



CALIFORNIA ASSOCIATION OF REALTORS®

## LEGISLATIVE PROGRAM 2009

November 9, 2009

In the 2009-2010 legislative session, C.A.R. will pursue a primarily defensive legislative posture, while pursuing select sponsored bills, preserving resources to defend against legislation threatening the real estate industry. In addition to sponsored bills, C.A.R. will pursue "targets of opportunity" or amendments to protect and promote the ability of REALTOR'S® to do business and to advance C.A.R. policy goals in proposed legislation. These "targets of opportunity," include amendments to legislation of others to advance C.A.R. policy; for example environmental issues must not impair the rights of property owners; tenants' rights legislation needs to include recognition of property owners' rights; risk management gains of recent years are preserved; and unreasonable burdens on the real estate transaction and housing are avoided.

### **C.A.R. SPONSORED LEGISLATION 2009- 2010**

**SB 206 (Dutton) REO Homebuyer Tax Credit** - C.A.R. is sponsoring SB 206, which as introduced, would have, like federal law, created a first-time homebuyer's tax credit, equal to 10% of the sale price of a home, not to exceed \$8,000, for homes purchased as the principal residence of the taxpayer. Due to the state's fiscal crisis, C.A.R.'s Board of Directors at its June 2009 meeting decided to limit this proposed tax credit to REO properties purchased as a principal residence by homebuyers whose individual income does not exceed \$95,000, and married couples whose combined income does not exceed \$170,000. The bill will be effective for one year from the date of its enactment. SB 206 was amended to utilize a funding source from federal stimulus funds instead of the state general fund. Unfortunately, this source proved to be unavailable for tax credit purposes. Efforts are continuing to locate a funding source for this tax credit that does not burden the state's general fund during these tight fiscal times.

**Status:** Senate Revenue and Taxation Committee

**Bill Number Pending - Local Property Maintenance Ordinances** - C.A.R.'s Board of Directors has approved the sponsoring of legislation to address local property maintenance ordinances. This bill will make the existing statewide rule for maintenance of post-foreclosure properties pre-emptive of local ordinances and will provide an REO owner notice and opportunity to repair before fines for violation can attach. The amendments will also ensure that liability for maintenance of pre-foreclosure property follows the legal owner, and is not inherited by the foreclosing beneficiary or its agent. Finally, the amendments will modify the statutory Notice of Default or Notice of Sale recording to include contact information for the foreclosing entity's designated property manager. C.A.R. will work to achieve a consensus with lenders, trustees, and local government on this proposal.

**Status:** Pending Introduction

**Bill Number Pending - Anti-Deficiency Protections** - Many mortgages have lost their characterization as "purchase money" because of a refinance, or because the purchase financing was divided into two loans and one or more of them were structured as a recourse or personal note that is really secured by the property. C.A.R.'s Board of Directors has approved sponsoring

legislation to expand borrowers' anti-deficiency protections to cover refinanced purchase monies, and "recourse" junior notes created as part of a purchase, or loans which increase the basis of the property. (see also, AB 111 and SB 97)

**Status:** Pending Introduction

**Bill Number Pending - Owner's Right to Rent in a CID** - Over the last few years, C.A.R. members noticed a trend among some homeowner associations to adopt restrictions that limit the ability of unit owners to rent their dwellings in common interest developments (CID). C.A.R. sponsored AB 2259 (Mullin) in 2008 which was approved, almost unanimously, by the legislature. Unfortunately, the Governor vetoed AB 2259 saying that owners of a unit in a CID agreed, when they purchased their unit, to abide by the rules of the HOA, and understood that any decision to change those rules would be governed by the HOA. C.A.R.'s Board of Directors has approved the sponsoring of legislation in 2010 to require two-thirds of the unit owners in a CID to approve, by written ballot, any amendment of the governing documents that would prohibit owners from renting or leasing their unit.

