

SANTA CRUZ ASSOCIATION OF REALTORS® LEGISLATIVE WATCH

Santa Cruz County to Consider Requiring Pool Barrier Upgrades at Point of Sale

At a public hearing on April 4, the Santa Cruz County Planning Staff recommended that upgrades to swimming pool barriers be required at point of sale. This requirement, which REALTORS® and government affairs representatives believe would be an unnecessary burden on real estate transactions, will be the subject of a new pool and spa barrier ordinance public hearing on Tuesday, May 2nd. While the ordinance is currently being drafted, it will likely include inspection criteria, certification requirements, and new regulations for the size dimension and construction requirements of pool and spa protection barriers.

This issue has arisen for two reasons: First, Santa Cruz County currently has two different sets of pool barrier regulations which have historically been in conflict with each other; Second, there have been two child deaths in pool related accidents over the last several years. The combination of these events has led county staff to revise their current ordinance and include the point of sale provision. Your association government affairs representatives will continue to monitor this issue and work to mobilize REALTOR® members to oppose the point of sale requirement.

State Water Resources Control Board to consider new Septic Tank Regulations

The California State Water Resources Control Board (SWRCB) is in the process of drafting a new set of septic tank regulations and is completing an environmental impact report. The original version of the regulations had included a mandatory REALTOR® point of sale requirement. Due to heavy REALTOR® opposition the point of sale requirement has been removed from the current draft regulations. The current proposed regulations contain requirements regarding septic tank placement, minimum soil depth and required fill specifications. See the following table of proposed required fill specifications.

Imported Fill Specifications	
1. Maximum Percent soils smaller than 0.53 mm in diameter.	5%
2. Maximum Percent fragments over 2.0 mm. In diameter.	20%
3. Sieve Size	Dry Weight % Passing
3/8	100
4	90-100
10	65-100
16	50-85
30	25-60
50	10-30
100	2-16

The regulations are currently undergoing an Environmental Impact Review (EIR) which is scheduled to be completed this summer. The public will be invited to comment on the EIR and the updated regulations in the summer with final adoption and implementation expected by December 2006.

National Flood Insurance Program Update

President Bush is expected to sign legislation (S. 2275) increasing the borrowing authority of the National Flood Insurance Program (NFIP) from \$18.5 billion to \$20.775 billion. Without this additional borrowing authority, the program would run out of money in April and be unable to pay claims. Fiscal conservatives in the House of Representatives and Senate have vowed to oppose any further increases in borrowing authority absent significant reforms to the NFIP.



In a related development, the House Committee on Financial Services passed the Flood Insurance Reform and Modernization Act of 2006 (H.R. 4973). The bill makes significant reforms to the National Flood Insurance Program including:

- increasing borrowing authority to \$25 billion;
- phasing in actuarial rates for subsidized vacation homes, second homes, and non-residential properties;
- increasing the coverage limits for residential flood insurance policies from \$250,000 (structure) and \$100,000 (contents) to \$335,000/\$135,000; coverage on non-residential properties would increase from \$500,000 to \$670,000;
- increasing the amount FEMA can raise premiums annually from 10% to 15%;
- requiring lenders to provide notice on good faith estimates that flood insurance is available to all homeowners (not just those in a floodplain), and notice of the availability to escrow for flood insurance;
- extending the pilot program for mitigation of severe repetitive loss properties;
- requiring FEMA to conduct a thorough review of the nation's flood maps (including mapping the 500 year floodplain) and report to Congress.

C.A.R. Sponsored Legislation 2006 Legislative Update

In an effort to protect California consumers, promote homeownership opportunities and support REALTORS® and their homeowner clients, C.A.R. is advocating several measures as part of its 2006 legislative agenda. This year's C.A.R. sponsored bills address a wide variety of real estate-related issues including education requirements for brokers, homeowner's association budgeting, and improvements to the state's density bonus law. These issues and others will be the subjects of discussion for C.A.R.'s annual Legislative Day conference on

Tuesday, June 7. REALTORS® who attend Legislative Day receive briefings on critical issues from C.A.R. staff, hear speeches from prominent state elected officials and attend meetings with local elected officials to tell them how the laws they pass impact REALTORS® and the real estate industry. The following is a status report on the C.A.R. sponsored bills that are making their way through the state legislature.

AB 1963 (Leslie) Real Estate Brokers License

Existing law requires all applicants for a brokers license (in addition to exam passage) to demonstrate a valid salespersons license and two years experience in general real estate. Current law also provides that the commissioner may grant applicants, without experience, that demonstrate graduation from a 4-year college or university, with a specialization in real estate or equivalent education and experience (upon petition), a brokers license. C.A.R. is sponsoring AB 1963 to require the same two years of "general real estate" experience for degree holders that currently applies to all other applicants. This bill will not change the other mechanisms for demonstrating equivalency, such as an individualized petition by a licensee from another state for recognition of his or her experience. Because a so-called "degree broker" can get a license without any experience, and hire any number of sales licensees to work under his or her license, brokers who have never sold a house may be supervising salespeople who themselves have never completed a transaction. *Status: In Assembly Business and Professions Committee*

AB 2100 (Laird) Homeowner Association Reserve Accounts

Existing law requires an association to provide members a pro forma budget, but does not require homeowner associations (HOAs) to identify how and when they will repair or replace the major components of the association. This year C.A.R. is sponsoring AB 2100 to require HOAs to disclose





