

Legislative Issues

35th Annual

Illinois Association of REALTORS[®]

CAPITOL CONFERENCE

April 5, 2011

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Foreclosure Issues

Vacant/Abandoned Property - Unlimited Municipal Powers - OPPOSE

Illinois already has an extensive body of law to give municipalities extraordinary powers to clean up and secure abandoned property, and they have a superior lien to recover their costs. If necessary, they can even take over the property, and pass it on to a non-profit or other entity to redevelop. The IAR has helped craft these laws over the years, with a balanced approach that allows local governments to address the blight of abandoned property, but provides a uniform scope and process for these local powers so that property rights are preserved and parties are offered due process.

- ✓ **OPPOSE House Bill 1109 (Yarbrough)**, as amended by House Amendment #3, which provides an unlimited, blanket grant of authority to all municipalities to pass whatever rules, regulations, and fees they see fit regarding vacant property. *This legislation has none of the protections or limitations provided in existing laws on vacant property, and would throw out the uniformity of current laws in lieu of a patchwork of whatever municipalities decide to put in their ordinances.*
- ✓ **House Bill 1109** would also make lenders, certain prior owners, trustees, and other beneficiaries responsible for whatever rules the municipality enacts, and grants all of these entities and their agents **complete immunity from civil and criminal liability while entering premises to enforce or comply with the actual or potential violations of the rules and regulations of the municipality.** We think this is a dangerous precedent fraught with potential abuses, particularly when there is no limitation or guidance as to what will be in these local rules and regulations.
- ✓ **WORK WITH** the sponsor, lending groups, and other interested parties on another concept included in **House Bill 1109**, which would shorten the redemption period on foreclosed properties when property is deemed to be abandoned. The idea here is to find ways to enable action to be taken on abandoned properties sooner.

Allow Municipalities to Create Separate LAND BANKS - OPPOSE

- ✓ **OPPOSE House Bill 760 (Yarbrough)**, as proposed in House Amendment #3, creates a new law to allow ALL municipalities to establish a new entity called a Land Bank Authority (LBA). These LBAs are essentially a separate real estate corporation that may acquire, buy, sell, rent, hold, manage, and develop any real estate within its jurisdiction (municipalities could create their own LBA, or partner with others to create a regional LBA). *The IAR does not believe that this is a necessary or wise tool to deal with foreclosure issues.*
- ✓ This LBA concept differs from other redevelopment tools (TIFs, etc.) in that the government becomes the owner, developer, and speculator. The IAR does not believe this is a proper role for local governments, nor one they can afford or be particularly successful in.
- ✓ **Work with** the sponsor and proponents to identify and correct any problems or inefficiencies in existing abandoned property laws to make them more usable and effective for municipalities.



Local Government and Taxation Issues

- ✓ **OPPOSE HB 1384 (Gordon)/HB 3407 (Colvin)**, which would enable local governments to collect on liens for property maintenance and nuisance clean-up by putting the charges on the owner's property tax bill. **We oppose this ongoing effort by local units to collect debts on the tax bill.**
- ✓ **OPPOSE HB 1323 (Riley)**, which would allow **ALL municipalities to license and regulate ALL businesses**. This flies in the face of state license laws, like the Real Estate License Act, that preempt home rule units and reserves such licensing to the state to ensure a statewide standard. This bill would also allow municipalities to enact landlord and rental property licensing without any limitations.
- ✓ **SUPPORT SB 1230 (Lauzen)**, which expands to Cook county the new provision in the Property Tax Code (also advocated for by IAR) that require boards of review to consider **"compulsory sales"** of comparable properties for the purpose of revising and correcting assessments.

Rental Property Issues

- ✓ **OPPOSE HB 1607 (Davis)**, which would enact unclear and unnecessary regulations on the charging of "application fees" by landlords. Subjects the landlord to monetary penalties, court costs, and attorney's fees if the new rules aren't followed. **There has been no case made that this is a problem, and this is unnecessary regulation that exposes good landlords to lawsuits.**
- ✓ **SUPPORT HB 1309 (DeLuca)/SB 1766 (Wilhelmi)**, which are works in progress, and seek to amend the **eviction provisions for criminal activity** in the Code of Civil Procedure to provide both local governments and landlords a more clear and effective tool to deal with tenants that are engaging in criminal activity and other disruptive behavior on the premises. **This is an alternative approach to the "landlord licensing" approach we have seen in the past.**
- ✓ **OPPOSE HB 1008 (Yarbrough)**, amended by House Amendment #1, which would require any person or business that obtains personal information to check the credit of a consumer to carry a bond of at least \$250,000. This bond would indemnify the consumer for any theft, loss, or unauthorized sharing of the personal information of the personal information used in the credit check. The bill makes violation of this requirement a violation of the Consumer Fraud Act.

Limitations on Developers Contracting for "Retainage"

- ✓ **OPPOSE House Bill 1292 (Lang)**, which prohibits a developer of non-residential property from contracting for more than 5% "retainage". A retainage provision enables a developer to withhold a certain portion of the contracted amount until completion to ensure that work is completed satisfactorily, passes inspections, and liens are released. **The IAR opposes the state inserting itself into this private contractual matter between two business entities.**



Other Issues of Interest

Mandatory Consumer Fee for “Closing Protection” – JCAR Only

- ▶ Reps: Saviano, Greg Harris, Lang, Moffit, Mulligan, Thapedi
- ▶ Sens: Crotty, Althoff, Harmon, John Jones, Righter, Silverstein
- ✓ **OPPOSE** rules proposed by the Department of Financial and Professional Regulation that would essentially REQUIRE title insurance companies to impose a minimum fee of \$25 on the buyer and \$50 on the seller for “closing protection” required by HB 5409 (PA 96-1454), eff. Jan 1, 2011.
- ✓ The Joint Committee on Administrative Rules (JCAR) is a panel of 12 legislators that oversees agency rulemaking. A vote of 8 of the 12 members can prohibit a rule. **ASK FOR PROHIBITION.**
- ✓ **SUPPORT HB 2956 (Saviano)/SB 1539 (Martinez)** which provides for the regulation of Appraisal Management Companies (AMCs). New federal laws require appraiser independence, and mortgage lenders commonly arrange for appraisals through AMCs. But there are concerns that the AMC process sometimes leads to assigning appraisers to unfamiliar areas, and that AMCs can result in unnecessary costs and delays in transactions. *We are hopeful of an agreed bill between the appraisers, the IAR, lending groups, and DFPR.*
- ✓ **OPPOSE HB 3598 (Osterman)** which would unnecessarily add a duplicative lead paint disclosure requirement to the Illinois lead paint law.
- ✓ **SUPPORT SB 1804 (Althoff)** which would prohibit a deed restriction or covenant to waive, prohibit or restrict a right to object, oppose or challenge a special service area (SSA).
- ✓ **NEUTRAL on HB 3372 (Fortner)** which authorizes a schedule of fees on all property owners to pay specified stormwater management costs. Requires voter approval for most counties to enact fees.
- ✓ **NEUTRAL on HB 141 (Reitz)**, which enacts limited requirements for disclosure when a landlord is aware or notified by a tenant that there is a radon hazard on the property (already passed the House).
- ✓ **NEUTRAL on HB 1323 (Mayfield)**, which establishes a requirement for landlords to change or rekey locks upon a change in tenancy.
- ✓ **OPPOSE HB 1565 (Mayfield)**, which would make it a Human Rights violation for a landlord to inquire about or refuse to rent based upon an arrest record (sponsor indicates this will be amended to apply only to public housing, which will remove IAR opposition).

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