**Status:** Pending Introduction

**Bill Number Pending - Portable Appraisals** - Current law permits, but does not require, lenders to utilize current appraisals ordered by a different lender. C.A.R.'s Board of Directors has approved the sponsoring of legislation in 2010 to require lenders to accept a "portable" appraisal at the request of the borrower. Put simply, if an appraisal is ordered and prepared by one lender on a particular property, the second lender would be required to accept that appraisal to support a mortgage even though the lender did not order that appraisal.

**Status:** Pending Introduction

**Bill Number Pending - Increasing AMC Regulatory Oversight** - Appraisal Management Companies (AMCs) have grown enormously over the last two years, driven primarily by the Home Valuation Code of Conduct adopted by Fannie Mae and Freddie Mac. In 2009, C.A.R. supported SB 237 (Calderon), which was signed into law, and subjects AMCs to registration and review by the Office of Real Estate Appraisers (OREA). C.A.R.'s Board of Directors has approved the sponsoring of legislation in 2010 to increase OREAs regulatory control on Appraisal Management Companies.

**Status:** Pending Introduction

**Bill Number Pending - Expansion of DRE "Poison Pill" to Special Funds** - During the 1990's the Governor and Legislature both raided and borrowed DRE reserve funds to help balance out the budget's general fund during budget crises. In response, C.A.R. sponsored legislation to create a two part "poison pill" that would roll back licensee fees to 1982 levels if DRE funds were raided and/or borrowed by the general fund or if DRE reserves exceed 18 months. As a part of the 2009 budget bill, the legislature loaned \$500,000 from the DRE operating reserve to the Department of Justice to start up a new foreclosure consultant registration program. This loan did not trigger the so-called "poison pill" statute and roll back license fees because the recipient was another special fund and not the state's general fund. C.A.R.'s Board of Directors has approved the sponsoring of legislation in 2010 to prevent DRE reserve fund transfers ("loans") to other special fund accounts.

**Status:** Pending Introduction

**Bill Number Pending - Advanced Fee Clarification** - SB 94 (Calderon) was signed into law in 2009 to prohibit "cash up front" loan modification contracts. C.A.R. negotiated amendments with the author and DRE to both clarify the definition of an advanced fee and to include flexibility to engage in a fee for service contract (e.g. a listing agreement). Even with C.A.R.'s amendments, the current statute is confusing. C.A.R.'s Board of Directors has approved the sponsoring of

legislation in 2010 to clarify the current "advance fee" statute established by SB 94 in order to make very clear that fee for service contracts (e.g. listing agreements) do not trigger the advanced fee requirements.

**Status:** Pending Introduction

## **BILLS OF INTEREST:**

### **Transactional Issues – Broker Practice & Risk Management**

**DRE Reserve Fund Loan to DOJ** - The 2009 - 2010 budget act included a "loan" from DRE reserve funds to a start-up program in the Department of Justice. C.A.R. sponsored legislation following the budget crisis of the early '90's after the DRE reserve was "raided" and transferred to the general fund. DRE subsequently needed a fee increase and C.A.R. agreed to that but only if the law could be changed to prevent future "general fund" raids of the DRE reserves. C.A.R. sponsored the so-called "poison pill" legislation and all was well, for awhile, until another budget shortfall precipitated another raid on the special fund agencies (DRE is one). At that time they couldn't "transfer" the reserves because of C.A.R.'s "poison pill" legislation, so they "borrowed" the money saying that it was a "loan". C.A.R. sponsored another bill to prohibit "loans", all was well, for awhile, until the current budget shortfall where the state now needed money (\$500k) to fund, in the Department of Justice, a foreclosure consultants' registration program. Although it is a loan, it is not going to the general fund and so the administration takes the position that a loan to a "special fund agency" (DOJ is one) is not prohibited by C.A.R.'s poison pill legislation or subsequent amendments to that legislation.

