



LEGISLATIVE REPORT

May 2010

JUNE 9th LEGISLATIVE DAY IN RALEIGH

SUPPLY Please register for our trip to Raleigh this year. It is on Wednesday June 9, 2010. We will travel this year with members from WRAR and Duplin-Sampson. The power of your attendance to discuss issues with our locally elected leaders is something that we should not take for granted. WE must continue to talk to our leaders about views that affect both REALTORS® and homeowners.

INSURANCE HIKE TO STAND, COURT RULES

RALEIGH A state appeals court ruled Tuesday that it can't reverse homeowners' insurance premiums that soared by nearly 30 percent along the coast because state law doesn't allow a challenge to the former insurance commissioner's last-minute deal.

A three-judge Court of Appeals panel ruled in a lawsuit by coastal communities trying to overturn a December 2008 deal between former Insurance Commissioner Jim Long and the N.C. Rate Bureau, which represents insurers. Their settlement on homeowners' rates, which came weeks before Long ended his 24-year run as the state's top insurance regulator, also allowed homeowners in 32 western counties to cut their premiums.

The municipalities argued Long made the deal before coastal residents could react to the increases insurers wanted. Then Long allowed homeowners' premiums to jump by unreasonably high levels, said attorneys representing Dare, Washington, Currituck and Hyde counties, and five coastal towns.

Attorneys for the state agency and the Rate Bureau told the judges at a hearing three months ago that state law makes the insurance commissioner responsible for representing consumers and rate settlements can't be appealed to the court by anyone else.

Insurance Commissioner Wayne Goodwin, who took over the month after Long's settlement, said the case isn't over and he couldn't comment on Tuesday's ruling. A second, related appeal of the Rate Bureau case was argued last week before a different three-judge appeals court panel, Goodwin said.

"Our case is still before the Court of Appeals on the issues that are important to us," Dare County Manager Bobby Outten said.

The judges ruled that since Long never held a hearing at which the rate increases were challenged, and never judged the requested premium increases to be excessive, inadequate, or unreasonable, the court couldn't overturn the deal.

Long's decision meant that homeowner policies that were written or renewed beginning May 1 for coastal properties from Sunset Beach to Morehead City could jump 29.8 percent. Policy premiums for homes on the Outer Banks counties of Currituck, Dare, Hyde and Pamlico were allowed to rise by 22 percent, a big jump but a bargain compared to the doubling of rates that insurance companies originally sought.

CHANGES TO DISCLOSURE FORMS

The NC Real Estate Commission met on Wednesday and voted on the various rule changes. After hearing the concerns of NCAR and many licensees, the Commissioners voted not to increase the record retention time period from 3 to 5 years as requested by staff in rules 21 NCAC 58A.0108 and 21 NCAC 58B.0401 (Timeshare Rules).

After much discussion between NCAR and the military stakeholders an agreement was reached that the Commissioners approved with regards to including military issues as part of the disclosure form. The revised rule change to 21 NCAC 58A.0114(a) will revise the current question 15 to read as follows:

“15. COMMERCIAL, INDUSTRIAL, OR MILITARY NOISE, ODOR, SMOKE ETC. AFFECTING THE PROPERTY?”

Additionally, the following language was added to the bottom of the form after the explanation section:

“In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, engineer, land surveyor, geologist, pest control operator, contractor, home inspector or other expert, dealing with matters within the scope of that agency’s functions or the expert’s license or expertise.”

We are hopeful this rule change will encourage sellers to properly disclose issues in areas where the military are present as well as adequately inform buyers without putting additional liability on the agents.

RPAC RAFFLE TICKETS GOING FAST

Members of the RPAC Committee are selling tickets this year to assist in raising funds for RPAC. You can purchase a ticket for \$100.00. You have a chance to win \$5,000. Only 500 tickets will be sold. If you and your office want to go in together and buy a ticket and split it four ways, that is OK as well. Remember that the money raised for RPAC helps us get local officials elected that understand REALTORS® and believe in preserving the American Dream of homeownership. To purchase a ticket you can see the RPAC Committee Chairman Buddy Rudd, or any other member of the RPAC Committee. In addition tickets are available for purchase at the association office.

OFFSHORE DRILLING

The massive oil spill threatening Louisiana's environmentally fragile coast hasn't changed many minds among North Carolina politicians about offshore drilling here, but several say the disaster was a warning. Senate leader Marc Basnight, D-Dare, said the spill was a reminder of the need to shift to greener sources of energy. "I'd much rather look out on an ocean populated by wind turbines than oil rigs," he said. "Who wouldn't?" Basnight has softened his "never" stance on offshore drilling slightly in recent years, and said the spill hadn't changed his position: that there should be drilling only if energy companies sign ironclad agreements to not only pay for cleaning up any spills but to compensate coastal residents for any resulting loss in income. The spill started after an oil rig exploded April 20, sinking two days later. Shrimpers and fishermen in Louisiana have already filed a lawsuit, claiming the spill there, which is growing by 5,000 barrels a day and now covers an area 600 miles around, will destroy their industry.

