

**2007 Virginia Laws Affect Real Estate Transaction Costs,
Address REALTOR® Issues
Transportation Funding, New POA Fees and Procedures Approved**

*Laws To Become Effective
July 1, 2007*

Crafting legislation is an exercise in give and take. Indeed, legislators know that the best compromises are forged when all parties can find fault with some aspect of a bill. This year's General Assembly legislation certainly mirrors those sentiments. Northern Virginia will see an infusion of transportation funding, but some of those revenues will come from a grantor's tax increase. The condominium and property owner's association (POA) resale process will be streamlined but may lead to increased document fees. Overcrowding penalties and eminent domain reforms were passed but not without months of discussion and maneuvering by REALTORS®.

Transportation Funding

The highly touted centerpiece of the 2007 session was the transportation compromise, HB 3202. The bill allows a Northern Virginia regional authority to raise an array of fees totaling \$400 million per year, all of which will remain in Northern Virginia for regional road and transit initiatives.

The fee of interest to the real estate industry is the \$.40 per \$100 (\$4.00 per \$1,000) increase in the real estate grantor's tax. Through this increase, the total grantor's tax rate would be \$5.00 per \$1,000 of value.

Other fees in the legislation include a 2 percent rental car tax, a 2 percent hotel tax, a 1 percent initial vehicle registration fee, a 5 percent tax on auto repairs, and \$10 increases in safety inspection and car registration fees. NVAR worked closely with legislators to craft the package and successfully reduce the amount of taxes originally proposed on real estate. Northern Virginia legislators have indicated that without NVAR's assistance, there would be no new funding for the region.

While NVAR and the Northern Virginia business community would have referred more broad-based funding sources, such as a gas or sales tax, those efforts have been consistently defeated by downstate legislators. NVAR was willing to be a part of the solution that guaranteed our transportation dollars would be kept in Northern Virginia. The cost of doing nothing about our region's gridlock would be far greater in terms of job losses, decreased productivity and reduction in our quality of life.

The Northern Virginia package must be approved by the localities that constitute the Northern Virginia Transportation Authority and is expected to be implemented in late 2007 or early 2008.

Condo and POA Resales

Similarly, legislation streamlining the condo and POA resale packet process comes with the benefit of fewer headaches for agents and their clients but the drawback of increased fees.

HB 2016 allows professionally managed associations to collect a market-rate fee for preparation of a resale disclosure packet. Associations that are not professionally managed will retain the current \$100 fee. The management company and the homeowners' association will negotiate the amount of the resale fee. These new fees will become effective as homeowners' associations negotiate new contracts with their management companies.

Other states have a range of market rates; Maryland's document fee averages \$172. It is expected that the market-rate fee in Virginia will be approximately \$200. By law, the fees cannot go higher than \$325; however, association representatives have assured REALTORS® that fees will not reach that cap. If they do, NVAR has their commitment that together we will ask the General Assembly to reduce the cap. REALTORS® had been successful in keeping resale fees low for many years despite objections from association managers.

Those management companies approached NVAR and VAR with detailed accounts of the time and cost involved in gathering resale information and inspecting properties. VAR convened a workgroup of REALTORS® from around the state to analyze these costs and evaluate the proposed legislation. After months of discussions, REALTORS® negotiated several concessions to improve the transaction process for real estate professionals.

To charge market-rate fees, associations must disclose the fee in advance on the Web site of either the association or the managing agent. This will reduce the current uncertainty of the amount an association will charge for the packet. In addition, the fee will now be assessed against the unit and paid at settlement rather than in advance, taking the REALTOR® out of the transaction completely.

Eminent Domain

REALTOR® input was key in two final areas of legislation. At the state level, REALTORS® worked for two years to forge reasonable eminent domain reforms. The final eminent domain legislation protects property owners from unreasonable takings such as those outlined in the *Kelo v. New London* case.

However, the bill does allow for legitimate uses of the power, including removing truly blighted properties that devalue the surrounding neighborhood, construction of new schools and roads, running utility lines to new residential and commercial developments, and allowing utilities to offer new services or bury transmission lines to existing customers.

Overcrowding

Locally, several jurisdictions approached NVAR to craft legislation on residential overcrowding. The localities' original proposals considered having real estate agents disclose a property's zoning status. Instead, NVAR worked with localities to craft legislation that increased fines on the true perpetrators of overcrowding: the property owners who create the violations.

Clearly, 2007 was a year of negotiation and compromise. Through it all, your REALTOR® associations were at the table fighting for the issues that matter to you.

Bill Summary

Real Estate Licensing: Agent Services (2006, REALTOR® Bill): HB 316 defines "limited service agent" and requires those agents to:

- disclose to clients that licensee is acting as a limited service representative
- provide a list of specific services that licensee will perform
- provide a list of specific duties of a standard agent that limited service representative will not provide to client.

Real Estate Transactions:

Disclosures of Zoning Violations:

SB 1114 requires a property owner to give notice to a purchaser that there are no pending violations of any local zoning ordinances that the owner has not abated or remedied.

Conservator; Requirements for Sale of Real Estate:

HB 3177 states that when disposing of real estate of an incapacitated person, a court may require conservator of incapacitated person to list property for sale in a multiple listing service.

Felons as Settlement Agents:

SB 745 prohibits any person convicted of a felony from acting as a settlement agent. Persons convicted of felonies involving fraud may not work for settlement agents in a capacity involving funds from settlements.

Freedom of Information Act; Land Records:

HB 2062/SB 824 provide that beginning July 1, 2010, Social Security numbers shall not be contained in electronic land records. Bill allows clerk to charge 50 cents per electronic image transmitted.