**Position:** Oppose

**AB 33 (Nava) Creation of the Department of Financial Services** - This bill would have abolished the Departments of Real Estate (DRE), Corporations (DOC), Financial Institutions (DFI), and the Office of Real Estate Appraisers (OREA). AB 33 originally proposed to transfer the powers, duties, purposes, jurisdiction and responsibilities of those departments to a newly created "Super Department" of Financial Services. C.A.R. opposed AB 33 because the function of a real estate licensee is not just to provide financial services, but also to list and show houses for sale, sell or manage investment properties and raw land, and to manage and oversee residential rental properties. Real estate licensees are also individually licensed agents and, unlike other licensees, maintain a fiduciary agency relationship with their clients. C.A.R. amendments preserve the DRE as an independent regulator. The bill also shifts the regulation of mortgage loan brokerage over to the new "Super Department" of Financial Services. Should AB 33 be approved by the legislature, DFI and DOC would be reorganized under this new department, while OREA would be consolidated into DRE. With these amendments, C.A.R. has withdrawn its opposition.

**Position:** Watch as Amended

**Status:** Senate Rules Committee

**AB 34 (Nava) Mortgage Loan Originators** - see SB 36 (Calderon) on page 5.

**Position:** Support

**Status:** Senate Floor

**AB 255 (Anderson) Criminal Penalties for Google Earth-type Street Views** - AB 255 prohibits Google Earth® and similar internet resources from showing high resolution street views and aerial views of churches, schools and public buildings. The author has indicated a willingness to exempt driving direction software and other "legitimate" uses. However, it remains unclear how the author will reconcile his announced intent to protect legitimate uses with his goal of restricting strategic information to possible terrorists. C.A.R. opposes AB 255 which would prohibit the

legitimate use of internet mapping services that not only provide driving directions, but property profiles and MLS links that REALTORS® use to facilitate transactions.

**Position:** Oppose

**Status:** Assembly Art, Entertainment, Sports, Tourism and Internet Media Committee

**AB 260 (Lieu) New Sub-Prime Broker Rules** - AB 260 is a re-introduction of AB 1830, which was opposed by C.A.R and vetoed by the Governor last year. Like its predecessor, AB 260 creates new restrictions on mortgage brokers and attempted to create a new one-sided attorney fee rule that would only allow successful plaintiffs to collect attorney fees in suits over violations. This bill would also create an unequal standard that does not hold ALL loan originators to the same rules and restrictions. It would disadvantage mortgage brokers originating loans but not residential mortgage lenders (like Countrywide) to the same extent. AB 260 was amended in July to remove the private right of action provision that would have permitted one-sided attorney's fees. C.A.R. continues to oppose AB 260 and sought amendments that would have created a uniform standard for loan origination. In its current form, AB 260 would create unlevel playing field for loan origination by not applying to all mortgage loan "originators."

**Position:** Oppose Unless Amended

**Status:** Signed by the Governor on October 11, 2009 (Chapter 629, Statutes of 2009)

**AB 329 (Feuer) Reverse Mortgage Elder Protection Act of 2009 and SB 660 (Wolk) Reverse Mortgages** - AB 329 and SB 660 would have enacted reverse mortgage regulation that would have adversely affected legitimate credit. AB 329 would have permitted borrowers to rescind a reverse mortgage within 30 days of the contract's execution, while SB 660 automatically made anyone (i.e. neighbors, REALTORS®, barbers, grocery store clerks, etc.) "recommending" a reverse mortgage, a fiduciary subject to liability. Both of the authors removed the objectionable provisions that would have swept up legitimate transactions and exposed transactions to new liability. With these amendments C.A.R. removed its opposition. As amended, AB 329 requires lenders to provide prospective borrowers with a list of nonprofit counseling agencies and to disclose any payment arrangements or business affiliations between the lender and a counseling agency. SB 660 now requires anyone anticipating compensation for recommending the purchase of a reverse mortgage to reasonably believe that the borrower understands the risk, benefits and alternatives to a reverse mortgage.

