

**Outer Banks Association of Realtors
2011 NC General Assembly – Wrap-Up
June 21, 2011
Willo Kelly, Government Affairs Director**

Over 2,000 bills were introduced during this session. Below is a summary of the bills that we and NCAR were monitoring and lobbying. “RATIFIED” means that the bill passed both the House and the Senate and becomes law when signed by the Governor. CROSSEVER means that the bill passed one Chamber of the General Assembly and made the crossover deadline, thus making it eligible for consideration by the other Chamber in the 2012 short session.

OBAR Successes

Senate Bill – 382 – Required Withholding for Non-Residents – CROSSEVER

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=s382&submitButton=Go>

Sponsor – Tom Apodaca; Co-sponsor – Ralph Hise

The Outer Banks Association of REALTORS® (OBAR) strongly opposed Senate Bill 382 because it put the burden of paying the out-of-state seller’s income taxes on the sale of the property on the buyer at closing. OBAR felt that it was unfair and unreasonable to put the onus and liability on the buyer. OBAR’s position was that the Association did not oppose paying taxes; however, sellers should be educated to ensure that they pay the taxes they owe and other means to accomplish this should be utilized to accomplish this.

Passed the Senate but did not make it out of House Rules for a vote – May 24, 2011. There will be discussion in the interim – prior to the General Assembly reconvening next year – with legislators to work on a more viable alternative.

Property Insurance – House Bill 773 Studies Act of 2011

Three bills regarding property insurance were introduced this session and two of those made it into House Bill 773 – Studies Act of 2011. The first part of the Studies Act of 2011 outlines a myriad of issues which may or may not be studied by the Legislative Research Commission. However, page 34 of the 56-page bill outlines the creation of a Joint Legislative Study Commission on Property Insurance Rate Making, similar to what was contained in Senate Bill 716 below.

On page 46, the bill directs another study commission to be created: the Joint Legislative Study Commission on Coastal Property Insurance Rates as outlined in House Bill 820 below.

House Bill 773 passed the House and Senate but the House did not concur with Senate changes to the bill. There was no controversy in the bill regarding the Insurance Study Commissions. On 6/18/11 the bill was referred to Conference Committee and the General Assembly is expected to vote on the bill when they reconvene on July 13th.

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H+773&submitButton=Go>

The Outer Banks Association of REALTORS® has worked tirelessly the last few years on property insurance issues to ensure that members have access to fair, affordable and adequate coverage.

• **House Bill 820 – Study Beach Plan**

Sponsors – McElraft, Hamilton, Justice, Rapp; Co-sponsors – Cleveland, Cook, McComas, Spear, Wray

The bill calls for the creation of a 14-member Joint Legislative Study Commission to study the feasibility of replacing the Beach Plan/Fair Plan with a statewide catastrophe fund and to study other aspects of the Beach Plan.

• **Senate Bill 716 – Study Statewide Property Insurance Structure**

Sponsor: Harry Brown; Co-sponsors-Thom Goolsby, Jean Preston, Bill Rabon

This bill calls for a broader review/study of the Insurance Commissioner's responsibilities and duties. Among other things, the study includes researching the feasibility and advisability of replacing the NC Rate Bureau and whether or not NC citizens should have a voice in rate appeals.

Ratified – Signed by the Governor

Senate Bill 22 – APA Rules: Limit Additional Costs – RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=S22&submitButton=Go>

Sponsors: Brown, Rouzer; 20 co-sponsors

This bill places moratoria on new state rules causing \$500,000 in additional costs on persons until 7/1/12 to permit legislation to be drafted.

Signed on March 25, 2011

House Bill 92 – Repeal Land Transfer Tax – RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H92&submitButton=Go>

Sponsors: Howard, Starnes, Brawley, Jordan; 45 co-sponsors

Bill repeals the 2007 provision which allowed counties to schedule referenda to seek voter approval to levy a .4 of 1% land transfer tax; 24 elections were held in 22 counties and the voters rejected this home tax every time; however ongoing efforts to defeat these referenda were expensive both to the NCHBA and the NCAR; the passage of this bill does not repeal the land transfer tax already in place in 7 eastern NC counties.

