

2018 LEGISLATIVE PRIORITIES

NYSAR SUPPORTS ENACTMENT OF THE FOLLOWING

First-Time Homebuyer Savings Account Program Study (S.7316 – Little/A.9039 – Ramos)

Status: Passed Senate/Passed Assembly – Awaits Governor’s consideration

Governor Cuomo’s 2017 Approval Memo for the NY First Home bill directed the State Legislature to pass additional legislation requiring the Division of Housing and Community Renewal, in consultation with the New York State Department of Taxation and Finance and the State of New York Mortgage Authority to issue a feasibility and economic impact report on the implementation of a first-time homebuyer savings account in New York State. NYSAR continues to support the creation of a first-time homebuyer savings account that provides a state income tax deduction of up to \$5,000 per year (\$10,000 per year for couples) to help New Yorkers save for the purchase of a first home. Providing this tax incentive would encourage New Yorkers to save for a first home purchase and help reduce the financial barriers to homeownership. NYSAR will analyze the state feasibility and economic impact report when it is released. NYSAR will also continue to advocate for the introduction of new legislation to implement a first-time homebuyer savings account in 2019.

Transparency and Disclosure in Co-operative Housing (S.7523 – Hannon/A.10084 - Lavine); (S.4551 – Sanders/A.10216 -Hunter) and (A.3813 – Perry)

Status: Bills did not advance

NYSAR supports legislation that would bring greater transparency to the process of considering the sale of shares in a co-operative housing corporation by requiring a timeline for co-operative boards to act on applications. This updated process would provide uniformity and predictability to the application procedure to the benefit of all parties involved.

Appraisal Management Companies (AMC) Registration and Regulations (S.9080 – Hamilton/A.10831-A – Zebrowski)

Status: Passed Senate/Passed Assembly – Awaits Governor’s consideration

NYSAR strongly supports legislation to adopt federally compliant regulations and a registration process for Appraisal Management Companies in New York. A failure to adopt a compliant AMC registration process would restrict the services AMCs could provide to lenders and cause disruption for consumers in New York. NYSAR worked with the State Legislature and interested parties, including state regulators, appraisers, lenders and Appraisal Management Companies (AMC) to advance these measures in a thoughtful and timely manner.

Team Definition Legislation (S.3537 – Lanza/A.6540 – Cusick)

Status: Bill did not advance

NYSAR supports legislation to amend the real property law to define what constitutes a real estate “Team.” “Teams” have become a popular form of practice among real estate professionals in recent years and while teams have been recognized by the New York State Department of State via regulation, a formal statutory definition has not been provided. The purpose of this legislation is to amend the real property law to recognize and define real estate “Teams.” Providing a clear statutory definition will benefit both real estate licensees and consumers.

Permanent Property Tax Cap (S.1207 – Flanagan)**Status: Bill did not advance**

NYSAR supports making the current 2 percent cap on property tax increases permanent. REALTORS were strong advocates for the creation of the property tax cap in 2011. Our nation-leading property tax burden is preventing too many New Yorkers from achieving the American Dream of homeownership and making it more difficult for families to keep their life-long homes. Making the property tax cap permanent will provide tax relief and predictability for New York homeowners and their budgeting.

Flood Insurance Tax Credit (S.6592 – Kaminsky)**Status: Bill did not advance**

NYSAR supports legislation would allow an individual taxpayer to claim a credit against their income taxes for an excess flood insurance premium paid for that taxpayer's primary residence. The amount of the credit may not exceed \$1,250 for any excess premium that exceeds 5 percent of the taxpayer's adjusted gross income. Establishing a state tax credit for the purchase of flood insurance would be a positive step by New York State to help mitigate the costs of otherwise prohibitively expensive flood insurance for vulnerable residences across the state.

Scaffold Law Reform (S.2795 – Gallivan/A.2148 – Morelle); (S.6876 – Akshar/A.5624 – McDonald)**Status: Bills did not advance**

NYSAR supports legislation that would establish a comparative negligence standard for claims under Labor Law 240 and 241. New York's antiquated Scaffold law which imposes an absolute liability standard on employers in negligence claims continues to drive up costs on endless segments of our economy including construction, insurance, farming and small business. This bill takes a limited approach at addressing the absolute liability standard in current law while not taking away any rights of an injured worker to sue.

Vested Rights for Property Owners (A.69 – Paulin)**Status: Bill did not advance**

NYSAR supports legislation to limit municipalities' ability to alter local codes, laws, ordinances, rules and regulations during the course of local development projects. This legislation will require municipalities to maintain a consistent set of rules and regulations throughout a construction project, except in certain reasonable instances.

Increasing the Threshold for the Mansion Tax (A.2194 – Buchwald)**Status: Bill did not advance**

NYSAR supports legislation to increase the minimum price threshold at which the so-called "Mansion Tax" is triggered. The "Mansion Tax" imposes an additional one percent tax on buyers who purchase a home for \$1 million or more.

