



CELEBRATING
55 YEARS

nare

Mid-year updates and N.H. CIBOR successes

June 04, 2015 - Northern New England

At the 2015 mid-year legislative meetings in Washington D.C., Lawrence Yun's Commercial Real Estate presentation indicated modest increases in Commercial Real Estate so far in 2015, but the outlook is still bright. Multifamily is still a strong sector, with retail and industrial coming along fairly strong. Please visit www.realtor.org/commercial for full reports from Lawrence and more.

New Hampshire's commercial real estate brokers enjoyed a well-earned, successful legislative session in Concord this season. After discussions with the commercial investment board of Realtors, NHAR introduced two pieces of legislation which, once signed into law, will greatly benefit the commercial real estate industry in the state.

**NHAR secures passage
of ground lease bill**

First, NHAR introduced Senate Bill 232, to clarify that a ground lease - including any sales, transfers, or assignments of any interest in the leased property - in which the term is less than 99 years, is exempt from the transfer tax.

Earlier this summer, the NH Department of Revenue Administration (DRA) asserted that it had the authority under the Real Estate Transfer Tax (RETT) to levy ground lease transactions whose terms were for less than 99 years. This was contrary to decades of practice by the development and legal community and seemed to run counter to the DRA's own rules. NHAR and members of NH CIBOR worked with the DRA to craft statutory language to both define a ground lease in statute as well as ensure that such leases of less than 99 years would be exempt from the RETT. NHAR introduced the legislation and worked with elected officials to alleviate their concerns about potential loss of revenue to the state. SB 232 has now passed out of both the Senate and House and will be headed to the Governor for her signature. The bill goes into effect July 1.

Bill allows commercial realtors to accept certain referral fees

New Hampshire real estate law goes further than Federal RESPA, which only applies to residential mortgages and specifically exempts commercial or business transactions. NHAR introduced House Bill 495, which will align New Hampshire law with RESPA and permit Realtors in commercial transactions to accept referral fees from lending institutions.

For reasons which are a bit murky and constantly shifting, the New Hampshire Bankers Association had come out very strongly against the bill. While those N.H. banks can currently give a referral fee to a Massachusetts licensee in a commercial transaction in that state, N.H. commercial licensees are prohibited from receiving a fee. It is probably not unreasonable to conclude that banks are currently getting referrals from commercial realtors for free, and therefore do not want to have to pay for them in the future. While the bankers are generally concerned about regulation, in this case they were seeking additional regulatory protections from lawmakers.

The bill became deadlocked in the senate commerce committee, with two senators - Sen. Soucy

(D-Manchester) and Sen. Pierce (D-Lebanon) - supporting NHAR's position while two other senators, including the committee chair, opposed. The bill was headed toward a major battle on the senate floor with an uncertain outcome. In the end, NHAR worked with CIBOR leadership and the Bankers Association and negotiated a compromise which allowed the bill to move forward with unanimous support.

The bill now mirrors Federal RESPA, except the compromise version of the bill prohibits the lender from paying the fee, even in a commercial transaction. A client, mortgage broker, title company or other entity may provide a fee. However, it cannot come from the bank.

HB 495 should be on the governor's desk this month. Our thanks go out to Bob Quinn and NHAR for their full support of N.H. CIBOR, the crafting of these two bills, and for guiding them through the house and senate.

Once again, I will remind you all that we really do want to hear from you, please take the time to let us know what N.H. CIBOR can do to help. You can help N.H. CIBOR too, we have many volunteer committees who do great work for our members. And we need more of you involved, please consider joining one of our committees today. Choose a topic you are interested in and passionate about. Visit our website for the list of committees, it will be rewarding for you.

Gerry O'Connell is the 2015 president of the New Hampshire Commercial and Investment Board of Realtors. Gerry O'Connell, KW Commercial CLCG

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540