



MASSACHUSETTS ASSOCIATION OF REALTORS®

2015-2016 Legislative Priorities

Oppose Anti-Production Zoning

ISSUE: Massachusetts is currently dealing with a severe housing crisis due in large part to a low rate of housing production which has not kept pace with population growth and needs. Highlighted below are three examples of how S. 2311 would negatively impact housing production in Massachusetts.

THE LEGISLATION: S. 2311 *An Act promoting housing and sustainable development.*

SPONSOR: Senator Wolf (D-Harwich)

LEGISLATIVE ACTION TO DATE: Passed by the Senate (23-15).

DEVELOPMENT IMPACT FEES

ISSUE: The bill would allow municipalities to impose development impact fees for water, wastewater, storm water management, solid waste, roads, and parks and recreation. An impact fee is a fee that is imposed on any new development project to offset the supposed increased costs associated with it in the municipality.

WHY REALTORS® OPPOSE DEVELOPMENT IMPACT FEES: Development impact fees involve complex legal, planning, and economic principles that are not adequately addressed in this legislation. Development impact fees increase the cost of new development, especially for residential projects, which will reduce the number of projects that are economically feasible. If an impact fee is imposed, it will be passed on to consumers in the form of higher prices, which will make housing less affordable. In states that have authorized impact fees by statute, they are the exclusive means for local governments to address capital facilities and services needs to serve growth in communities. By contrast, the proposed legislation would not prevent a municipality from imposing both development impact fees and other burdensome and costly mitigation requirements as a condition of development approval.

INCLUSIONARY ZONING

ISSUE: Inclusionary zoning would authorize municipalities to impose mandatory requirements upon development projects to be sure that a portion of the project is affordable.

WHY REALTORS® OPPOSE INCLUSIONARY ZONING: By expressly authorizing municipalities to impose mandatory inclusionary requirements, the legislation would unfairly burden developers with the substantial costs of fulfilling society's obligation to ensure the availability of affordable housing. It would significantly impact the cost of development in these municipalities and would increase the cost of market rate housing to the detriment of first-time homebuyers and others looking to move into or remain in the community. The burden to provide affordable housing options should either be shared more broadly or provided on a voluntary basis in response to meaningful incentives consistent with a plan for the creation of such housing.

MINOR SUBDIVISIONS

ISSUE: This would establish a "minor subdivision" process that would replace the "Approval Not Required" (ANR) process in cities and towns that choose to adopt a minor subdivision ordinance or bylaw.

WHY REALTORS® OPPOSE A MINOR SUBDIVISION PROCESS: This opt-in approach would result in a patchwork of subdivision controls across the Commonwealth in which some communities have an ANR process and others have a minor subdivision process. Eliminating the use of ANRs would be significant because land divisions that formerly would have qualified for ANR would now be subject to review in a minor subdivision process or full subdivision review. This type of review would involve additional time, less certainty, and more burdensome conditions than the current ANR process. While the concept of a minor subdivision on an existing street may be a good one in the abstract, it should not come at the expense of the sole means of expeditious land division under ANR endorsement.



Support Mortgage Forgiveness Debt Relief

ISSUE: The general tax rule that applies to debt forgiven during a short sale is that the amount forgiven, sometimes referred to as phantom income, is treated as taxable income to the borrower. This results in homeowners who are unable to afford their mortgages having to pay taxes on income they never received.

THE LEGISLATION: H. 3770 *An Act relative to discharge of indebtedness of principal residence from gross income.*

SPONSORS: Senator DiDominico (D-Everett), Senator Montigny (D-New Bedford), and Representative Malia (D-Jamaica Plain)

LEGISLATIVE ACTIONS TO DATE: Reported favorably by the Joint Committee on Revenue to House Ways & Means.

WHY MAR SUPPORTS H. 3770: This bill would allow homeowners to complete loan modifications, short sales and foreclosures without making them liable to pay state taxes on the forgiven debt. This bill would mirror the federal Mortgage Debt Relief Act of 2007, which was extended through 2016, to allow taxpayers to apply for this exclusion on their state tax return as well. If H. 3770 is not enacted, many families across the Commonwealth will have to pay income tax on "phantom income." They will owe tax on money they've already lost and will be required to pay that tax at a time of dire hardship, when they are least likely to have the means.

ACTION NEEDED: Ask your legislator to support H. 3770 and urge the House Committee on Ways & Means to report the bill out favorably.

Support Copper Pipe Theft Prevention

ISSUE: Thieves target vacant homes and strip them of copper piping and wiring. These thefts negatively impact home values in the community and make the subject property likely ineligible for conventional mortgage financing.

THE LEGISLATION: H. 3806 *An Act regulating secondary metals dealing.*

SPONSORS: Representative Ron Mariano (D-Quincy) and Senator Timilty (D-Walpole)

LEGISLATIVE ACTIONS TO DATE: Two different versions of legislation regulating the scrap metal industry have passed both the House and Senate.

WHY MAR SUPPORTS H. 3806: These bills seek to eliminate the theft of scrap metal from homes by establishing a licensing structure for the sale of scrap metal. The licensing structure will provide law enforcement with ways to identify individuals who are selling the stolen metal to the scrap dealers. By giving the Commonwealth access to, and the means for the sharing of necessary information, the incentive to strip houses for metal will be greatly diminished.

ACTION NEEDED: Ask your legislator to work on reconciling the House and Senate legislation.

Oppose Wetland Disclosure

ISSUE: This legislation seeks to require real estate licensees to disclose to prospective buyers that a property to be sold, is in its entirety or in part, a wetland. Currently, over 135 Massachusetts communities have unique and typically more restrictive local wetlands protection bylaws than the state and federal laws.