Recordation of Deeds:

HB 1909 states that the party who prepares writing for recordation is responsible for removing Social Security numbers from document.

Transportation:

Transportation Funding: HB 3202 gives Northern Virginia Transportation Authority ability to raise approximately \$400 million per year for area road projects. Fees include: \$.40 per \$100 (or \$4.00 per \$1000) increase in real estate grantor's tax, 2 percent rental car tax, 2 percent hotel tax, 1 percent initial vehicle registration fee, 5 percent tax on auto repairs, and \$10 increases in safety inspection and car registration fees.

Overcrowding / Zoning Violations:

Zoning Violations; Overcrowding: HB 2261 provides for enhanced fines of up to \$2,000 for the overcrowding of residential dwellings. Authority of Zoning Administrator: SB 1412 allows that, when a property owner is not cooperative to requests for information on a dwelling's occupancy, a zoning administrator may request a subpoena to determine if an occupancy violation has occurred.

Building Code Violations: HB 2789 provides that violations of Building Code relating to occupancy limits may be punished by increased fines of up to \$2,500 and confinement in jail for not more than 10 days.

Abatement of Building Code Violations:

HB 2469 allows a locality and a violator to agree on abatement or remediation of violation in lieu of trial. Real Estate Taxation: Real Property Tax Exemptions: HB 1744 increases income limit to \$75,000 for elderly and disabled property tax exemptions in Northern Virginia localities.

Real Estate Tax Relief:

SB 1265 authorizes local governments to extend prorated real estate tax relief to dwellings jointly held, not all of whom are elderly or permanently and totally disabled.

Taxation of Energy-Efficient Buildings:

HB 2618 permits localities to tax certified energy-efficient buildings at lower tax rate than that imposed on general class of real property. Recordation Tax: HB 2059 clarifies that recordation tax rate is applied to greater of consideration paid or value of interest conveyed.

Eminent Domain:***Public Uses; Eminent Domain:***

SB 1296 states that property can only be taken when public interest dominates private gain. Primary purpose of a taking may not be private financial gain, private benefit, increase in tax base or revenues, or increase in employment. A property owner may challenge that a taking is for an unauthorized use, and a former property owner may request to repurchase taken property upon completion or abandonment of stated public use.

Condominium and Property Owners' Association:***Resale Certificates/ Disclosure Packets:***

HB 2016 allows professionally-managed associations to collect a market-rate fee for

preparation of a resale disclosure packet; associations that are not professionally managed would retain the current \$100 fee. Also included were REALTOR® initiatives to require condo or POA to disclose on cover sheet any outstanding loans and to allow buyers to electronically deliver notice of cancellation.

Display of Flags:

HB 1836 provides that associations may not prohibit the display of a United States flag but may establish reasonable restrictions as to size, place, and manner of display.

Escrow of Deposits:

HB 1850 allows a condominium project of 50 units or more to file a surety bond or letter of credit with the Real Estate Board in lieu of escrowing deposits.

Commercial Condominiums; Escrow of Deposits:

HB 2015 eliminates requirement for escrowing deposits in a commercial condominium.

Condominium Conversions:

HB 2727 allows any disabled or elderly tenant to assign exclusive right to purchase his unit to a housing authority.

Landlord/Tenant:

Lead-Based Paint Report (REALTOR® Bill):

HB 1840 requires a landlord or property owner to provide to a tenant a summary of lead-based paint report. Landlord shall keep copy of full report available for tenant inspection.

Early Termination by Military Personnel:

HB 1816 conforms Virginia law to federal regulations on early lease termination by military personnel contained in the Servicemember's Civil Relief Act, which states that any rent unpaid preceding lease termination date shall be paid on a prorated basis and any pre-paid rent shall be refunded within 30 days.

Noncompliance with Rental Agreement:

HB 2174 provides that failure of the court to hold a hearing in which there is breach by tenant shall not be a basis for dismissal of case.

Termination of Lease for Rehabilitation:

HB 2188 allows termination of a lease upon 120 days' notice for substantial rehabilitation of a building with four or more rental units, regardless of terms of lease.

Housing:

Grants for Home Ownership (REALTOR® Bill):

HB 2834 allows localities to provide up to \$25,000 in home ownership grants for certain local government employees.

Housing Assistance:

HB 2446 allows Prince William County to provide assistance for county and school board employees to purchase or rent residences within the county.

Other:

Fiscal Impact Statement Legislation (REALTOR® Bill):

SB 1012 will require Virginia Department of Planning and Budget to conduct a fiscal analysis of every proposed regulation to determine if it has a financial impact on development of real property and to estimate cost of that impact.

FEMA Floodplain Map:

HB 2729 provides that when any locality learns of a change in FEMA floodplain map, locality shall provide affected properties written notification of such change and information for National Flood Insurance Program.

Validation of certain plats:

HB 2265 changes date from 1953 to 1975 for purposes of validating subdivision plats that failed to comply with technical requirements for recordation existing at time such plat was recorded.

Bills with Delayed Implementation:

Disclosure/Disclaimer Form (REALTOR® Bill):

HB 2011 eliminates current property disclosure form beginning January 1, 2008. Existing disclaimer form will be renamed as a limited disclosure form and will contain only disclosures mandated by General Assembly. Virginia Real Estate Board will develop form prior to effective date.

Educational Requirements for Salespersons and Brokers (REALTOR® Bill): Beginning July 1, 2008, HB 2064 increases broker continuing education from 16 hours to 24 hours every two years. Also requires that agents receiving licenses after July 1, 2008, complete 30-hour post-licensing requirement within one year, rather than current two-year timeframe.