**Position:** (AB 329 and SB 660) Watch as Amended

**Status:** (AB 329) Signed by the Governor on October 11, 2009 (Chapter 236, Statutes of 2009); (SB 660) Senate Floor

**AB 350 (Lieu) Debt payment services** - This bill is designed to create a new license and regulatory scheme for debt settlement services that manage the repayment schedules of troubled borrowers beginning January 1, 2011. AB 350 could have applied to REALTORS® and required an additional "debt settlement services provider" license if the licensee negotiated a new payment schedule with the borrowers existing lender. Conversely, the bill does not require a broker to obtain a new license if they negotiated a new loan or refinanced the original note with a different lender. C.A.R. opposed AB 350 until it was amended to exempt a real estate licensee operating within the scope of his or her license - such as a DRE licensed mortgage broker.

**Position:** Watch as Amended

**Status:** Senate Judiciary Committee

**AB 457 (Monning) Notice to Property Owners of Lien Rights** - Existing law requires a lien holder to notice a homeowner that they "might" record a mechanic's lien but permits that lien holder to record a mechanic's lien without providing notice to the homeowner that a lien has actually been filed prior to foreclosing on a lien. AB 457 requires that proof of a Notice of Mechanic's Lien be served upon the property owner as a condition of recording a mechanic's lien

with a county recorder. The bill also requires the person filing an action to foreclose upon a mechanic's lien to also record a lis pendens (notice of pendency of an action) with the county recorder within 20 days of the filing of the mechanic's lien foreclosure action. C.A.R. supported AB 457 because it requires an improved notice to property owners about their rights in regard to mechanics' liens.

**Position:** Support

**Status:** Signed by the Governor on August 5, 2009 (Chapter 109, Statutes of 2009)

**AB 764 (Nava) Real Estate Brokers** - see SB 94 (Calderon) on page 6.

**Position:** Oppose Unless Amended

**Status:** Vetoed by the Governor on October 11, 2009

**AB 919 (Nava) Mortgage Information and Recordation** - AB 919 would have voided any residential real property transaction that did not include a rider that identified the name and license number of the appraiser, lender, loan originator, and real estate broker involved in the transaction. C.A.R. opposed AB 919 because it would have invalidated transactions with technical non-essential document defects, increased administrative burdens and created unnecessary delays in a transaction. In light of opposition, AB 919 was amended to prohibit county recorders from recording a deed of trust without a rider that includes the name and license number of the appraiser, lender, loan originator, and real estate broker involved in the transaction. C.A.R. continues to oppose AB 919 because it imposes unworkable requirements on real estate transactions and creates new liability for licensees.

**Position:** Oppose

**Status:** Senate Banking, Finance and Insurance Committee

**AB 957 (Galgiani) Buyers Choice in Escrow** - RESPA prohibits lenders from forcing buyers to purchase title insurance from a particular provider. C.A.R. supported AB 957, which strengthens buyer protections by prohibiting a REO seller from forcing a buyer to purchase title and escrow coverage from providers selected by that seller. This bill is modeled after RESPA applying that rule to REO sellers for both title and escrow services.

**Position:** Support

**Status:** Signed by the Governor on October 11, 2009 (Chapter 264, Statutes of 2009)

**AB 985 (De La Torre) Illegal Historic Real Estate Covenants** - Existing law already voids any provision in a deed of real property that restricts the use of the property based on race, color, religion, sex, marital status, national origin, ancestry, familial status, disability, source of income, or sexual orientation. C.A.R. opposed AB 985 as it was introduced, which would have imposed a point-of-sale required for title companies to review and strike unenforceable historic property restrictions from all documents in a transaction before the close of escrow. C.A.R. offered to support a procedure for electronic "scrubbing" of property records, like that currently used for removing social security numbers. C.A.R. also organized support for the approach from other real estate organizations. AB 985 has been amended to instead provide an enhanced procedure for non-owners to request the county recorder to remove an illegal restriction from the property record. The amendments also set up an expensive program to cover the costs related to the removal of the already illegal and unenforceable covenants by surcharging every recorded real estate document an additional fee to cover the costs "related to" the program. While county recorders are encouraged to periodically review and re-calculate this fee based on "reasonable" program costs, the existing bill has no limit on fees and will allow overcharging and potential diversion of the fund. C.A.R. opposes AB 985 because it does not include a limitation on charges to actual program costs, nor a cap on the document recording fee and needs better controls on who reviews the fee.

