Bills/Senate/PDF/S683v6.pdf>, sponsored by **Senator Neal Hunt (R-Wake)**, was passed in 2011 and requires units of local government to follow certain guidelines when enacting inspection and registration programs for residential rental properties.

First, they must have reasonable cause to believe that unsafe housing conditions exist in order to inspect private housing. Reasonable cause can be based on prior bad acts by a landlord or a history of incidents at a rental house, actual knowledge by the local government, or anonymous reports. It will also require local government inspection programs to be administered in a non-discriminatory way with regard to housing type or ownership.

The legislation did not eliminate all inspection programs. It does allow local governments to conduct periodic inspections as part of a targeted effort to arrest blight within designated Community Development or similar zones. By limiting the inspections programs to those mentioned above and the reasonable cause standard, resources will be used to focus on unsafe

conditions, problem properties and irresponsible owners and landlords. This is a win for local governments, landlords and tenants alike.

Furthermore, the bill prohibited local governments from requiring permits as a condition of renting the unit. Again, an exception is provided to protect tenants who live in housing that has received more than three violations in a 12-month period, or falls within the top 10% of local crime or disorder problems. Finally, local governments are prohibited from charging rental registration fees unless a dwelling unit has more than two violations in a 12-month period, or falls within the top 10% of local crime or disorder problems. The bill also allows current programs with fees to remain but sets forth a reasonable and responsible fee schedule for the administration of the program for all existing and future registration and inspection programs. Programs that exist today must conform to the new law and therefore, many local ordinances will need to be changed. Additionally, if a city is currently charging a rental registration fee, they will have to reduce their fees to the structure allowed by the legislation. That is \$50/year for properties with 20 or more units, \$25/year for properties with 4-19 units and \$15/year for properties with 1-3 units.

As some of the inspection and registration programs across the State have amounted purely to a housing tax with no demonstrable public benefit, this law gives local governments the authority to respond to housing conditions that are unsafe for human habitation, while guaranteeing local governments have not exceeded statutory authority.

The NC Association of REALTORS® Government Affairs staff participated in the discussions about SB 683 with the other stakeholder groups and pushed for enactment of this legislation. The NC Association of REALTORS® partnered with the NC Apartment Association and worked with many stakeholders on the legislation and pushed for the enactment of this legislation, which occurred when the Governor signed the bill on June 23, 2011.

However, after SB 683 was enacted, some cities have tried to get around the intent of the law with new ordinances. Some go so far as to deem the entire city a blighted area and others make it a crime not to register. These ordinances are not what legislators voted for last year and clearly subvert the intent of the law! Putting an entire city within a blighted area stigmatizes the property and will hurt property value and subsequently tax values and revenue for the city.

The NC Association of REALTORS® supports measures to uphold the original intent of last year's legislation, and in conjunction with the NC Apartment Association and legislators, we have been working to pursue legislation to this end during the 2013 long session.

**Representatives Bill Brawley (R-Mecklenburg), Tim Moffitt (R-Buncombe), Jon Hardister (R-Guilford) and Bill Brisson (D-Bladen)** introduced [House Bill 773](#) to address these concerns. This legislation will prevent local governments from evading the 2011 law by:

- Allows resources to be used to focus on unsafe conditions, problem properties and irresponsible owners and landlords.
- Continues to provide local governments the authority to conduct inspections as part of a targeted effort to arrest blight within designated geographic areas. But ensures the inspections are limited to true problem areas and limits the designation of an area to one that meets the requirements of a community block development grant and is no more than 1 square mile of the city or county at a time.