Exemption of Mortgage Recording Tax for First Time Homebuyers (A.5520 – Weprin)**Status: Bill did not advance**

NYSAR supports legislation to exempt first time homebuyers from paying the municipal portion of the mortgage recording tax where the residential property being mortgaged is the mortgagor's principal place of residence. This bill will help promote first time homeownership and make the purchase of a home more affordable.

Tax Credit for Installation of Fire Sprinkler System (S.3519 – Flanagan/A.3885 – DenDekker)**Status: Bills did not advance**

This legislation would provide an incentive to homebuyers to install a sprinkler system in their home. The bill would provide an income tax credit up to 25 percent of the cost of labor and materials in the installation of a fire sprinkler system. NYSAR supports consumer choice and incentives such as this proposal versus a statewide mandate to install sprinkler systems in one and two-family homes and townhomes.

NYSAR OPPOSES ENACTMENT OF THE FOLLOWING LEGISLATION**Real Estate Transfer Tax Increase on Conveyances of \$5 million or more; and Proposed “Flip Tax” on Properties in New York City (A.9509-B - Assembly One-House Budget Resolution, Parts RR and UU)****Status: Proposals were defeated in the 2018-19 State Budget**

NYSAR strongly opposes the Assembly one-house Budget Resolution Part RR which would increase the state real estate transfer tax rates on the conveyances of residential and commercial properties in New York State valued over \$5 million. The proposed rate increases range from an additional 0.3% to 1.5%, which is in addition to the existing state transfer tax rate of \$4 per \$1,000, as well as New York City’s existing transfer tax rates of 1% to 2.625%, depending on the value and type of property, as well as an additional 1% New York City “Mansion Tax” on any property valued over \$1 million. Additionally, NYSAR strongly opposes the Assembly one-house Budget Resolution Part UU which would institute a new “Flip Tax” on properties that are transferred or “flipped” within two years of the original purchase within the City of New York, imposing an additional 10% or 15% real estate transfer tax.

New York continues to struggle to retain its young people and attract new business and industry. In fact, New York State saw an overall population loss in 2016 for the first time in a decade. New York is already regarded as one of the highest taxed states in the country. A 2018 study by the Tax Foundation ranked New York 49th in state business taxes, or 2nd worst in the nation. Raising the cost of purchasing real property will only continue to make New York less competitive economically with other states. Additionally, these new taxes are being proposed in the wake of federal tax reform, of which the negative effects on New York and its residents have not been fully realized. New York State should be working to approve legislation that encourages businesses and individuals to move and stay in New York, not impose new and higher taxes that are driving people and businesses away.

Wetlands Oversight (A.6282 – Englebright)**Status: Bill was defeated**

NYSAR opposes this unnecessary legislation which would increase the state Department of Environmental Conservation’s oversight of wetlands from the current threshold of 12.4 acres or more to wetlands as small as one acre. The DEC already has authority over all wetlands determined to be of “unusual local importance,” and local municipalities have the authority to regulate wetlands. The significant expansion of the state’s regulatory authority, as proposed by this legislation, would create an unnecessary imbalance with significant negative ramifications for homebuyers, developers and the overall economic health of New York State.

Expanding Cease and Desist Zones (S.1895 – Avella/A.5565 – Weprin)**Status: Bill was defeated**

NYSAR strongly opposes legislation designating the entire county of Queens a cease and desist zone. Cease and desist zones specifically target licensed real estate professionals while ineffectively allowing unlicensed individuals and firms to continue engaging in unwanted practices unfettered.

Imposed Real Estate Transfer Tax to Create Community Preservation Fund (S.3526-B – Breslin/A.3028-B – Fahy); (S.2686 – Breslin) and (A.3990-A – Thiele)**Status: Bills were defeated**

NYSAR strongly opposes real estate transfer taxes at all levels of government. This legislation in particular would allow municipalities to increase the real estate transfer tax up to 2 percent for the purpose of establishing a community preservation fund. NYSAR respects communities wishing to preserve their neighborhoods and historic buildings, however, funding for such initiatives should not rely on raising taxes, nor should it be at the sole expense of homebuyers. Additionally, NYSAR believes that any legislation pertaining to the use of transfer tax monies for the purpose of community preservation should include specific language to ensure that these revenues are utilized exclusively for the purpose of protecting community character and not abused.

Neighborhood Integrity Act (S.6616 – Benjamin/A.8615 – Rodriguez)**Status: Bill was defeated**

NYSAR strongly opposes legislation that would prohibit licensed real estate brokers and salespersons from selling or listing any property for sale or for rent in a New York City neighborhood that is not a traditionally recognized neighborhood. Violations would be subject to a monetary fine, license suspension or license revocation at the discretion of the New York State Secretary of State. REALTORS oppose this burdensome and misguided legislation because there is no current legal description of what constitutes a “neighborhood boundary” nor a “traditionally recognized neighborhood.” This legislation will only cause consumer confusion and market disruptions in a constantly evolving real estate marketplace.

