

# 2018 LEGISLATIVE AND REGULATORY POLICY AGENDA

## ACCESS TO PUBLIC RECORDS

The Association will continue to oppose attempts to limit access to public records relating to real property in all formats.

## CERTIFICATE OF VALUE

The Association will continue to oppose the certificate of value or any form of sales price disclosure and support legislation that limits the ability of the state or subordinate political subdivisions to use certificate of value or any form of mandatory sales price disclosure on property transfer.

## DRONES

The use of unmanned surveillance aircraft as a real estate marketing tool continues to grow as the technology matures and becomes more affordable. The ability to use these devices to assist in marketing real property is threatened by overbroad government regulation aimed at a limited group of entities who have used these tools for other purposes. There is a clear difference between employing the technology for personal surveillance and other lawful purposes; we oppose limitations on the use of unmanned surveillance aircraft in conjunction with marketing real property.

## DRY-CLEANING ENVIRONMENTAL RESPONSE TRUST FUND

The Association supports efforts to amend the Drycleaning Environmental Response Trust Fund statute to increase funds available for monitoring and remediation of affected real property.

## HOME INSPECTOR LICENSING

Recognizing that the home inspector has become an integral part of the residential real estate transaction, the Association will continue efforts to ensure that all home inspectors meet minimum standards of competency through a licensing/regulation/registration system managed by a board of home inspectors.

## INCENTIVES FOR HOMEOWNERSHIP AND REAL ESTATE

The Association will continue to monitor legislation on and provide support for the continuation of the Historic Preservation Tax Credit and the Low Income Housing Tax Credit, as well as other programs aimed at increasing homeownership and real estate development in Missouri.<sup>1</sup>

Many Missouri tax credit programs compliment an existing federal program, we believe that where there is an existing federal program the Missouri tax credit should follow the federal credit especially in terms the types of property that can use the tax credit.

One of the most pressing problems for first-time homebuyers is the ability to make a down payment equal to 3 to 10% of the loan. The inability of first-time homebuyers to close on a property affects other sales since homeowners need to sell their existing home to close on a new home. The problem also extends to new “starter” homes because if there is no market, then there will be no production.

Missouri REALTORS® supports legislation to create a First Time Homebuyers Savings Account or FHSA. This account will encourage any Missouri resident to set aside funds for the purchase of their first home, the earnings as well as the deposit would be free from Missouri State Income Tax.

## LAND OWNERSHIP

We oppose limitations imposed by government on the free alienability of real property.



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## LENDING ISSUES

The current economy has created significant pressures on the financial services industry. This, coupled with attempts by the Federal Government to impose unrealistic requirements on community banks and other sources of real estate credit, created a lending crisis that could significantly limit credit available to the residential real estate market.

Some consumer advocates have proposed a “foreclosure freeze” which would prohibit lenders from exercising their legal right to attempt to recover their investment in the subject property. In other instances legislation has been introduced which would prohibit appraisers from using foreclosed property as a comparable in their considerations of value, a potential violation of the Uniform Standards of Professional Appraisal Practice, USPAP.<sup>ii</sup>

The Association believes the correct approach to all of these problems is to follow the lead of The National Association of REALTORS® in their efforts to support fair and reasonable federal laws and regulations dealing with lending and believes that for Missouri to attempt to impose their own solution to this problem would lead to a flight of capital from Missouri, therefore we oppose legislation that would impose new burdens solely on Missouri lenders.

## METHAMPHETAMINE DISCLOSURE REQUIREMENTS

The Association believes it is fair and reasonable to require disclosure to buyers and tenants of actual prior knowledge that a Property is or was the site of prior methamphetamine production. At the same time, there should be a standard protocol and incentive for rehabilitating properties that may have been contaminated as a result.

Currently, there are no uniform standards by which to confirm or certify if a former meth site has been “cleaned-up”. As a result, disclosure of such historical matters is theoretically required “forever”. This can create an unwarranted chilling effect on the sale and transfer of properties which have, in fact, been rehabilitated.

The Association supports efforts to implement reasonable statewide “clean-up” standards and a certification process that will allow a “clean bill of health” to be issued.

## MUNICIPAL ORDINANCE ENFORCEMENT

Missouri REALTORS® supports reasonable efforts to insure that local jurisdictions focus efforts on property code enforcement by education and cooperation rather than a system that relies on fines and other punishments.

## MUNICIPAL INSPECTIONS OF REAL PROPERTY

A number of cities are requiring property owners to have their property inspected by municipal employees as a condition of listing their property for sale. The inspection is similar to that required for an occupancy permit but the owner is not required to correct defects as they would in order to receive an occupancy permit. The inspections are valid for up to 6 months, in order to be renewed an additional inspection and fee is required. The additional fees and time to schedule the inspection can have a chilling effect on the sale of the property and in the current economic climate any impediment to a timely sale is unacceptable.