- Prohibits local government rental registration programs, permits, fees, and Certificates of Occupancy as a condition of operating rental housing – all of which increase the costs of housing.
- Provides some clarification in the statute:
  - Changes “property” to “unit” to show that the individual units must each reach a high level of emergency calls and does not allow the local government to aggregate the calls for an entire rental complex.
  - Defines verified violation and allows the property owner the opportunity to correct the problem prior to placement within the problem property category.
- Allows for voluntary rental registration programs so that local governments can locate property owners quickly in case of emergency and only requires registration for those problem properties. However, for those properties required to register the following protections are required:
  - Owners of all problem properties that are required to register must receive notification of all issues on their property from emergency personnel.
  - The law enforcement must cooperate with all criminal proceedings for the property owner including eviction testimony.
  - If law enforcement does not cooperate, the property cannot be put into the top 4% of problem properties. This will help property owners solve the issues plaguing the property by providing them legal protections and the ability to evict tenants who are violating the law.

House Bill 773 is scheduled for a hearing in the House Government Committee on April 25<sup>th</sup> and we are working with our allies and the bill sponsors to ensure its success.

### **Master Meters/Landlord Tenant Agreement**

[House Bill 522](#), sponsored by **Rep. Marilyn Avila (R-Wake)**, would provide for the use of a master meter for electric and natural gas service when the tenant and landlord have agreed in the lease that the cost of services shall be included in the rental payments and the service shall be in the landlord’s name. This legislation was introduced at the request of the North Carolina Apartment Association and NCAR is supporting them in their efforts. A Senate companion bill, [SB 545](#), was also filed by **Sen. Ronald Rabin (R-Harnett)**. The Senate companion bill will be heard in the Senate Commerce Committee on Tuesday, April 23<sup>rd</sup>. This language is also included in the Senate sponsored regulatory reform legislation discussed above

### **Expedited Eviction**

[House Bill 802](#) introduced by **Reps. Beverly Earle (D-Mecklenburg), Tim Moore (R-Cleveland), Bill Brawley (R-Mecklenburg) and Carla Cunningham (D-Mecklenburg)** would decrease the timeline for eviction of a tenant by reducing the number of days each process in a summary ejectment proceeding and eviction proceeding. NCAR has long advocated for a faster eviction process, especially for tenants who consistently pay late or miss payments. NCAR staff will work with the bill sponsors to assist in the passing of legislation

### **Locksmith Bills**

Companion bills have been introduced in both the House and Senate changing the locksmith laws in North Carolina. One of the provisions in both [House Bill 834](#) and [Senate Bill 18](#) would require that all locks changed or repaired on rental property be completed by a licensed locksmith.

NCAR believes this change is unnecessary and would increase costs to renters with no public benefit. Thus, we have spoken with **Senator Stan Bingham (R-Davidson)** and **Rep. Jeff Collins (R-Franklin)** to express our concerns. Senator Bingham has promised not to run the bill and Rep. Collins has been open to our requested changes. NCAR staff will stay on top of this issue to ensure that if either bill moves, the provision negatively affecting our members is removed.

### **Homeowners Associations**

Once again, homeowners associations are a hot topic at the General Assembly. Numerous bills have been filed and it is possible that more are on the way. The most common topic addressed by the pending bills is the issue of liens and foreclosure. NCAR is monitoring the debate and participated as directed by our volunteer leaders.