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how much and when reserve accounts will be funded thereby minimizing reliance on special and emergency assessments to fund reserve accounts, and periodically requiring homeowners to approve a reserve account payment plan to fund their homeowner association reserve accounts. It is imperative that HOAs disclose to all members how much they will have to pay for the association reserve account needs, such as the replacement of roofs or repair of building exteriors. *Status: Pending Committee Assignment in the Assembly*

AB 2365 (Jones) Real Estate Licensees

Existing law does not require real estate agents or brokers to carry errors and omissions insurance, a great many do. Unfortunately, many policies have such large deductibles that they are essentially "catastrophic" coverage. AB 2365 would make Legislative findings regarding real estate licensee's errors and omissions insurance and allow the creation of a real estate errors and omissions reimbursement pool, voluntarily funded by licensees within an office. The funds would be maintained within a trust fund established by the managing broker of the office or company. This bill requires that membership in the pool be voluntary, subject to the terms of a membership agreement and the approval of the managing trustee, and limited to the licensees of the real estate office. The errors and omissions reimbursement pool would be a great addition to the insurance that is currently offered to licensees, and help protect both the licensee and the consumer. *Status: Pending Committee Assignment in the Assembly*

AB 2429 (Matthews/Negrete McLeod) Real Estate Salesperson Licensure

Existing law provides two ways to qualify for a sales license. The first option requires an applicant to take three real estate classes, and then pass the salesperson exam, and after a criminal background check, receive a four-year license. In the second

option, an applicant takes only one class, and then takes the exam. Should the applicant pass, they may obtain a "conditional" license and finish the rest of the required course work during the next 18 months of licensure, while they sell real property. AB 2429 will require all salesperson applicants, after December 31, 2009, to complete all three of their pre-license courses prior to receiving a license. This "quickie" license has become the rule rather than the exception, allowing many licensees to represent clients without the required completed coursework necessary to effectively represent their clients. The Department of Real Estate has licensed more than 100,000 new licensees in the last three years, and 85 percent of them came in under the conditional license option. *Status: Pending Committee Assignment in the Assembly*

AB 2511 (Jones) Land Use Housing

C.A.R. is co-sponsoring AB 2511 to amend the permit streamlining act to apply to subdivisions that have an appropriate percentage of affordable housing and requires local governments to report to the state on their housing production in an effort to make sure that they can accommodate their share of the regional housing need for the ensuing 5 years. Should a local government refuse to disclose their plan for meeting their share of low and moderate income housing to the Department of Housing, this measure provides for the ability to seek judicial relief, and requires the plaintiff to inform the Attorney General that an action has been filed if a housing element is not in compliance with state law. Additionally, the measure will clean-up the no-net-loss housing law by increasing enforcement options and it will rename the "anti-NIMBY" law to the "Housing Accountability Act," while repealing the Granny Flat law (which is not used due to state law on "second" units). Further, this measure will require cities and counties to adopt and publish clear and objective development standards (e.g., zoning code requirements) and prohibits any change



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in those standards after the building application is completed. Developers should be able to rely on the standards throughout the local government review process and not have the rules arbitrarily changed throughout the process. *Status: Pending Committee Assignment in the Assembly*

AB 2526 (Arambula) Affordable Housing Developments

C.A.R. is co-sponsoring AB 2526 to defer local government's development fees until occupancy permits are issued for housing developments with at least 49% lower-income units in cities that offer meaningful incentives. This legislation will enable developers to build lower cost units at a rate that will allow them to be placed on the market with lower construction costs. *Status: Pending Committee Assignment in the Assembly*

SB 1177 (Hollingsworth) Density Bonus

In recent years C.A.R. has sponsored legislation to improve the use of the state's density bonus law by passing legislation to make the law more easily understood, implemented and functional. This year C.A.R. is sponsoring SB 1177 to prohibit local governments from examining the books and records of housing developers seeking a density bonus when they apply for a waiver or reduction in development standards. Requiring developers to open their books to local government in order to prove that a waiver or modification of development standards is necessary gives local governments the opportunity to dictate, for example, the type of appliances, marketing strategies and design styles that should be included in the development. Additionally, since local governments are NOT financially contributing to the subdivision, they should not have the right to inspect the financial records. *Status: Senate Transportation and Housing Committee*

SB 1330 (Dunn) Attorney's Fees

C.A.R. is co-sponsoring SB 1330 to permit homebuilders and other interested parties (homeowners) to recover attorney's fees should they prevail in their challenge of a local government's compliance with the housing element law. C.A.R. was successful in amending the state's "anti-Nimby" law two years ago. That measure allows the successful plaintiff (developer), until December 31, 2006, to recover attorney fees when he or she prevails in court demonstrating to the court that a local government arbitrarily denied the plaintiff's residential development that was in compliance with the local government's development standards. SB 1330 will extend this sunset date to December 31, 2008. *Status: Pending Committee Assignment in the Senate*

Please Note: The Legislative Watch is prepared by the Santa Cruz Association of REALTORS®. The Legislative Watch is only a summary not intended to provide legal advice and should always be verified for accuracy. For more information on a local agency, please call SCAOR at (831) 464-2000 to contact the Local Governmental Relations Liaison assigned to that agency or municipality.

