

## **Government Affairs Update**

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### **REGION**

**Local Contributions Making Difference on North I-25:** To-date local governments in Northern Colorado have added significant funding to ensure North I-25 is improved and expanded. Larimer and Weld Counties, plus Johnstown, Fort Collins, Berthoud, Loveland, Timnath and Windsor, as well as McWhinney provided \$25,000,000 in local contributions for the Phase 1 project adding an additional lane between SH 14 and SH 402.

In addition, Fort Collins, Loveland, Johnstown and Weld and Larimer Counties are providing \$30,500,000 to improve intersections at Prospect Road, US 34 and SH 402. While many people assume the federal government pays for interstate highways, that is no longer the case. Applications for federal grants require a local match and improve the chances of TIGER grants, for example, getting approval. Without these contributions, it is likely North I-25 would not have seen any significant improvements until at least 2035.

### **COLORADO ASSOCIATION OF REALTORS®**

**Legislative Update: HB-1279 “Construction Defect Actions Notice Vote Approval”** CAR Position – Support. This bill passed the legislature and will be signed by the Governor next week, which is a major win for CAR. HB-1279 focuses informed consent and does nothing to stand in the way of individual owners who have a legitimate construction issue from seeking a legal remedy. It protects homeowners by ensuring they are aware of a potential lawsuit that could impact selling or refinancing their home and tightens up voting procedures so a majority of homeowners must approve initiating a legal action against a builder rather than leaving that decision to a homeowner association board.

The Homeownership Opportunity Coalition, of which CAR is a member, believes this bill is a positive first step in the right direction to building more attainable housing for all Coloradans while also protecting homeowners and giving them a voice in whether or not to pursue litigation.

**HB-1309 “Documentary Fee to Fund Affordable Housing”** CAR Position - Oppose [HB17-1309](#) died last week in the Senate State, Veterans, & Military Affairs Committee. The bill would have doubled the existing documentary fee for the recording of real estate deeds and instruments with half of the money allocated to the county treasurer and the other half of the money allocated to the Colorado Housing and Finance Authority to create a housing investment fund to support new and existing affordable housing programs.

Although REALTORS® understand the need for affordable housing in Colorado and we have supported affordable housing legislation and initiatives like first time home buyer savings accounts, the idea of making housing more expensive to make it more affordable makes no sense.

Similar to the proposed transfer tax (below), HB-1309's fee increase hurts the very families that it is intended to help because like a transfer tax, a documentary fee is regressive -- it disproportionately impacts low-to-moderate income earners. And it creates barriers to homeownership because it increases the amount of money needed to purchase a home. Again, down payment costs – including closing costs – remain a significant obstacle to becoming a homeowner, especially for low-to moderate-income households.

Second, real estate documentary fees, like transfer taxes are not a reliable funding source. Real estate documentary fees are extremely sensitive to market forces, making the frequency of transactions and value of property variable in relation to the strength of the economy, which makes real estate documentary fees a poor revenue source to fund affordable housing.

Finally, real estate documentary fees for affordable housing are likely unconstitutional under TABOR. The Colorado Supreme Court has weighed in on the issue of taxes versus fees, and ruled that fees levied must be directly related to the services being performed. New fees that pay or fund something not directly related to the cost of service are actually taxes, and as such, violate TABOR's requirement that citizens are entitled to vote on new taxes.

### **Senate Concurrent Resolution 17-002 “Real Estate Transfer Tax For Affordable Housing”**

CAR Position – Oppose. SCR-002, sponsored by Senator Kefalas (D-Ft. Collins), died in the Senate Agriculture, Natural Resources and Energy Committee. The proposal would have deleted the prohibition in TABOR on new or increased transfer tax rates on real property of 1/10 of one percent of the value of the real property as specified in the deed for the privilege of transferring the title to real property.