1. [House Bill 175](#) – Sponsored by **Reps. Rodney Moore (D-Mecklenburg), Kelly Alexander (D-Mecklenburg) and Susi Hamilton (D-New Hanover)**, this bill would prevent a homeowners association from foreclosing on an owner's home for the owner's failure to pay an assessment, fine or late fee but still provides the HOA with the remedy of pursuing action in civil court.
2. [House Bill 278](#) – This legislation is sponsored by **Reps. Duane Hall (D-Wake) and Deborah Ross (D-Wake)**. It would, except in the case of a dispute solely over an owner's failure to pay an assessment, fee or fine, allow a property owner and an HOA to attempt to voluntarily resolve a dispute by entering into mediation. This will hopefully reduce costs for the homeowner in these cases.
3. [House Bill 331](#) – This legislation provides for a uniform foreclosure procedure to enforce claims of lien securing sums due to condominium and planned community associations. It is co-sponsored by **Reps. Skip Stam (R-Wake) and Rob Bryan (R-Mecklenburg)**. The bill as originally drafted removed some protections for homeowners in HOA foreclosures that had been enacted in the last several years. NCAR Government Affairs staff worked with the NC Bar Association and the NC Justice Center to reinsert provisions requiring the HOA board to determine whether or not they will foreclose rather than the professional manager and to require a 90 waiting period before foreclosure can occur after the lien has been placed on the property.
4. [House Bill 793](#) – This bill, introduced by **Reps. Jason Saine (R-Lincoln) and Rodney Moore (D-Mecklenburg)** provides that certain HOAs shall maintain a fidelity bond to insure the association from losses resulting from theft or dishonesty committed by members of the board or persons employed by the association. It also requires companies hired to run HOAs to also be covered by the fidelity bond.
5. [House Bill 871](#) – This legislation would provide that community association managers would be required to be licensed and provides for that licensure to be regulated by the NC Real Estate Commission. The bill, sponsored by **Reps. Rodney Moore (D-Mecklenburg), Frank Iler (R-Brunswick), Kelly Alexander (D-Mecklenburg) and Bill Brawley (R-Mecklenburg)** would also allow the NC REC to regulate the functions of the HOA.
6. [House Bill 883](#) - The bill, sponsored by **Reps. Rodney Moore (D-Mecklenburg) and Kelly Alexander (D-Mecklenburg)** would require community managers to have continuing education determined and overseen by the NC REC.



### **Vacant Housing/Receivership**

[House Bill 227](#), sponsored by **Reps. Marcus Brandon (D-Guilford), Jon Hardister (R-Guilford), John Faircloth (R-Guilford) and Jeff Collins (R-Franklin)**, would provide a pathway for local governments to petition the Superior Court to appoint a receiver to rehabilitate, demolish or sell a vacant building, structure or dwelling where the owner has failed to comply with repeated orders to maintain the property. It would also provide the local government with authority to charge the owner an administrative fee of \$100. NCAR has concerns with the legislation and is working with the bill sponsors to address those concerns. The sponsors have agreed to hold the receiver liable for the repairs and anything that may happen during the time period the property is in their control. The sponsors have also agreed to add an appeals process and a provision stating that should the cost of the repairs not be recouped from the sale of the property, the original owner will not be held responsible for the lost cost.

### **Copper Theft**

Legislation that was passed in the 2012 session and became effective on October 1<sup>st</sup> to mitigate the problem of copper and other metals theft already seems to have had a positive impact. However, a bill has been filed in the Senate that would substantially repeal a key component of the 2012 law that was critical to its success.

1. [Senate Bill 583](#) - Sponsored by **Sen. Tommy Tucker (R-Union)**, this legislation is just a placeholder for now. If it moves forward, it likely would reinstate a provision into the metal recycling statute that would once again enable sellers of copper and other non-ferrous metals to receive cash payments at the time of the transaction.
2. [Senate Bill 713](#) – This legislation was filed by **Sen. Angela Bryant (D-Halifax)** and would place a complete prohibition on the operation of an ATM machine at the location of a secondary metals recycler.

NCAR staff will continue to lead a large coalition of groups concerned about making changes to this law.

### **Property Insurance**

Several pieces of legislation have been filed this year that seek to further reform the property insurance structure in the state.

1. [House Bill 519](#) – This bill, filed by **Reps. Jerry Dockham (R-Davidson); Paul Tine (D-Dare); Frank Iler (R-Brunswick); and Susi Hamilton (D-New Hanover)**, would provide greater transparency with regard to the catastrophe modeling that is used to calculate risk and determine rate filings. It would also provide that the costs of reinsurance included in rate filings be properly allocable to North Carolina and establish a two-tiered rate system that provides for a statewide rate and an additional catastrophe rate based on actual historical losses as well as catastrophe modeling.
2. [House Bill 574](#) – Filed by **Rep. Ted Davis (R-New Hanover)**, this bill would require discounts on coastal homeowners insurance for property owners living in areas where the state or local government has enacted storm damage prevention or mitigation measures.
3. [Senate Bill 615](#) – Similar to House Bill 519, this legislation filed by **Sen. Harry Brown (R-Onslow)** would increase the fairness and equity in rate making by requiring that certain property insurance data be made available to the public; would provide the Commissioner

of Insurance with the authority to order a decrease in rates in property insurance rate making; would limit the commission on policies issued under the Beach Plan to ten percent (10%); increase the Beach Plans non-recoupable assessment cap; and would exempt premiums paid for Beach Plan policies from the gross premium tax.