The Association opposes any requirement by a city that owners apply for an occupancy inspection as a condition of listing a property for sale or keeping a property on the market. MAR also opposes any fines imposed by a political subdivision for failure to apply for an occupancy inspection as a condition of listing a property for sale or keeping a property on the market. We believe that if an inspection is required, it should only be at change of occupancy.

## MREC/IMPORTANCE OF AN OCCUPATIONAL LICENSING SYSTEM TO Missouri REALTORS®

Missouri REALTORS® believes that the current state mandated license system that requires a minimum standard of pre and post license education coupled with an objective system of testing prior to representing another in the sale or purchase of real property is a reasonable and prudent exercise of the state’s authority to regulate commerce. While amendments may be needed deal with new technology and business practice’s we oppose any effort to dilute or eliminate the basic system.

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## MREC/LICENSE LAW-LICENSING ORGANIZATIONAL STRUCTURE ISSUES

The Association has also been presented with questions from several members regarding the inability of a salesperson or broker-salesperson to become licensed as a limited liability company ("LLC"), S-corp. or other recognized legal entity (other than as a professional corporation or "PC"). The Association supports efforts to facilitate the issuance of "organization of choice" licensing for salespersons and broker-salespersons.

## RECORDING FEES

The Association will continue to oppose increases in property recording fees that are unrelated to services provided to the transaction.

## SHORT TERM RESIDENTIAL RENTALS

The use of various websites to advertise rental property has increased the ability of regulators and tax assessors to follow and track those rentals. Missouri REALTORS® supports legislation to protect the right of owners to offer short-term rentals without undue regulation or interference by local government. Further, we believe that the decision in the case of *Shipman V. Dominion Hospitality*, 148 S.W.3d 821 (Mo., 2004) must be addressed by the General Assembly. A requirement that if a person allows a single short-term rental then the property becomes commercial for the entire assessment year is unfair and wrong.

## SUNRISE ACT

Several states have passed legislation described as a "Sunrise Act", these are an effort to develop a comprehensive and structured method of determining when there is a need to establish a new license system for a trade, occupation or profession. Missouri REALTORS® does not oppose developing a rational and structured method of determining the need for new licensed trades, occupations or professions so long as the proposed statute is neither overbroad nor create questions about the application of current law and applies solely to currently unlicensed trades, occupations or professions.

## POLICY ON GOVERNMENT RECORDS

Missouri REALTORS® believes that licensees who use public government records for listing or advertising purposes should be protected from litigation brought as a result of that reliance.

## POLICY ON BOARDS AND COMMISSIONS

Missouri REALTORS® believes that the current statute creating the Missouri Real Estate Commission and defining its membership and authority has served both licensees and the public interest well. We also believe that merging the MREC and the MREAC could potentially create problems regarding the authority of appraisers to work on loans to be sold on the secondary market. We, therefore, oppose any changes to the authority of the MREC and any attempt to merge the MREC and the MREAC. If any consideration is given to moving the Missouri Real Estate Commission out of the division of professional registration to another department or division we are opposed to that change.

<sup>i</sup> Two real estate-centered tax credits, Historic and Low Income Housing, have provided significant incentives for real estate development in Missouri. The Association was closely involved in the creation of both programs. Development under the Historic tax credit has been responsible for economic renewal and revival in city centers across the state. The program also has been cited as a model and been adopted either in whole or in part by other states. The Low Income Housing Tax Credit has provided safe and affordable housing for thousands of Missourians, and is the centerpiece of most workforce housing initiatives in the state. According to cited studies, the programs return between 8 and 10 dollars in economic activity for every dollar invested. The Home Ownership Purchase Enhancement (HOPE) program, which ended Aug. 31, 2010, provided an award of up to \$1,250 for qualified buyers. The Missouri Housing Development Commission using existing commission funds administered the program. The Commission should be encouraged to continue or expand this program.

<sup>ii</sup> USPAP is the comprehensive regulation of appraisal practice. Appraisers may make valuation judgments without following the standards however; the valuations may not be used or considered if a loan is to be sold on the secondary market. Because of this, it is difficult, if not impossible, for a lending institution to offer a fixed rate loan on such a property and any loan made would likely be at an interest rate and on terms that would be unacceptable to most buyers. Legislation on the state level, which imposes duties in contravention of USPAP, may render all appraisals unsuitable for loans sold on the secondary market.



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