**Position:** Oppose Unless Amended

**Status:** Vetoed by the Governor on October 11, 2009

**AB 1118 (Hayashi) Licensing home inspectors** - This bill is designed to create a regulatory scheme to license home inspectors, a concept that C.A.R. has supported in the past. The author is attempting to create a consensus among home inspection providers, and has not yet moved the bill. The bill will be eligible to move in January 2010.

**Position:** Watch as Amended

**Status:** Assembly Business and Professions Committee

**AB 1160 (Fong) Contract Translations** - Existing law requires any party that facilitates the negotiation of a contract to provide translated copies of that agreement if the negotiations were conducted in Spanish, Chinese, Tagalog, Vietnamese, or Korean. This bill requires a supervised financial institution that negotiates loans in these languages to provide a translation of that contract or translated summary produced by a regulator, to the borrower in the contract's primary language. The bill would also impose civil penalties against any person who fails to deliver the translation. The bill has a delayed effective date of January 1, 2010. C.A.R., in conjunction with other lending facilitators, reached an equitable solution that satisfies all of the industries concerns. The bill now applies only to "supervised financial institutions."

**Position:** Watch as Amended

**Status:** Signed by the Governor on October 11, 2009 (Chapter 274, Statutes of 2009)

**SB 36 (Calderon) and AB 34 (Nava) Mortgage Loan Originators** - SB 36 and AB 34 attempt to implement the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE ACT) that requires states to set up a mortgage loan originator law that complies with new federal requirements. C.A.R. worked with the both authors to ensure that real estate licensees who are loan originators are regulated within the Department of Real Estate (DRE). These bills will require mortgage loan brokers to get an additional endorsement that must be renewed annually. C.A.R. supports SB 36 and AB 34 because they will result in the least disruption of existing systems and minimize compliance costs to both the state and individual licensees. Both SB 36 and AB 34 were recently amended to add urgency clauses, and will take affect immediately if approved by the Governor. (Note: The continued regulation of mortgage loan brokerage activities within the DRE is dependent on the fate of AB 33 which proposes to preserve the DRE, but shifts the regulation of mortgage loan brokerage over to the new "Super Department" of Financial Services that would have jurisdiction over the regulatory matters currently held by the Department of Financial Institutions and the Department of Corporations. AB 33 is a two-year bill. (see also, SB 491)

**Position:** Support

**Status:** (SB 36) Signed by the Governor on October 11, 2009 (Chapter 160, Statutes of 2009); (SB 34) Senate Floor

**SB 94 (Calderon) and AB 764 (Nava) Advance Fees For Loan Modifications** - Existing law prohibits the taking of an advance fee by a broker unless the licensee's contract has been reviewed and pre-approved by the Department of Real Estate. SB 94 prohibits "cash up front" loan modification contracts. Based upon the authors addition of C.A.R. requested language to clarify the definition of an advance fee, the inclusion of the flexibility to engage in fee for service contracts (e.g. a listing agreement) and a 2013 sunset date, C.A.R. supports SB 94. AB 764 also prohibits any advance payment for loan modifications, but contains no flexibility to allow fee for services contracts and prohibits any compensation until the borrower is bound in a new loan. C.A.R. still opposes AB 764 which would impose a complete prohibition on earning a fee when modifying or arranging a loan until after the buyer becomes obligated on the new loan.