4. [Senate Bill 690](#) – This is a companion bill to HB 519 that was filed by **Sens. Norman Sanderson (R-Craven) and Bill Cook (R-Beaufort)**.

The North Carolina Association of REALTORS® is actively involved in discussions taking place in both chambers on this topic and will continue to seek input from our members across the state on the potential impacts of these bills.

## **Regulatory Issues**

### **Real Estate Law Changes**

[House Bill 214](#), sponsored by **Reps. Chris Whitmire (R-Henderson), Julia Howard (R-Davie), Pat McElraft (R-Carteret) and Bill Brawley (R-Mecklenburg)**, would exempt the North Carolina Real Estate Commission from public records requirements regarding license applications. The purpose behind this bill is to enable the Commission to keep the personal information of applicants private in circumstances where disclosure of that information could potentially bring harm to the applicant. The legislation has passed the House and is awaiting hearing in the Senate.

### **Boards & Commissions**

Numerous pieces of legislation have been filed this session to reform many aspects of state level boards and commissions. The most noteworthy of these bills under consideration are Senate Bill 10 and House Bill 166:

1. [Senate Bill 10](#) – Sponsored by **Senators Tom Apodaca (R-Buncombe), Neal Hunt (R-Wake) and Bill Rabon (R-Brunswick)** is a 27 page bill that includes provisions to terminate obsolete boards and commissions and restructure/reorganize others. In addition, it also reforms how occupational licensing boards may use the criminal history of applicants for licensure. Of particular interest to NCAR are the sections that reorganize the Environmental Management Commission, the Coastal Resources Commission and the Coastal Resources Advisory Committee. NCAR staff is continuing to follow the progress of the conference committee on this legislation and will keep our members informed of any changes that will impact our industry.
2. [House Bill 166 \(Senate Bill 37\)](#) – This legislation directs the Program Evaluation Division of the General Assembly to study the structure and organization of all occupational licensing boards in the state as well as the feasibility and advisability of creating a single state agency to oversee them all. **Rep. Tom Murry (R-Wake)** is the primary sponsor of the House bill and **Sen. Fletcher Hartsell (R-Cabarrus)** is the primary sponsor of the Senate companion bill. NCAR has grave concerns about a single agency overseeing all occupational licensing boards, particularly the NC Real Estate Commission and the NC Appraisal Board. As a result, we are following this legislation closely and will actively track the study done by PED should this legislation pass. It currently awaits a hearing in the House Regulatory Reform Committee.



### **Amend Real Estate Appraisers' Laws/Fees**

[House Bill 565](#) has been filed by **Reps. John Szoka (R-Cumberland); Julia Howard (R-Davie); Brian Brown (R-Pitt) and Jason Saine (R-Lincoln)** to make changes to the statutes governing the NC Appraisal Board. Several provisions of this legislation, including one requiring future applicants seeking a certified residential appraiser license to hold a college degree, were sought by the Board pursuant to the requirements of the federal Appraisal Foundation.