THE LEGISLATION: H. 150 *An Act relative to the disclosure of wetlands on property.*

SPONSOR: Representative Arciero (D-Westford)

LEGISLATIVE ACTIONS TO DATE: Reported favorably by Joint Committee on Consumer Protection & Professional Licensure. Currently before Committee on Bills in 3rd Reading.

WHY MAR OPPOSES H. 150:

- This legislation is outside the scope of a real estate license - Real estate brokers and salespersons are not wetlands experts. Requiring brokers to investigate and report to buyers on the various wetland restrictions overlay maps, and provisions in each community would far exceed the practice of brokerage as defined in M.G.L. Chapter 112.
- The current law works - Pursuant to the Consumer Protection Act (M.G.L. Chapter 93A), real estate brokers and salespersons are already required to disclose known material defects in a property, which would include known wetlands. Furthermore, buyers are free to create inspection contingencies, including inspections for wetlands, in their purchase contracts.
- The Massachusetts Association of Realtors® believes that these methods of acquiring relevant information are far superior to legislatively mandating that brokers perform services beyond their areas of expertise and training.

ACTION NEEDED: Ask your legislator to oppose H. 150

Oppose Mandatory Energy Scoring

ISSUE: This proposal would require sellers to perform a Mass Save energy audit prior to listing a home for sale and disclose to any prospective buyer the information in the energy audit. Additionally, the bill commissions the design and implementation of an energy scoring and labeling system. Mandatory energy audits, at or prior to, the transfer of property can disrupt sales and therefore have a negative impact on the Massachusetts housing economy. Additionally, requiring energy efficiency scoring on homes in Massachusetts will stigmatize older homes causing a substantial decline in home value.

THE LEGISLATION: S. 1761 *An Act relative to home energy efficiency.*

SPONSOR: Senator Downing (D-Pittsfield)

LEGISLATIVE ACTIONS TO DATE: Referred to the Joint Committee on Telecommunications, Utilities & Energy and included in an extension until July 1.

WHY MAR OPPOSES S. 1761:

- The current system works - Massachusetts residential consumers currently pay a surcharge on their energy bill for energy audits. According to publicly available information [on www.masssavedata.com](http://www.masssavedata.com) in 2014, over 89,000 MassSave energy audits were conducted with a 35% closure rate for home insulation and a much higher closure rate when including other program benefits.
- Interferes with the market - Requiring an energy audit prior to listing will lead to delays in the home buying process while also affecting the negotiation of contracts regarding the acceptability of the audit.
- Negative impact on older homes - Older homes are typically not as energy efficient as newer homes. Massachusetts has the second oldest housing stock in the nation, and many of those homes are located in less affluent communities where residents have few resources to upgrade their home.

ACTION NEEDED: Ask your legislator to oppose S.1761

Room Occupancy Tax

ISSUE: Occupancy tax proposals promote the creation of a new tax on homeowners who choose to rent their homes for a short term. In addition to established businesses like hotels, motels, and bed and breakfast establishments, these proposals would allow a city or town to charge a tax on any apartment, single or multiple family housing, cottage, condominium or timeshare unit.

THE LEGISLATION: H. 2645 *An Act providing for local aid enhancement.*

SPONSOR: Representative Peake (D-Provincetown)

LEGISLATIVE ACTIONS TO DATE: Reported favorably by the Joint Committee on Revenue as H. 2645. Now before House Ways & Means.

WHY MAR OPPOSES H. 2645: These proposals promote the creation of a new tax on all homeowners who choose to rent their homes for a short term, typically under 90 days. MAR opposes Room Occupancy Taxes for the following reasons:

- Homeowners would be required to collect this new tax on top of paying property tax and income tax. Many vacation homeowners rent their properties to cover the costs of other local, state and federal taxes.
- The collection, handling, remittance of these taxes is something that private individuals are not familiar with, as they have never been required to handle them. Inadvertent errors in handling could result in penal sanctions. If passed, the homeowner would be required to comply with onerous business regulations that were never intended for the average homeowner.
- Many homeowners who rent may simply not report their rental income. This will likely result in the town incurring a budget gap between projected and actual revenues in light of inability for many property owners to comply.

ACTION NEEDED: Ask your legislator to oppose H. 2645.

Oppose Real Estate Transfer Taxes

ISSUE: This bills authorize the creation of new transfer taxes on the sale of property in a city or town. Transfer taxes create an entrance or exit fee to homeownership and would have serious implications for the Massachusetts housing economy. These taxes single out home buyers and sellers and raise the bottom line price of many homes by thousands of dollars.

THE LEGISLATION: H. 3300 *An Act authorizing the town of Provincetown to impose a 0.5% real estate transfer fee.* H. 4317 *An Act authorizing the town of Nantucket to impose a real estate transfer fee for affordable and workforce housing.* H. 2516 *An Act relative to the Massachusetts Clean Water Trust.*

SPONSORS: Representative Peake (D-Provincetown), Representative Madden (D-Nantucket), and Representative Garballey (D-Arlington)

LEGISLATIVE ACTIONS TO DATE: H. 3300 & H. 2516- Referred to the Joint Committee on Revenue and accompanied study order; H. 4317 - Before Joint Committee on Municipalities and Regional Government.

WHY MAR OPPOSES TRANSFER TAXES: Realtors® strongly oppose real estate transfer taxes in any municipality. The imposition of this type of new sales tax on homes could have serious implications for the Massachusetts economy and would set the wrong precedent for the Commonwealth's tax policies. If allowed, communities facing budgetary deficiencies could seek transfer tax authority to solve local revenue problems. Creating an entrance or exit fee to homeownership is the wrong way to solve this problem. These bills single out home buyers and sellers and subjecting them to this new tax only further exemplifies the inequitable nature of this taxing scheme.

ACTION NEEDED: Ask your legislator to continue to oppose transfer tax legislation.