Signed on March 31, 2011

Senate Bill 145 – Southern Shores Canal Dredging/Maintenance - RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=S145>

Sponsor: Stan White

The law gives the Town of Southern Shores the authority to assess a canal dredging and maintenance fee and to assess for navigation projects.

Signed on June 10, 2011

House Bill 174 - Commercial Real Estate Broker Lien Act – RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H174&submitButton=Go>

Sponsors: McCormick, Gibson, Daughtry, Murry; 11 Co-Sponsors including Spear

NCAR has been working on this bill since 1997 which protects a broker's ability to receive payment for their hard work by granting brokers the ability to file a lien upon commercial real estate in the amount that the broker is due under a written instrument with the owner, buyer or tenant (or their authorized agent).

Signed June 17, 2011

Ratified – Sent to the Governor

House Bill 332 – Clarify Development Moratoria Authority – RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H332&submitButton=Go>

Sponsors: Mills, Killian, Crawford, Hamilton; 10 Co-sponsors

This bill clarifies that a local government may not impose a moratorium on development approvals for the purpose of developing and adopting a new or revised development ordinance.

Sent to Governor on June 16, 2011

Senate Bill 110 – Permit Terminal Groins – RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H92&submitButton=Go>

Sponsors – Harry Brown, Thom Goolsby, Bill Rabon; Co-sponsors – Harris Blake, Jim Davis, James Forrester, Clark Jenkins, Jean Preston, David Rouzer, Jerry W. Tillman, Tommy Tucker, Michael P. Walters, Stan White

The bill outlines permitting conditions – such as monitoring, maintenance, funding - for the construction of terminal groins at inlets. Allows four terminal groins; first come-first served basis.

Sent to Governor on June 16, 2011

House Bill 165 – Planned Community and Condo Act Amendments – RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H165&submitButton=Go>

Sponsors: McGee, Weiss, Earle, Howard; 10 Co-Sponsors

Bill amends the Planned Community Act and the Condominium Act regarding the time period for foreclosure of a claim of lien for unpaid assessments, disclosure of information about homeowners associations to buyers and to require the Real Estate Commission to prepare and make available information about restrictive covenants to buyers.

Sent to Governor on June 20, 2011

House Bill 386 (Senate Bill 365) – Real Estate License Law Amendments – RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H+386&submitButton=Go>

Sponsors; Howard, Brubaker; Co-sponsor – Dockham

This legislation was requested by the NC Real Estate Commission and includes several changes aimed at clarifying the exemptions from licensure contained in the statutes with regard to attorney's trusts and housing authorities. Another change to the exemption provisions would allow unlicensed broker employees (vacation rental reservationists only) to offer or accept price adjustments within limits set by the broker's landlord client in their management agreement. Vacation rental managers only have a few minutes to get possible customers an answer before they move on the next house. By allowing receptionists in these offices to agree to a price range set by the property owner with the licensee, all offices will be able to compete.

Sent to Governor on June 16, 2011

Senate Bill 507 – Clarify Exemption/Real Estate Broker Laws – RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=S+507&submitButton=Go>

Sponsor: Hunt; Co-sponsors Blake, Brunstetter, Clary, Daniel, Forrester, Preston

This bill exempts officers and employees of a person or business entity who performs real estate broker acts as related to property owned or leased by the person or business entity from the licensing requirement under the laws regulating real estate brokers and salespersons. NCAR worked with the Real Estate Commission on this bill.

Sent to Governor on June 20, 2011

Senate Bill 683 – Residential Building Inspections – RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=S683&submitButton=Go>

Sponsor – Neal Hunt; Co-sponsors – Harris Blake, Andrew Brock, James Forrester, Ralph Hise, Jerry Tillman

NCAR worked with the NC Apartment Association to get this bill passed. It would prohibit local governments from enacting over reaching and expensive regulations which provide little public benefit and increase the overall cost of housing.

