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2019 Legislative Wrap-Up: 111th General Assembly

The General Assembly passed a \$38.5 billion budget, thereby fulfilling their sole constitutional requirement for the year. This year's budget—the first to come from Governor Bill Lee's new administration and the first to pass unanimously in the House since 2011—adds \$225 million to the State's rainy-day fund (the largest appropriation ever made to the fund) and includes over \$200 million for economic investment and development. The budget enacts some \$37 million in tax cuts while also providing over \$100 million in salary increases for teachers and correctional officers, and \$30 million towards the Katie Becket Waiver program, which will expand Medicaid to cover certain families with disabled children that are currently ineligible. Additionally, this year's budget provides funding for Educational Savings Accounts, includes a total repeal of the professional privilege tax for certain professions—including Accountants, Engineers and Real Estate Brokers—and earmarks further funding for the battle against the State's opioid crisis. As is constitutionally mandated, this budget was a balanced one.

The 2019 session also saw action on bills of interest to Tennessee REALTORS®. Here are some of the highlights...

New Laws

Professional Privilege Tax for Principal Brokers REPEALED!

Legislation that completely repeals the Professional Privilege tax for accountants, architects, athlete agents, audiologists, chiropractors, dentists, engineers, landscape architects, optometrists, pharmacists, podiatrists, psychologists, **real estate brokers**, speech pathologists and veterinarians (SB398/HB1262) passed in both Chambers.

Licensing Changes

A bill that establishes a person who receives certified comprehensive career and technical training in high school and post high school are eligible to receive equivalent credit toward the occupational license related to training (SB571/HB353) has been amended in the House Government Operations Committee to specify applications to all professions and occupations regulated except for certified public accountants, architects and engineers, require that any kind of training be consistent with the requirements for licensure by licensing authorities in order for persons to

be eligible for equivalent credit, and allow any person aggrieved by the decision of a licensing authority concerning eligibility for equivalent credit to appeal to the commissioner. That bill has been passed in both Chambers.

Armed Forces members stationed within this state and their spouses are exempted from licensure requirements to practice professions and occupations regulated by the department of commerce and insurance and the department of health, subject to meeting certain requirements to practice now that SB384/HB304 has been signed by the Governor.

Reasonable accommodations must be made for a person applying for a license to engage in an occupation, trade, or profession who is diagnosed with dyslexia via SB759/HB252, passed by the General Assembly and signed by the Governor.

New legislation (SB1361/HB797) allows decreases to the barriers to entry into the auction profession by removing licenses and reducing education hours. The bill will allow an auctioneer to sell motor vehicles in a business liquidation without a motor vehicle license, and will allow court-ordered sales to be online rather than having to take place on the real property. The bill also defines “timed listings” to clarify that an online auction which extends based on bidding activity is considered an auction under the law. That has been passed in both Chambers and signed by the Governor.

A bill that requires contractors licensed on or after January 1, 2009, to complete a minimum of eight hours of continuing education biennially by a board-approved provider and proof of compliance must be filed and specifies that current membership in a professional trade association approved by the board qualifies as four hours (SB1336/HB1064) has been signed by the Governor.

Disclosures Added

A bill that requires the commissioner of environment and conservation to issue a permit for the installation of a subsurface sewage disposal system to any person unable to connect to the public sewer system from a moratorium and requires the permit holder to discontinue service to the subsurface sewage disposal system and connect to the public sewer system within 90 days of the moratorium being lifted (SB178/HB165) has been signed by the Governor, with an amendment requiring disclosure to be made by the sellers to purchasers of installed subsurface sewage disposal systems under these permits and the potential future obligation to connect to public sewer once the moratorium has been lifted.

Liens on Real Property

Legislation that limits recovery of a real property owner who prevails in an action challenging the validity of a lien to only liens filed against certain residential units (SB1172/HB757) was signed by the Governor with an amendment that rewrites the bill and eliminates what a real property owner who prevails in an action challenging the validity of a lien is entitled to, including in a slander of title proceeding recovers.

Landlord Laws

A bill that allows a tenant with a disability who requires the use of a service or support animal to request an exception to a landlord’s policy that prohibits pets or requires payment for pets on the premises (SB1393/HB1190) has been signed by the Governor. The landlord may ask the individual to submit reliable documentation of the disability-related need for a service animal if the disability is not apparent or the necessity of the service animal is not known. If there is misrepresentation or inaccurate documentation is submitted, the landlord may deny the request and the tenant could be in material noncompliance with the rental agreement.

Legislation adding a private process server to the list of individuals authorized to personally serve a copy of a

warrant or summons on behalf of a landlord in an action for forcible entry and detainer to regain possession of such landlord's real property (SB401/HB33) has been signed by the Governor.

Greenbelt and Brownfield

A bill expanding the definition of agricultural land for purposes of greenbelt property tax program to include two noncontiguous tracts of land within same county totaling at least 15 acres and split only by public or private road (SB886/HB809) was amended to allow for two non-contiguous tracks of land within the same county, totaling at least 15 acres, including woodlands and wasteland separated only by a road, body of water, or public or private easement, to form as one farming unit to qualify as agriculture land. That bill has been passed in both Chambers.

Legislation making the urban brownfield redevelopment project statute applicable to “mid-size and small counties” rather than “large and mid-size counties” (SB355/HB327) was amended to remove the latter reference in the present law provision encouraging the redevelopment of large brownfield sites in economically disadvantaged areas within large and mid-size counties and has been signed by the Governor.

Time-shares

A bill clarifying that time-share transferring contracts are voidable by the purchaser for 10 days from the date of the signing of the contract, if the purchaser made an on-site inspection of the time-share property (SB263/HB23) has been signed by the Governor.