**Position:** (SB 94) Support; (AB 764) Oppose Unless Amended

**Status:** (SB 94) Signed by the Governor on October 11, 2009 (Chapter 630, Statutes of 2009); (AB 764) Vetoed by the Governor on October 11, 2009

**SB 109 (Calderon) Real estate auctions** - Existing law requires auctioneers and auction companies to maintain a surety bond or an equivalent deposit and to distribute the terms, conditions, restrictions, and procedures under which goods will be sold at the auction. This bill will apply the consumer protections of the auction law (refunds of deposits, notices of reserve requirements) to real estate auctions.

**Position:** Favor

**Status:** Vetoed by the Governor on October 11, 2009

**SB 183 (Lowenthal) Carbon Monoxide Detectors** - SB 183, which began as a reintroduction of SB 1386 from 2008, would have required the recording of a separate disclosure of compliance that amounted to point-of-sale mandate to force home sellers and their agents to certify carbon monoxide (CO) alarm installation. C.A.R. obtained amendments that removed the specified point-of-sale mandate. As amended, the bill provides for a statewide, "date-certain" rule that requires ALL existing single-family homes to install a CO detector by January 1, 2011, and all other dwelling units (i.e. multifamily, new homes, etc.) by July 1, 2012 to have a CO detector. SB 183 also adds CO detectors to the TDS, via a new check-off and a footnote, similar to how the auto-reversing garage door opener requirement is handled in the current TDS form. In addition, C.A.R.'s amendments eliminate the existing law's requirement for a separate form to certify compliance with water heater strapping and the smoke detector requirements in existing law by bringing the certifications into the TDS. C.A.R. is neutral as amended. The bill will be acted upon in January 2010.

**Position:** Watch as Amended

**Status:** Assembly Floor Inactive File

**SB 237 (Calderon) Appraisal Management Companies** - The recent adoption of the Home Valuation Code of Conduct (HVCC) has resulted in an explosive growth of appraisal management companies (AMCs) which now largely control the appraisal process. These companies are currently unregulated under California law. C.A.R. supports SB 237 which would bring AMCs under the supervision of the Office of Real Estate Appraisers (OREA) and requires that they operate under California's Real Estate Appraiser and Certification Law.

**Position:** Support

**Status:** Signed by the Governor on October 11, 2009 (Chapter 173, Statutes of 2009)

**SB 392 (Florez) Limited Liability Companies** - Current law permits the issuance of a contractor's license to individual owners, co-partnerships, corporations and joint ventures. This bill would also authorize the issuance of a contractor's license to a limited liability company (LLC). These LLCs would be required to carry \$1 million in liability insurance or \$500,000 in a trust or escrow account. C.A.R. would have supported SB 392 if it had been amended to include real estate companies. Many real estate companies operate as a corporation which limits their exposure to civil liability but results in a double taxation of its proceeds; operating under an LLC would limit that tax exposure.

**Position:** Watch as Amended

**Status:** Assembly Judiciary Committee

**SB 407 (Padilla) Point-of-Sale Plumbing Fixture Replacement** - C.A.R. has obtained amendments that removed its opposition to SB 407, a bill that would have required that residential and commercial properties be retrofitted at point-of-sale with low-flow toilets, shower heads and faucets. While C.A.R. appreciates the goal of conserving water, C.A.R. opposed SB 407 because its point-of-sale approach would have burdened escrows and further destabilized the already weak housing market. C.A.R.'s amendments removed the point-of-sale provisions

from the bill and instead require all properties to be retrofitted by 2017. In the final days of session the author removed all of the Transfer Disclosure Statement requirements from SB 407 in order to avoid any conflict with another bill which adds C.A.R. language to the TDS.

