



We have concluded Week 14 of the 2012 Legislative Session. MAR has not only been working to pass legislation that will help you in your profession (see list of legislative priorities, below), but we have also been working to kill legislation that could be an impediment to your being able to do your job.

Here are a few of the bills that have been killed:

House Bill 1272 - Relating to providing that arbitration clauses in certain contracts shall be considered nonbinding. This legislation sought to prohibit Mississippians from agreeing to utilize binding arbitration as a means to settle disputes so would prohibit our citizens from agreeing to resolve disputes without going to court. HB 1272 sought to nullify provisions which had been agreed to in thousands of contracts. These provisions have been found to be fair, legal and enforceable by state and federal courts, including the United States Supreme Court.

House Bill 8 - Relating to creating the Housing Loan Assistance Pilot Program. House Bill 8 would have increased recording fees paid to the Chancery Clerk

House Bill 365 - Relating to authorizing DEQ to charge fees for expedited permitting process for certain environmental programs. This Legislation would have raised all types of fees at the Department of Environmental Quality charges

House Bill 1090 - Relating to revising the fees for costs incident to providing public records. Would have increased fees on practices that you need to do your job successfully.

House Bill 6 - Relating to requiring owners of all nonproducing mineral estates to pay a certain portion of property taxes. House Bill 6 would have required all owners of nonproducing mineral estates and all leasehold interests in minerals which are owned separately and apart from the surface estate to pay twenty-five percent (25%) of the property taxes.

House Bill 1273 - Relating to requiring contracts to be written in large print. This legislation would have been unnecessarily burdensome and could possibly create liability issues. This is one less thing that could kill your deal at a closing.

Updates on MAR Legislative Priorities for the 2012 Mississippi Legislative Regular Session

The Mississippi Small Business Regulatory Flexibility Act passes House and Senate: A bill creating the Mississippi Small Business Regulatory Flexibility Act has passed the Senate and is awaiting a vote by the full House of Representatives. Senate Bill 2398 ensures that government regulations are not unduly burdensome to small businesses. This legislation will create a Regulatory Review Committee composed of small-business owners that would examine proposed and current state regulations that impact small businesses. They would make recommendations to state agencies for more flexible alternative regulations to ease the burden on small businesses while addressing a public need.

Bill To Improve Transparency On Contracts Moving Forward: House Bill 211, the Sunshine Attorney Act, requires the Attorney General to award contracts to private attorneys for specialized cases through a transparent process. The bill, sponsored by Speaker Phillip Gunn, also allows agency directors to hire private counsel when needed. An independent

council will approve or deny the request for private attorneys. The measure also requires the Attorney General to give notice to an agency before pursuing legal action on behalf of the agency. The bill is awaiting a vote by the full Senate.

HB 773, Flood-Insurance Fix Signed into law by Governor Bryant: An attempt to fix a law that could get the state kicked out of the National Flood Insurance Program and put 88,000 homeowners and mortgages at risk is on its way to the Governor. State law exempts hunting and fishing camps from meeting local building codes and flood regulations. In 2011, FEMA warned that unless this changes, Mississippi could lose its NFIP certification for all homeowners in the program.

Landowner Protection Act Dies in Senate Committee: HB 836, the bill stating that a landowner does not owe any responsibility to a trespasser who is injured and setting guidelines for court cases where a third party causes injury to someone at a business is dead. The bill, supported by a wide coalition of business groups, passed the House of Representatives but was not brought up for a vote in a Senate Committee before Thursday's deadline.

State Income Tax Credit for 1st Time Homebuyers Dies in Senate Committee: Unfortunately, a bill that would have provided a state income tax credit for first time homebuyers died in committee. Such an incentive would have helped more Mississippians turn the dream of homeownership into a reality. We all know that the "State Purse Strings" are tight right now, and any legislation that negatively impacts the State's General Fund is heavily scrutinized. Our First Time Homebuyer Tax Credit Bill was one of those bills this year.

Step in the Right Direction on Tax Incentives for Green Building: A bill that will allow income tax credits for costs of purchasing and installing a solar electric energy system (solar panels) has cleared the House. House Bill 1638 is consistent with MAR's stated position of supporting any tax incentive program that provides for tax credits or incentives when building to standards that are deemed to be energy efficient and/or environmentally friendly.

MAR Victory on Housing Ad Valorem Issue: Bills that would have increased taxes for owners and developers of certain housing developments died in committee. MAR is committed to working with other interested parties to find a compromise to the property valuation method with regards to ad valorem taxes of Section 42 Housing. As a result of a compromise not being reached, bills that MAR opposed were successfully defeated.

Charter School Legislation Voted Down in House Committee But Not Dead for the Session: Senate Bill 2401, Legislation Allowing for the Establishment of Charter Schools in Mississippi was killed in a House Committee this week. However, the Legislation may be revived by amending a Senate Bill or even considered in a Special Session called by Governor Bryant.

It is the stated position that public education is a priority of the Mississippi Association of REALTORS®. MAR evaluates opportunities as they present themselves that support pro education/school initiatives pertaining to the betterment of quality of life in Mississippi Communities.