Independent Contractor Law

A bill that requires the consideration of the 20-factor test IRS Revenue Ruling 87-41 rather than the current standard, the ABC test, to determine whether a worker is an independent contractor and whether an employer-employee relationship exists in the arrangement (SB466/HB539) has been signed into law.

Hands-free Driving

A bill that declares that a person operating a motor vehicle on the highway or any road in Tennessee cannot physically hold or support a wireless communication device or write, send, or read any text-based communication, with exemptions established to someone over the age of 18, prohibits someone operating a motor vehicle from watching a movie or video on a wireless telecommunication device or stand-alone electronic device and prohibits them from recording or broadcasting video on the devices established, and declares it a violation of a Class C misdemeanor subject to a fine not exceeding \$50, with a \$100 fee upon third offense, or a \$200 fee if in a work zone with employees present, or a school zone when flashers are in operation (SB173/HB164) has been passed into law. *Tennessee has more distracted-driving accidents than any other states.*

Daylight Savings

A bill that requires daylight savings time as the standard time of the state, specifies the new time will go into effect on the first Sunday of November after the United States Congress repeals or amends current law to authorize states to observe daylight saving time year-round, and orders the commissioner of transportation to monitor and certify in writing to the executive secretary of the Tennessee code commission the date of the changed legislation (SB1100/HB247) has been passed in both Chambers.

Bills Which Were Not Successful

Landlords

A bill that requires a residential landlord or a residential home seller to provide a lessee or buyer with the location and contact information for the office of the county election commission and a voter registration form at the time of the execution of the lease or sale (SB1005/HB1221) has been assigned to the General Subcommittee of the Senate State & Local Government Committee, and has been taken off notice in House Elections & Campaign Finance Subcommittee.

A bill that requires a landlord to inspect a vacated residential property within 72 hours of when the last tenant vacated such property for abandoned animals left at the rental property, requires landlord to report any abandoned animals found on the vacated rental property to the county or municipal animal shelter, animal control agency or a similar agency, and specifies that it is a Class C misdemeanor offense for a landlord to fail to make the inspection or report (SB1080/HB997) was defeated.

A bill that makes it illegal for any lessor to lease, let, or rent a dwelling unit to an illegal alien, or allow an occupant who is an illegal alien to reside in a dwelling unit leased or rented by the lessor, knowing or in reckless disregard of the fact that the alien entered or remains in the United States illegally, requires a lessor to verify citizenship and/or lawful presence in the U.S. of prospective occupants and maintain verifying documents for at least one year following the occupant ceasing to rent, let or lease from the lessor, establishes punishment for offenses, specifies that the law applies only to contracts to let, lease, or rent dwelling units on or after the effective date of this act, requires law enforcement officers investigating violations of this law request federal verification on whether an occupant is an alien lawfully present in the United States, and prohibits law enforcement officers or agencies from making independent determinations of any occupant's immigration status (SB1167/HB614) was defeated. *This bill would have put an undue burden on our property-management members.*

County Powers Relief Act

A bill that reduces to 15 percent the threshold decennial county growth rate required before a county is authorized to levy a privilege tax (adequate facilities tax or impact fee) on entities engaged in residential development of property to provide the county with an additional source of funding to defray the cost of providing school facilities (SB1162/HB1488) was taken off notice in the Senate State and Local Committee and referred to the House Finance, Ways, and Means Subcommittee. It did not move in the House. Reducing the percentage to 15% from the 20% that is now law would have allowed many additional counties to enact impact fees or adequate-facilities taxes.

A bill that removes incrementally over a three-year period the requirement that 52 percent of the five percent commission retained by county registers for collecting and reporting recordation tax must be remitted to state treasurer and credited to state general fund (SB249/HB229) failed this year but will be pursued next year.

Licensing

A bill which allows the reinstatement of a professional or occupational license if there is submission of an application acceptable to the licensing entity, payment of the full renewal fee for an active license, and payment of any reinstatement penalty that may be required by the licensing entity (SB999/HB1218) was defeated.

A bill that makes various changes to the Right to Earn a Living Act, authorizes an affected person to petition a licensing authority to repeal or modify an entry regulation within its jurisdiction, including entry regulations promulgated relative to statute, and exempts any state agency, regulatory board, commission, council, or committee that regulates a person under certain circumstances (SB196/HB261) would have a very detrimental affect on TREC, the appraisal commission, and the auctioneer commission.

HOAs

A bill, as amended, affecting HOA provisions (SB1429/HB1290) was defeated in the Senate Commerce and Labor Committee. We were able to work with the sponsors to remove a provision requiring approval from all residents to ban a long-term lease within the HOA prior to the summer study decision. The bill still held provisions grandfathering in people who had been long-term renting to continue to do so even after an HOA bylaw change and the bill dictated how HOA votes regarding long-term rentals must be conducted.

Homestead Exemption

A bill that creates a homestead exemption for agricultural land, increases aggregate value of real property homestead exemptions while establishing that, in 3-year intervals, the fiscal review committee will recommend to the general assembly increases in the homestead exemption (SB399/HB236) is pending to be heard next year.

Construction-Site Theft

A bill that adds committing or intending to commit a felony, theft, or assault in a construction that is not open to the public into the definition of burglary (SB83/HB125) failed in the General Assembly.

In Conclusion

We greatly enjoyed working on behalf of Tennessee REALTORS® during this legislative session, and wish you an enjoyable summer. We look forward to the return of the 111th General Assembly for its second year in early 2020. Special thanks to the 2019 Governmental Affairs Committee, chaired by Chris Garrett, for its excellent leadership and hard work.