**Position:** Watch as Amended

**Status:** Signed by the Governor on October 11, 2009 (Chapter 587, Statutes of 2009)

**SB 491 (Maldonado) SAFE Act Compliance** - SB 491 was introduced to bring California into compliance with Secure and Fair Enforcement for Mortgage Licensing Act (SAFE ACT) that requires states to set up a mortgage loan originator law that meets new federal requirements. This bill would have required an additional mortgage loan originator endorsement to be renewed annually within the Department of Real Estate (DRE). SB 491 would have also placed similar registration requirements on other types of loan originators not licensed with the DRE. C.A.R. supported SB 491, like SB 36, because it would have resulted in the least disruption of existing systems and minimized compliance costs to both the state and individual licensees. SB 491 was "gutted and amended" to address an unrelated issue. (see also, SB 36 and AB 34)

**Position:** Watch as Amended

**Status:** Died in the Senate Banking, Finance and Insurance Committee Due to Amendment

**SB 496 (Maldonado) Sex Offenders** - Under SB 496, the DRE would either revoke or deny and individual's application for licensure, renewal or reinstatement if that individual is required to register as a sex offender. Real estate licensees convicted of a sex offense, who are required to register as a sex offender, would also be required to notify the DRE within five days of that conviction. Real estate licensees are in a unique position of trust, and because of that position have more opportunities to re-offend. C.A.R. supports SB 496. The author decided not to pursue the passage of SB 496 in 2009.

**Position:** Support

**Status:** Senate Public Safety Committee

**SB 660 (Wolk) Reverse Mortgages** - see AB 329 (Feuer) on page 3.

**Position:** Watch as Amended

**Status:** Senate Floor

## **Housing & Property Management**

**AB 331 (Hall) Single Family Home Tenants** - AB 331 would require property owners and landlords, prior to the execution of a rental agreement for a one to four unit dwelling, to disclose to a prospective tenant if the property is subject to an outstanding Notice of Default (NOD), or any pending foreclosure, declaration of forfeiture, or proceeding to foreclose a tax lien. C.A.R. supports AB 331 because it will assist potential tenants in making an informed decision about whether to rent the property in question.

**Position:** Support

**Status:** Senate Judiciary Committee

**AB 481 (Ma) Mobilehome Park Rent Control Exemption** - Existing law exempts a mobilehome space from rent control if it is not the principal residence of the homeowner, and the homeowner has not rented the mobilehome to another party. AB 481 would include in this exemption from rent control, "second home" mobilehome spaces where the homeowner has rented the mobilehome to another party. The bill also clarifies the basis for determining if the mobilehome is the homeowner's principal residence. C.A.R. supports AB 481 because the second home

exemption from rent control encourages the development of more parks and communities in jurisdictions needing additional affordable housing.

**Position:** Support

**Status:** Assembly Housing and Community Development Committee

**AB 530 (Krekorian) Unlawful Detainer and Unlawful Weapons on Rental Properties** - C.A.R. supported AB 1013, signed into law in 2007, which created a pilot program in the cities of Los Angeles, Long Beach, Oakland, San Diego and Sacramento to allow landlords and property managers to serve tenants with an unlawful detainer notice for creating a nuisance on the premises if the tenant illegally possesses weapons or ammunition. Local prosecutors and city attorneys are also permitted to serve the unlawful detainer action to criminal tenants constituting the nuisance on behalf of the community. This authority exists only until January 1, 2010. AB 530 would have eliminated the sunset date and expanded the enforcement authority statewide. C.A.R. supported AB 530 because it would have provided an important tool for landlords and property managers to help rid neighborhoods of dangerous tenants who illegally possess weapons or ammunition. The scope of bill was reduced and as amended the bill only serves to extend the sunset date to January 1, 2014 on the existing program created by AB 1013.

**Position:** Watch as Amended

**Status:** Signed by the Governor on October 11, 2009 (Chapter 244, Statutes of 2009)

**AB 566 (Nava) Mobile Home Park Conversion Requirements** - When converting an existing mobilehome park to private ownership, the Subdivision Map Act requires subdividers to obtain a survey that gauges the mobile home park resident's support for the proposed conversion. AB 566 takes this requirement one step further by requiring local agencies to consider whether the survey indicated that a majority of the residents of a mobile home park support the park's conversion to private ownership. As introduced, the bill also permitted local agencies to enact ordinances to prevent "sham" conversions and preserve affordable housing. C.A.R. opposed AB 566 because it could have created unnecessary and cumbersome impediments that would have made it more difficult for parks to convert to resident-ownership by permitting local agencies to interfere with a decision that should be left to residents and owners. C.A.R. obtained amendments that satisfied its concerns, leaving the conversion decision up to the park owner and residents. C.A.R. is now neutral on AB 566.

