



MARYLAND ASSOCIATION OF REALTORS®
GOVERNMENT AFFAIRS

SUMMARY OF 2009 REAL ESTATE LEGISLATION TAKING EFFECT OCTOBER 1

REAL ESTATE BROKERAGE AND CONTRACTS

SB 86 – Title Insurance Producers

STATUS: PASSED – Effective June 1, 2009 for regulations and October 1, 2009 for bonding requirements

Clarifies that trust money given to a title insurance producer must be given to either a licensed title insurer or a law firm. MAR sought clarification in the language to make clear that only trust money given to a title insurer was affected by the bill rather than all trust money connected to a real estate transaction. The legislation also increased the bonding or letter of credit required for title insurance producers from \$100,000 to \$150,000.

SB 657 – Real Property – New Home Sales Contracts – Contingency Clauses

STATUS: PASSED – Effective October 1, 2009

Requires contracts for the initial sale of a new home to include a financing contingency clause or to state clearly that the sale is not contingent upon financing. If the contract is contingent upon financing, the contract must state the maximum loan interest rate the purchaser is obligated to accept.

SB 1027/HB 754 – Conservation Easements - Disclosure

STATUS: PASSED – Effective October 1, 2009

Clarifies the current conservation easement disclosure law so that it works in a similar manner as the seller disclosure law. If disclosure of the easement is made by the seller before the parties enter into a contract, there is no rescission right for the buyer. If, however, the buyer does not receive information regarding the disclosure before entering the contract, the buyer has five days upon receipt of the easement to rescind the contract. The legislation also states that local government easements funded by state programs are covered by the bill.

HB 635 – Occupational Licenses – Criminal Convictions

STATUS: PASSED – Effective October 1, 2009

States that occupational licenses issued by the State (including real estate licenses) may not be denied to non-violent ex-offenders based solely on the individual's prior criminal conviction unless there is a specific relationship between the past conviction and the occupational license sought by the applicant. The legislation specifies the process that state agencies must use to make this determination. While state agencies, including the real estate commission, already had authority to grant licenses to ex-offenders, MAR opposed this legislation because it did not believe the State should encourage ex-offenders to sell real estate.

COMMON OWNERSHIP COMMUNITIES

SB 742/HB 667 – Condominiums and HOAs – Transition of Control

STATUS: PASSED – Effective October 1, 2009

Clarifies the transition of control for condominiums and establishes guidelines for HOAs. The legislation clarifies that after 50 percent of the condo units have transferred to the public for residential purposes, the council of unit owners has 60 days to elect a board of directors. The bill also clarifies that if the bylaws require transition when a lower percentage of homes transfer, the council of unit owners still has 60 days to establish the board. The legislation requires a similar process for HOAs when at least 75% of the units have transferred over to members of the public for residential purposes.

HB 137 – Home Financial Accountability Act

STATUS: PASSED – Effective October 1, 2009

Makes more information available to the public regarding the records of cooperatives, condominiums, and HOAs. Although the law already permitted the inspection of the books from common ownership communities, HB 137 makes even more information available and also establishes time frames for providing information like board minutes and financial statements.

LAND-USE, PROPERTY RIGHTS, AND THE ENVIRONMENT

SB 89 – MALPF – Civil Fines

STATUS: PASSED – Effective October 1, 2009

Gives the Maryland Agricultural Land Preservation Foundation (MALPF) authority to impose civil fines against persons violating agricultural easements. The legislation allows a fine up to \$2,500 for each violation with a cap of \$50,000 for all violations. Before any fine can be imposed, the legislation requires the Foundation to notify the property owner of the violation and give the property owner reasonable time to correct the violation.

SB 273/HB 294 – Local Government Planning – Planning Visions

STATUS: PASSED – Effective October 1, 2009

Updates the planning “visions” set by state government as a guide for creating local growth plans. In addition to restating some of the original planning visions in the old law, the new legislation adds visions about housing, public participation in growth, community design, and economic growth.

SB 554/HB 176 – Chesapeake Bay Nitrogen Reduction Act of 2009

STATUS: PASSED – Effective October 1, 2009

Requires homeowners living in Maryland’s Critical Areas (land within 1,000 feet of tidally influenced waters) to add nitrogen reduction technology when replacing a septic system. As introduced, this legislation would have affected all homeowners using septic systems in the State of Maryland. MAR vigorously opposed the legislation because the nitrogen reduction technology is very expensive. Although the Maryland Department of the Environment (MDE) administers a grant program to pay the cost difference between a conventional system and a system using nitrogen reduction technology, the grant could not have funded all 420,000 septic systems statewide. Due to significant opposition to the bill (which passed the State Senate by one vote), the legislation was scaled back so that grant funding would be available to pay the cost difference. REALTORS® should be proud that their thousands of e-mails and telephone calls resulted in the significant changes to the original bill. Nevertheless, MAR remains very concerned about the program because a final MAR amendment that would have guaranteed funding for homeowners for the cost difference was rejected by the Legislature. As passed, the bill does not include a statutory requirement for MDE to provide the grants, although proponents of the legislation stated that is the intent of the bill and current program.

SB 666/HB 1291 – No Net Loss of Forest Policy – Forest Conservation Act

STATUS: PASSED – Effective October 1, 2009

Requires the development of a no-net-loss of forest policy by December 1, 2011. The legislation also expands the application of the Forest Conservation Act to single lots when there is more than 20,000 square feet of forest being cleared (the current law only applied if more than 40,000 square feet of forest was being cleared). The legislation also establishes a priority for the retention of trees in sensitive and critical areas like stream buffers, steep slopes, and critical habitats. Finally, the legislation increases the fee developers pay when they demonstrate they cannot meet reforestation or afforestation requirements under the law. The fee increases from 10 cents per square foot to 30 cents per square foot. After 2014, the rate adjusts for inflation.

COMMERCIAL/DEVELOPMENT

SB 159/HB 99 -- Commercial Property – Action to Abate Drug Nuisances

STATUS: PASSED – Effective October 1, 2009

Decreases the amount of time (from 45 to 30 days) before any action to abate a drug nuisance can be filed against a property owner. Decreases the time to 15 days in the City of Baltimore.

SB 625 – Maryland Building Performance Standards – Energy Conservation

STATUS: PASSED – Effective October 1, 2009

Requires the Maryland Department of Housing and Community Development (DHCD) to adopt the International Energy Conservation Code. The legislation authorizes DHCD to adopt changes that are more stringent than the International Conservation Code, but does not allow any changes that would less stringent. As introduced, this legislation would have required the Department to adopt a code that achieved 30% greater energy savings than the 2006 version of the International Energy Conservation Code by 2012, and a 50% reduction by 2018. MAR opposed those last two provisions which were deleted from the bill.