Other provisions of this legislation would:

- Require that applicants must have completed all of their instructional courses on or after January 1, 2008
- Require that applicants must have completed at least 2,500 hours of experience within the 8 years immediately preceding their application
- Require that all applicants submit to a criminal history record check and provide fingerprints
- Require all trainees and any appraiser wishing to supervise a trainee to complete a course in trainee supervision
- Allow the NCAB to collect any of its fees by electronic means and to charge a processing fee for doing so as long as the processing fee doesn't exceed the actual cost to the Board of processing the payments
- Require AMC's to establish a trust or escrow account in which the portion of all receipts from the entity's clients that are to be paid to appraisers are deposited into the account when the fees are received from the client.
- Require AMC's to ensure that appraisers receive fees within 45 days of the date the appraisal is transmitted to the AMC
- Allow AMC's to be disciplined for commingling fees owed to appraisers with the AMC's operating account
- Make all trust/escrow accounts held by an AMC subject to audit and inspection without prior notice at the discretion of the NCAB
- Require all AMC's to keep complete records showing the deposit, maintenance and withdrawal of appraisal fees held in escrow or trust for appraisers

NCAR will work closely with the NCAR Appraisal Section, other interested stakeholders and the bill sponsors to ensure this legislation adequately addresses the concerns of our members and work towards a solution to protect appraisers from the unfortunate bankruptcy of Appraisal Management Companies.

### **SAFE Act Changes**

[House Bill 293](#) is co-sponsored by **Reps. John Szoka (R-Cumberland), John Bell (R-Wayne) and John Hardister (R-Guilford)**. It includes significant changes to the Secure & Fair Enforcement Mortgage Licensing Act that are aimed at reducing regulatory burdens in the mortgage industry. In addition, the legislation would also remove the Commissioner of Banks' ability to direct the Clerk of Superior Court to suspend foreclosure proceedings for 60 days.

## Vacation Rental Issues

### School Calendar

As has been the case every year since 2004, several bills have been filed that would allow local school districts the ability to opt out of the current school start and end dates. NCAR was one of the primary groups behind the Save Our Summers campaign that led to the 2004 law and we are concerned by the number of local districts that are seeking exemption from that legislation. In addition to many local bills on this issue, the bills that would apply statewide are:

1. [House Bill 129](#) – This bill, sponsored by **Reps. Larry Bell (D-Sampson) and Rep. Marvin Lucas (D-Cumberland)**, would apply statewide by allowing all local school districts in the state to set their own calendar. The only limiting factor is that school could not begin before August 1<sup>st</sup>.
2. [House Bill 258](#) – Also sponsored by **Reps. Larry Bell and Marvin Lucas**, this bill would likewise apply statewide by allowing all local school districts in the state to set their own calendar. However, a provision within the bill would prevent districts from opening prior to August 15<sup>th</sup> instead of the August 1<sup>st</sup> date in HB 129.
3. [Senate Bill 373](#) – Sponsored by **Sens. Jerry Tillman (R-Randolph), Andrew Brock (R-Davie) and Buck Newton (R-Wilson)**, this bill would enable local districts to petition the State Board of Education for the ability to modify the district's calendar to "support implementation and operation of an education program that is established in collaboration with a community college or designed to align the school's opening and closing dates with the community college's course schedule". The State Board of Education may grant the waiver for such a program to the extent that the State Board finds that the waiver is necessary to accomplish the purpose of the program and the request is not an attempt to circumvent the opening and closing dates set forth in this subsection. Waiver requests under these circumstances shall not be used to accommodate system-wide class scheduling preferences.
4. [Senate Bill 595](#) – Sponsored by **Senate Rules Chairman Tom Apodaca (R-Buncombe)** is a bill that change the school calendar in a way that would help our members. Schools could not start before Labor Day and would have to end before Memorial Day. While this bill is not expected to move this year, it is a message to all the other bill sponsors that their bills will not move either.

### Travel Insurance

[House Bill 340](#) – This bill is sponsored by **House Insurance Committee Chairman Rep. Jerry Dockham (R-Davidson)**. It would allow the NC Dept. of Insurance to license national travel insurance producers to sell travel insurance through third-party travel retailers. NCAR has significant concerns about the impact of this legislation on our members, particularly our vacation rental managers. We are worked with the bill sponsor and with House staff to address those concerns before the bill moved forward.