Here are some facts about the Charter School Legislation:

- Would allow charter schools in all school districts in Mississippi and establishes an Authorizer Board that would approve proposed schools and act independently of the state Department of Education.
- Charter schools are open-enrollment public schools that are freed from some of the rules, regulations and statutes that apply to other public schools in exchange for accountability for producing certain results.
- Charter school authorization / Under the bill the Authorizer Board would operate independently of the state Department of Education. Those interested in creating charter schools would submit proposals to this board, which would have the authority to approve them and the responsibility to hold them accountable for performance. The board would comprise: two members appointed by Governor, two members appointed by the Lt. Governor, two members appointed by state Superintendent of Education, and one member appointed by the state Commissioner of Higher Education.
- Enrollment and student demographics / Charter schools would have open enrollment. In the event a charter school should have more students apply than it could accommodate, enrollment would be handled via lottery system.
- The bill states preference will be given to the formation of charter schools that would serve at-risk students. Charters would also be required to enroll a number at-risk students reflecting the population of the school

district in which it would be located. (At-risk students are defined as those participating in the federal free lunch program who qualify for at-risk student funding under the Mississippi Adequate Education Program.)

- Funding / Charter schools would be funded on a per-pupil basis like other state public schools. “The money follows the student.”
- Charter school teachers do not have the option of joining the state Public Employee Retirement System (PERS) under the bill. Also, teachers would not be required to be state certified but could teach with a bachelor’s degree.

Habitat for Humanity: MAR is seeking to amend state statute to allow funds rose through the sale of the REALTOR® Car tag to be directed towards the Mississippi Chapter of Habitat for Humanity. Currently, monies collected go to the National Chapter of Habitat for Humanity and then distributed to MS Local Affiliates. This amendment will allow the money collected to be directed to the newly formed MS State Chapter of Habitat. This legislation is done at the end of the session when the Legislature takes up the large “Car Tag Bill” that deals with all changes to specialty tags.

Elimination of Inventory Tax Provisions Passes House, HB 536 now moves to the Senate: Mississippi is one of just 9 states to levy such a tax on the value of a company’s inventory. Elimination of this tax will create a strong incentive for companies to locate inventory in MS where they can avoid these harmful taxes, thereby helping economic development and business growth. Inventory Taxes do the following:

- Makes companies operating in MS non competitive
- Adversely affects job creation;
- Negatively impacts possible expansions;
- Effects locations;
- Opportunity cost;
- Particularly impacts small businesses;
- Causes businesses to leave the state

Limiting Licensee Liability for Square Footage Representations Dead for This Session: MAR supported legislation that would have exempted a real estate licensee from a duty to independently investigate or verify the size of any real estate or improvements thereon. This was the first year MAR had introduced the legislation.

Legislation Trying to Solve Owner Financing Issues Moves Forward: Senate Bill 2897 originally would have amended the SAFE Mortgage Act to allow sellers to execute up to five owner finance transactions in a consecutive 12-month period without needing a Mortgage License. The bill was successfully amended in the House to increase that number to 10 owner finance transactions. SB 2897 will now go back to the Senate.

Bill Increasing Registration/Annual Filing Fees for Appraisal Management Companies (AMC’s) moving forward: Senate Bill 2903, legislation authorizing the MS Real Estate Commission to increase fees for appraisal management companies has passed the Senate and is awaiting a vote by the full House.

Legislation that would have provided that P&C insurers have burden of proof for exclusions in "all perils" coverage policy dies in Senate Committee: Despite passing the House of Representatives The “Insurance Burden of Proof Bill,” would adopt into law rulings by federal court that insurance companies have the burden of proof when they deny a homeowners claim. The Senate Insurance Committee voted to Table the Bill citing that common law, the Supreme Court and 5th Circuit have already addressed and upheld this issue. This legislation would have basically just put those rulings into state law.

House Bill 1410, enacting uniform mitigation standards for insurance for homeowners has Passed House and Senate: HB 1410 will provide insurance premium discounts tied to a mitigation program -- similar to a new program in Alabama. If homeowners build stronger or retrofit their homes against wind damage, they could get definite premium reductions

Mississippi needs to be the most business-friendly State in the country. Important legislation, such as the bills listed below, makes Mississippi more attractive for economic development and creates jobs. With economic development come home sales. Below are bills that are being supported by MAR:

Legislation Expanding Relocation Tax Credits and Legislation Providing Headquarters Relocation Tax Credits pass House

- HB 971, authorizing an income tax credit for any enterprise that expands its labor forces into the state of Mississippi from outside of the state, is on its way to the Senate. The bill provides a tax credit in an amount equal to fifty percent (50%) of actual relocation costs to existing businesses which expand their labor forces in the State of Mississippi. The businesses must qualify for the jobs tax credit provided in the Economic Development Reform Act and relocate employees to the State of Mississippi from outside the State.
- HB 972, authorizing income tax credit for any company that transfers or relocates its national or regional headquarters to the state of Mississippi is also on its way to the Senate. The bill provides a tax credit in an amount equal to fifty percent (50%) of actual relocation costs to businesses relocating its corporate headquarters to the State of Mississippi.

Legislation Amending Mississippi Business Corporation Act Passes House

- House Bill 789 will clarify fees charged and collected by the Secretary of State under the Business Corporation Act. The legislation amends the Mississippi Business Corporation Act to adopt changes in the Model Business Act; incorporates electronic technology concepts; and addresses indemnification and reinstatement of foreign companies.