“Flip tax” on Properties in New York City (S.6488 – Hamilton/A.7406 – Dilan)**Status: Bill was defeated**

NYSAR strongly opposes legislation that would impose an additional 15 percent real estate transfer tax on residential properties sold within one year and 10 percent transfer tax on residential properties sold after one year but less than two years from the prior purchase or conveyance. This bill does not achieve its intent and would dramatically increase the tax burden imposed on the real estate transaction in New York City and make home buying and renting less affordable for city residents.

Increasing the so-called “Mansion Tax” in New York City (S.5336 – Savino/A.6584 – Cymbrowitz)**Status: Bill was defeated**

NYSAR strongly opposes a proposal by New York City Mayor Bill de Blasio and the New York State Legislature to impose a “New York City” real estate transfer tax of an additional 2.5 percent on the sale of properties valued at more than \$2 million. This increase is in addition to the current “mansion tax” which imposes an additional 1 percent tax on the transfer of a home that sells for \$1 million or more. Levying additional taxes on real estate will curb real estate transfers, reduce tax revenues and negatively impact our economy.

Increasing State and Local Mortgage Recording and Transfer Taxes

Status: All new real estate tax increase bills were defeated. Many local real estate transaction tax extenders were not passed and could be taken up in a special session before the end of 2018.

NYSAR strongly opposes any legislation that would increase state or local mortgage recording or transfer taxes. Increasing real estate transaction taxes simply robs equity from homebuyers who could better use such funds towards their down payments. New York State consistently ranks at or near the top of states with the highest real estate closing costs in the nation. In fact, New York had the dubious dishonor of having the highest closing costs in the country in 2017.¹ Further increases to the tax burden imposed on the real estate transaction will prevent prospective purchasers from being able to achieve the American dream of homeownership.

Well Water Education Act (S.5031 – Hoylman/A.310 – Jaffee)

Status: Bill was defeated

NYSAR opposes legislation to require home inspectors, licensed real estate brokers and salespersons to provide well water education materials to prospective buyers regarding the potential hazards of well water. This bill has very serious technical flaws that would cause a tremendous amount of confusion and uncertainty in real estate transactions across New York State.

Requirement of License Number Disclosure (A.2715 – DenDekker)

Status: Bill was defeated

NYSAR strongly opposes legislation that would require every real estate salesperson and real estate broker involved in or present during a real estate transaction to include his or her license number on every document requiring a signature. This bill is unnecessary, burdensome and will not achieve its desired result.

Broker Signature on All Real Estate Documents (A.3323 – DenDekker)

Status: Bill was defeated

NYSAR strongly opposes legislation that would require real estate brokers to sign every document that requires the signature of a salesperson during the lease, rental or sale of real property. This bill is unnecessary, impractical and overly burdensome. License law and the REALTOR® Code of Ethics already impose a duty of supervision and responsibility on brokers and their affiliated licensees.

Source of Income (S.1898 Comrie/A.5431 – Weprin) and (S.7003 – Krueger)

Status: Bills were defeated

NYSAR opposes this legislation which seeks to add “source of income” as a protected class in New York State Human Rights and Executive Law. The sweeping language of these bills would constitute a serious intrusion on the rights of property owners to conduct their own business with prospective purchasers and renters. Legislation requiring a study of the impact of source of income protections was signed into law in 2015. It would be prudent to examine the results of such a study before enacting comprehensive source of income legislation.

¹ Bankrate.com: *Bankrate's 2017 Closing Costs Survey - Average Closing Costs by State*, May 16, 2017.

Citizen Suits (S.1540 – Avella/A.3386 – O’Donnell) and (S.3269 – Parker/A.8965 – Simon)**Status: Bills were defeated**

NYSAR opposes legislation that would grant private citizens the ability to commence a civil action seeking to remedy certain violations to the Environmental Conservation Law (ECL). Providing private citizens with the ability to seek judicial enforcement of the ECL carries the unintended consequence of further crippling New York State’s building and development industries. Additionally, this legislation is unnecessary as several means to remedy any violations of the ECL already exist.

Doubling of Fines for Violation of RE License Law (A.5517 – Weprin)**Status: Bill was defeated**

NYSAR strongly opposes legislation to increase the fine imposed for violations of the real estate licensing laws from \$1,000 to \$2,000, and creating new procedures relating to cease and desist zones. NYSAR believes the current \$1,000 per violation fine is a substantial and adequate deterrent for violations of license law.

Restrictions on Property Owners Use of Apartments (S.7020 – Hoylman/A.8165 – Niou)**Status: Bill was defeated**

NYSAR opposes this legislation which would impose additional restrictions on property owners’ ability to reside in their own property. This bill seeks to prohibit property owners subject to rent regulation from recovering more than one apartment for their personal use. Current rent control laws already require that a property owner establish a good faith reason for seeking a tenant’s apartment for their own use and an immediate and compelling necessity for doing so.