



## 2019 Legislative Priorities

### **Housing Opportunity**

With increased student debt and other barriers, the percentage of first-time homebuyers has fallen to a nearly 30 year low. The Maryland REALTORS® is committed to supporting policies that expand housing opportunities throughout the state and opposing policies that limit them. REALTORS® support tax changes to make home purchases more affordable; policies to encourage the creation of new homes and apartments; and regulatory changes to increase housing supply and lower building costs.

### **Escrow Money Written Agreement**

Escrow money, sometimes referred to as “earnest money” is often provided by a homebuyer when entering into a contract for a home purchase. Although escrow money is not required by law, it demonstrates a buyer’s commitment to purchase the property. These deposits once were held almost exclusively by real estate brokers but are now held many different companies, including: title companies; attorneys; and public notaries. While there is no legal prohibition against such companies holding earnest money deposits, these third party companies are not subject to the same regulatory requirements as real estate brokers, such as: how soon trust money must be deposited and how the money must be handled in cases of a dispute. For this reason, the Maryland REALTORS® seeks changes to require any holder of escrow money to have a written agreement with the buyer and seller detailing how the money will be handled.

### **Client Confidentiality**

Confidentiality is a key fiduciary duty of all real estate agents. This duty applies to different types of information that could undermine a client’s position if known by the other party. In fact, the duty of confidentiality is so important, it lasts even after the agent-client relationship has terminated. However, this duty does not apply when an agent is being interviewed for hire by a potential client. Regularly, the potential client discloses information that would be considered confidential. The Maryland REALTORS® recommends changes to clarify that an agent has a duty to protect confidential information learned during a meeting to a form an agency relationship, even if the agent is not hired.

### **Ground Rents Escrow**

Ground rents are payments made by a homeowner to a person or entity who owns the land on which the home was built. Ground rents are most common in Baltimore but exist throughout Maryland. Under current law, the ground rent holder (the person that owns the land) is entitled to collect up to three years unpaid rent. If a ground rent holder fails to register the ground rent and a property is sold, title companies will escrow up to the maximum three years rent that can be collected. This escrow payment is a cash requirement that homebuyers pay in order to settle the property. In addition, title companies must hold and return the escrow money after three years.

The Maryland REALTORS® recommends a change to law exempting a property subject to a sale from the collection of the past due ground rent until it is actually registered. Such a change would negate the tracking of the escrow money and save buyers cash at closing.



### **Short Term Rentals**

Property rights are often described as a bundle of rights that include the right to: sell; own; occupy; and lease. However, as on-line, short-term rental platforms increase in popularity, some governments place severe restrictions on the right to lease property. The Maryland REALTORS® recognizes that communities have an interest in reasonable regulation of short-term rentals but they should not impose such high barriers that they eliminate the right to rent private property.

### **Mortgage Debt Foregiveness Tax Credit**

The Maryland REALTORS® support extending the Mortgage Debt Tax Foregiveness law at both the state and federal level.

Mortgage debt tax relief applies when home homeowners in financial distress owe more on their mortgage than the value of their property. When those homeowners must move because they cannot afford their current mortgage payments -- or due to job changes, family or medical issues -- the homeowners may face a loss in selling their property. Many times, though, lenders will mitigate those losses by "forgiving" some or all the difference between the amount owed on the mortgage and the value of the property. Unfortunately, forgiven debt is considered income to the taxpayer and taxed at ordinary income tax rates. This costs thousands of dollars for many homeowners who are in financial distress.

Maryland law provides relief against state taxes for some of that forgiven debt but the authority for this tax benefit expires in June 2019. If the federal government passes a federal tax credit addressing forgiven debt, Maryland follows the federal tax law.