Sent to Governor on June 20, 2011

Senate Bill 781 - Regulatory Reform Act of 2011 – RATIFIED

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=s781&submitButton=Go>

Sponsors: Rouzer, Brown; Co-Sponsor Don East

“An act to increase regulatory efficiency in order to balance job creation and environmental protection.”

This bill would bring broad-based reforms to the state to provide more certainty to the regulatory process and make it less burdensome as the current process which hampers economic development in the state.

Sent to Governor on 6/20/11

Crossover

House Bill 493 - Landlord Tenant Law Changes

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H485&submitButton=Go>

Sponsors: Howard, Blust, Randleman; 5 co-sponsors including Spear

Over the years, the rights of a landlord in North Carolina have been diminished. NCAR worked with several legislators and stakeholders to advocate for this bill, which will amend the laws related to the landlord-tenant relationship. The bill addresses the eviction process timeline which is often extremely lengthy and greatly increases the landlord's costs which will continue to increase the cost of housing.

House Bill 721 – Landlord/Tenant/Bed Bug Liability

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H721&submitButton=Go>

Sponsor – McCormick, co-sponsors – Bryant, Floyd, Gill

Does not apply to vacation rentals. This legislation attempts to provide for the quick and effective remediation of a bedbug infestation in rental housing while balancing the liability for both the landlord and tenant. The bill establishes a defined set of expectations for both parties, including when the tenant is responsible for the costs of remediation and when that responsibility falls to the landlord. It requires the landlord to provide safe and healthy conditions for their tenants but also places responsibility on the tenant to maintain the premises during the time they occupy the dwelling.

In addition, HB 721 recognizes the limits of current science with regard to bedbugs by allowing landlords to seek an inspection before a unit is rented or requiring them to treat any bedbugs within a 60-day grace period in newly rented units. Finally, the bill also provides incentives to tenants to be mindful of infestation symptoms and report infestations quickly, leading to lower mitigation costs and a reduced risk of infestations spreading.

6/9/11 – Passed the House; Ended up in Senate Committee on Rules and Operations of the Senate

Senate Bill 731 – Zoning/Design and Aesthetic Controls

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=S731&submitButton=Go>

Primary Sponsor: Daniel Clodfelter; Co-sponsors – Rick Gunn, Fletcher Hartsell, Jr., Don Vaughan

This bill would prohibit local governments from imposing design element standards that are not structurally related to residential development districts of 5 units or less per acre.

5/17/11 – Passed the Senate; Did not make it out of House Committee on Commerce and Job Development

House Bill 819 – CAMA Setback Requirements/Grandfather Clause

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=h+819&submitButton=Go>

Sponsor – Pat McElcraft; Co-sponsor – Bill Cook

This bill would grandfather all repair or reconstruction of oceanfront structures over 5,000 sq. ft. built prior to August 11, 2009 from current setback rules.

4/28/11 – Passed the House; 5/2/11 – Passed first reading in Senate and referred to Committee on Agriculture/Environment/Natural Resources.

DEAD

House Bill 485 – New Home Purchase Stimulus

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H485&submitButton=Go>

This bill, filed March 25th, would give a \$10,000 tax credit for new home construction.

House Bill 635 – Adjust Highway Equity Formula

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H+635&submitButton=Go>

Sponsor – Murry, Killian, Blust, Hilton; Co-sponsor – R. Brown, Burr, Jackson, Setzer, Steen

This bill would change the formula for the distribution of transportation revenues. This bill would reward urban population centers by taking money dedicated to the rural divisions who still have intrastate road needs that are unmet. The bill would change the formula such that 66% of revenues are distributed to the state's seven funding regions (14 highway divisions) based on their population, and the remaining split equally. Funds are currently distributed 50% on population; 25% based on the number of intrastate roads in each region that needs improving; and 25% equal share.

Stalled in House Committee on Transportation.