Gov. Beverly Perdue was once opposed to drilling, but in recent months has said that it appears inevitable. She said that if North Carolina must endure the risks, it should be compensated. She was in Europe on a trade mission and vacation Thursday, but spokesman Tim Crowley said the Louisiana spill underlined the wisdom of creating a group of experts. "It emphasizes the importance of making sure that any drilling off our coast would be safe, which is why the governor put together an advisory panel of experts to review these issues and make recommendations," Crowley said. (*Jay Price, THE NEWS & OBSERVER, 4/30/10*).

HEALTH REFORM: 4 PERCENT HOME SALE TAX IS MYTH

No 4.0% "Sales Tax" on Home Sales In Recently Enacted Health Reform Bill
Contrary to reports that are circulating widely on the Internet, there is not a 4.0%

"sales tax" or "transfer tax" on the sale of a home included in the recently signed health care reform bill. The analysis underlying these reports is incorrect and fails to take into account the interplay of the bill's provisions with already existing real estate tax laws that remain unchanged.

What was included in the health bill is a provision that imposes a new 3.8% Medicare tax for some high income households that have "net investment income." Any revenue collected by the tax is dedicated to the Medicare hospital insurance program. This new tax will only apply to households with Adjusted Gross Income (AGI) of more than \$200,000 for individuals or more than \$250,000 for married couples. Since capital gains are included in the definition of net investment income, an additional tax obligation might result from the sale of real property.

In the case of the sale of a principal residence, the existing \$250,000/\$500,000 exclusion from capital gains on the sale of a principal residence remains unchanged. Consequently, even when the AGI limits are met, the new tax would not be applied to all capital gains that result from the sale of a home. The new Medicare tax would only apply to any home sale gain realized in excess of the \$250K/\$500K existing primary home exclusion that pushes the filer's AGI over the \$200K/\$250K adjusted gross income limit.

The new Medicare tax will not take effect until January 1, 2013.

For more information on the new Medicare tax, please consult NAR's Health Reform Q&A on this and other provisions of the new health reform law located at www.realtors.org/healthreform.

NEW PUBLIC AWARENESS CAMPAIGN ADS LAUNCH MAY 1

The new media campaign, "What Matters Most," reminds buyers and sellers that homeownership continues to be the foundation of the American Dream despite challenges in today's economy. Go to [the ad page](#) on REALTOR.org to preview the ads, access info on where they're running nationally, and how you can use them in your local market.

STATEWIDE TRANSFER TAX PROMOTED

This past week, the enactment of a statewide real estate transfer tax was proposed in two Legislative Study Committees to fund infrastructure throughout the state. A representative from the anti-growth group "Wake Up Wake County" promoted a statewide transfer tax in the Legislative Study Commission on Urban Growth and Infrastructure Issues Committee. The second mention of a statewide transfer tax was in the Legislative Study Commission on Water and Wastewater Infrastructure Meeting where it was suggested as a way to provide a long-term funding source for water and wastewater infrastructure needs in the state.

Neither Commission adopted the suggestion as a recommendation to put before the General Assembly as it begins the short session in May.

FACTS ABOUT THE "HOMEOWNERS—LISTEN UP" EMAIL

An email (subject: "Homeowners—Listen Up") is being re-circulated claiming that H.R. 2454: the American Clean Energy & Security Act would require an energy license/retrofits for home sale. The email is NOT accurate. H.R. 2454 remains pending in the Senate. Senators Kerry (D-MA), Graham (R-SC) and Lieberman (I-CT) continue to pursue bipartisan support for an alternative to the House bill to move the legislation forward for consideration by the Senate. NAR continues to monitor the Senate efforts and will work to ensure residential and commercial real estate is not adversely impacted.

Additionally, during consideration of H.R. 2454, NAR was instrumental in eliminating time-of-sale energy efficiency requirements from the bill. The House approved H.R.2454 with the following two provisions. We will work to ensure that these provisions are retained in the Senate version of the legislation:

- Section 202 (Building Retrofit Program) would offer matching grants for home improvements. State governments would administer the program which is voluntary and available to all property owners.
- Section 204 (Building Energy Performance Labeling Program) would apply to new construction only and prohibit time-of-sale labeling. The original energy audit and MLS listing provisions were deleted.

Thanks to REALTORS®, NAR succeeded in excluding existing real estate from the bill requirements. Last summer after the House approved its version of the legislation and this email originally surfaced, NAR developed a full packet of information complete with legislative analysis, Myths vs. Facts, FAQs, etc. Below is a link to the packet on Realtor.org. Go to the following link for more information: [Legislative Analysis, Myths vs. Facts, FAQs](#).