2022 Beacon Hill Issues

June, 2022

About the MMBA

The Massachusetts Mortgage Bankers Association (MMBA) is the Commonwealth's trade association representing the real estate finance industry. Founded in 1974, the MMBA is the largest mortgage association in New England and is one of the most successful in the country. The association works to ensure the continued strength of the Commonwealth's residential real estate markets; to expand homeownership prospects through affordability; and to extend access to affordable housing. The MMBA promotes fair and ethical lending practices and promotes excellence and integrity among real estate finance professionals through a wide range of educational programs, advocacy and industry-wide publication.

The Massachusetts Mortgage Bankers Association (MMBA) represents 239 lending institutions made up of equal representation between depository institutions (banks and credit unions) and non-depository institutions (independent mortgage banker companies, mortgage brokers and all ancillary companies) which facilitate mortgage transactions throughout the Commonwealth.

ADVOCACY ISSUES

- **Reverse Mortgage Counseling**
- **Remote Online Notarization (RON)**
- **Funding Through Transfer Taxes**
- **Interest Rates on Mortgage Statements**
- **Tenant's Right of First Refusal**

Massachusetts Mortgage Bankers Assoc.
Deborah Sousa, Executive Director
185 Devonshire Street, Suite 703
Boston, MA 02110
Phone: 617.570.9114
www.massmba.com

An Act Expending the use of Video and Telephone Conferencing for Reverse Mortgage Counseling

Currently Massachusetts mandates an in-person requirement to receive reverse mortgage counseling. During the pandemic seniors were given additional options to allow video or telephone conferencing to satisfy the in-person requirement. This option expires on July 15, 2022.

Providing seniors with options for how they obtain the required counseling benefits seniors, their families, and the counseling agencies. Here are a few reasons why we support this permanent option:

- Lack of capacity to handle in-person counseling: here are only 7 counselors in the entire state available to provide in-person reverse mortgage counseling.
- At least 500 counseling sessions were conducted via telephone and video and the surveys show extremely positive feedback.
- Family members can participate more easily in the reverse mortgage counseling when the sessions are conducted via telephone or video.
- A study filed with the House and Senate in 2015 recommended that legislators consider a teleconference option to comply with the in-person requirement.
- Massachusetts is the only state in the country which does not allow seniors alternatives to in-person counseling.

Action Needed: The MMBA STRONGLY SUPPORTS H.1146 and requests that this bill be expedited to permanently allow video or telephone conferencing to satisfy the in-person requirement AND the temporary provision needs to be extended by July 15th.

H.4716 -Remote Online Notarization (RON)

The MMBA and other industry stakeholders have worked together to develop comprehensive Remote Online Notarization (RON) language which would meet federal model language and standards. Currently 41 states have implemented permanent RON.

During the pandemic, for individuals to have important documents notarized without an in-person experience, the Governor signed into law Chapter 71 of the Acts of 2020 which implemented a Remote Ink Notarization (RIN) procedure for notarization. These procedures were meant to be temporary until final legislation for RON was considered. RIN currently expires on July 15th.

RON will provide added consumer protections to reduce fraud risk with identity proofing and credential analysis. In addition, H.4716 has Unauthorized Practice of Law (UPL) components ensuring that a Massachusetts licensed attorney must preside over a mortgage closing.

_Action Needed: The MMBA STRONGLY SUPPORTS Remote Online Notarization (RON) and asks for expedited passage using the language contained in H.4716. We also oppose further extensions of RIN.**

Funding Through Transfer Taxes

Funding affordable housing should not rest upon a small percentage of consumers that are purchasing or selling properties. This is everyone's problem and should be shared across the Commonwealth equally with other solutions such as increasing the CPA surcharge or reallocating the percentage of distribution targeted towards affordable housing.

There are several bills before the legislature which would fund initiatives through taxes on the sale of a home. Although our members are concerned with affordable housing, we strongly believe that funding these initiatives through transfer fees will create a barrier to homeownership.

We are deeply concerned about

- **Affordability** as we are already one of the most expensive states to purchase a home.
- **Lack of consistency** across each municipality with respect to percentage of tax, responsibility of payment and exemptions.
- **Disparate impact** as municipalities may deny low-income or middle-income borrowers a transfer tax exemption.
- **Lack of clarity and confusion** to the consumers to determine the actual amount of transfer fees in a specific municipality.

There are 12 bills from individual municipalities which propose increases in closing costs to fund the Community Preservation Trust (CPT). Providing mandated and accurate closing cost calculations when each city and town has different exclusions and rates will be an impossible task.

S. 868 - **An Act empowering cities and towns to impose a fee on certain real estate transactions to support affordable** housing is a statewide bill allowing municipalities to impose a real estate transfer fee between .5% -2% of the sales price. The language contained in this bill is extremely problematic:

- Speculative Sales would be assed a 6% transfer tax based upon a current state median income for a single-family home. The bill does not provide for renovation costs, subject property type or specific location for higher priced locations.
- Exemption calculations are based upon single-family property types regardless if the subject property is not a single-family.
- Transfer fees would be required to be paid PRIOR to the sale which could cause a variety of hardships and liabilities.

Action Needed: The MMBA STRONGLY OPPOSES S.868 and other bills establishing real estate transfer taxes.

H.1035 -An Act providing mortgage customers additional mandatory information regarding their accounts

This bill requires that the current mortgage interest rate be included on a monthly mortgage statement. The remaining information required in this bill is already mandated by federal guidelines.

Interest rates depend upon many factors such as (but not limited to) the current median credit score for each party on the note, current value of the property, documentation of current income and assets and if a new loan would meet current Qualified Mortgage and Ability-to-Repay guidelines. There would also be market fluctuations between the statement being printed and consumers' receipt. To post a "current" interest rate that is not ultimately available to the consumer would be irresponsible and could subject the lender/servicer to regulatory penalties under Unfair and Deceptive Practices.

Action Needed: The MMBA STRONGLY OPPOSES H.1035 as current mortgage rates cannot be printed on monthly mortgage statements.

H.1426/S.890 -An Act to guarantee a tenant's first right of refusal

This legislation requires owners to notify tenants about intent to sell, short-sales, deed in lieu or foreclosure procedures. Any municipality may adopt these provisions. The bill outlines a series of confusing back-and-forth communication requirements adding a 7–8-month delay to the purchase, short-sale and foreclosure process which could create a hardship for consumers and lead to more foreclosures. The language in this bill provides tenant associations (not tenants) with the contractual opportunity to purchase rental properties.

Washington, DC implemented similar legislation several years ago and the result has been extremely problematic. New production of multi-family construction has come to a halt and very seldom do tenants end up purchasing the property. Tenants assign their rights to developers; they can deliberately hold up a sale to get more money from sellers and homeowners will continue to incur debt until a home is sold. The MMBA believes that we can learn from the mistakes of other states. It shouldn't take an additional 7-8 months (277 days) for a bona fide sale to occur between owners and tenants. Third party investors should not be allowed to cause havoc.

The title of the bill suggests that the intent is to provide current tenants with the opportunity to purchase the subject property from the owner. However, the procedures contained within the language of the bill focuses more on tenant associations and not individuals.

The MMBA STRONGLY OPPOSES this process as we believe it will ultimately drive-up purchase prices, cause financial hardship to consumers, increase rent, and create opportunities for developers and not former tenants to become property owners. The process is too convoluted and the additional 7-8 months would cause hardship for those wanting to sell their homes.