Although REALTORS® understand the need for affordable housing in Colorado, one of our bedrock principles is that you cannot make housing more affordable by making it more expensive. CAR is an affordable housing advocate. We have supported legislative initiatives designed to create more affordable housing options. However, SCR 002 had several flaws. First, the transfer tax hurts the very families that it is intended to help because such a tax is regressive. It disproportionately impacts low-to-moderate income earners – those that can least afford it, which creates a barrier to homeownership. Down payment costs – including closing costs – remain a significant barrier to homeownership, especially for low-to moderate-income households.

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Finally, real estate transfer taxes are unconstitutional under TABOR. This concurrent resolution would remove that prohibition against transfer taxes in the constitution.

**HB-1358 “Disclose Amounts Payable To Real Estate Brokers”** CAR Position – Oppose. On April 27 HB-1358, the commission transparency bill (Trelora bill), was killed in the House Business committee 11-2. The bill would have required real estate agents to disclose their fees. In addition, the bill would require brokers to disclose their fees or the basis for calculating their fees on all marketing materials relating to any specific property, including on-line multiple listing services. The committee didn’t believe the bill was necessary.

## **STATE**

**Transportation Measures Fail:** Several significant transportation funding measures were introduced this session but neither bill survived. **HB-1242 “New Transportation Infrastructure Funding Revenue”** was a bipartisan measure sponsored by the Senate President and the Speaker of the House, but it died in a Senate committee opposed to new taxes. The bill was widely supported by a diverse coalition of groups because it would’ve funded transportation at the state and local level as well as provide generous amounts for multi-modal projects.

**SB-303 “State Highway System Funding and Financing”** was a Republican messaging bill sponsored by Senator John Cooke. It included the TRANS bond financing measure supported by NCLA but was amended to prohibit the use of express toll lanes in new highway projects, a silly addition that would’ve ensured the death of the bill in the House. Senate President Grantham laid the bill over until it had no chance of making it through the legislature before Wednesday’s adjournment to avoid watching it implode.

So, what now? The Independence Institute is poised to push its own transportation funding ballot measure with the tongue-in-check title of “Fix Our Damn Roads,” which would ask voters to approve a measure using existing State revenue to issue TRANS bonds. Will the Institute take on the expensive task of gathering enough signatures to get the question on the November ballot? Some observers say it will but at the very least the repeated efforts to push transportation measures this session indicate that the need is finally being recognized.

## **NATION**

**House Passes Health Reform Bill:** On May 4, the House approved H.R. 1638, the American Health Care Act (AHCA) on a vote of 217 – 213. All of the Democratic Representatives and 20 Republicans opposed the bill. The legislation replaces some

provisions of the Affordable Care Act. The bill now heads to the Senate for consideration. The outlook for the bill in the Senate is unclear, with concerns being raised by Senators of both parties.

The AHCA would eliminate the Affordable Care Act's (ACA) individual and employer mandates and replace the ACA tax credits that reduce insurance premiums for low and moderate income households with tax credits based solely on age that would top out at \$4,000 per year for those aged 60-64. The bill increases the ACA "age rating" rules that limit premiums for the oldest enrollees from 3 times the amount charged the youngest enrollee to 5 times that amount. Late amendments made to the bill would also allow states to apply for a waiver to opt out the ACA's benefit requirements, which would allow insurers to cover fewer types of care. A state waiver could also be sought to allow insurers to charge premiums based on health status.

The bill also would eliminate most of the ACA taxes provisions, including the 3.8% tax on net investment income for very high income tax filers. Note: Remember those pesky emails that circulated after the passage of the Affordable Care Act screaming about a tax on real estate? This last provision was the culprit, although in reality it affected very few property owners.

**VA Reconsiders Limits on Fees:** On April 13, 2017, the Department of Veterans Affairs (VA) released an advanced notice of proposed rulemaking regarding revisions to allowable charges and fees associated with VA guaranteed home loans. In recent years, the VA has received complaints from veterans and other stakeholders, including REALTORS®, that restrictions on the charges and fees VA Loan borrowers can pay in a home purchase transaction are hindering the ability of VA borrowers to compete with other buyers in today's housing market. The VA is considering ways to revise the list of acceptable charges and fees while still protecting the VA borrower and is seeking public comment on how this should be done. Comments are due Jun. 12, 2017.