**Position:** Watch as Amended

**Status:** Vetoed by the Governor on October 11, 2009

**AB 603 (Skinner) Statewide "Just Cause" for REO Property** - This bill would have prohibited anyone who acquired foreclosed rental property from terminating a tenancy unless the new owner had owned the property for a minimum of one year or demonstrated a "just cause" (e.g., non-payment of rent, etc.) for the eviction. C.A.R. opposed AB 603 because it would have created a disincentive for ANY buyer to purchase an REO home, which would have only served to further delay the recovery of California's housing market. AB 603 was amended to instead conform to the new federal legislation which requires at least a 90-day notice to terminate tenancy, unless the tenant has an existing lease with more than 90-days remaining on the term in which case the tenant may remain until the lease term ends. AB 603 continues to permit eviction if the owner can demonstrate a "just cause" for eviction and still applies to **ANY** residential property leased or rented by a tenant prior to the completion of the foreclosure proceedings. The provisions in AB 603 would sunset January 1, 2013. C.A.R. is now neutral on AB 603.

**Position:** Watch as Amended

**Status:** Assembly Floor Inactive File

**AB 761 (Calderon) Mobile Home Park Vacancy De-Control** - California has had vacancy decontrol for apartments since 1995 under the Costa-Hawkins Rental Housing Act, which C.A.R. successfully co-sponsored. This bill proposes to create "Costa-Hawkins-Type Vacancy De-

Control" for mobile home parks and manufactured housing communities. As with apartment vacancy decontrol, this bill does not prohibit rent control nor does it raise rents for existing tenants beyond that permitted by a local ordinance. Rather, vacancy decontrol only permits an owner of a mobilehome park to raise space rent to market rates for a new resident when the space or mobilehome unit is voluntarily vacated due to a sale, assignment, transfer, or termination of tenancy in the mobilehome. AB 761 further provides that, after execution of the new rental agreement, the local rent control ordinance provisions shall apply. C.A.R. supports AB 761 because vacancy decontrol removes some of the negative impacts caused by rent control which include discouraging investment in, and construction of, new manufactured housing communities.

**Position:** Support

**Status:** Senate Rules Committee

**AB 891 (B. Berryhill) Gang Abatement** - AB 891 would authorize the district attorney (DA) or city attorney to bring an abatement action against a property owner whose property is being used by a criminal street gang as a congregation point. Should a property owner not abate the nuisance, the DA or city attorney would be permitted to impose a maximum fine of \$1,000 for the first violation, \$2,500 for the second violation, and could force the property owner to forfeit the property for the third violation. The proceeds from fines and property forfeiture would be used to fund gang prevention activities. C.A.R. opposes AB 891 because it unreasonably places the burden to prevent gang activity on the property owner or manager.

**Position:** Oppose Unless Amended

**Status:** Assembly Public Safety Committee

**AB 899 (Assembly Housing and Community Development Committee) CID Disclosures** -

Current law requires an HOA to provide specific documents to a purchaser of a unit in a CID. This bill initially proposed to require HOAs to annually distribute, to all owners of a separate interest in a CID, a "Disclosure Documents Index" that lists each document and where it can be found in the Davis-Stirling Act. AB 899 initially proposed to require HOAs to include the assumed interest rate earned on reserves in the existing reserve funding summary and the assumed rate of inflation for the repair and replacement of major components. C.A.R. originally opposed AB 899 because it was duplicative and would have unnecessarily increased costs for homeowners residing in an HOA. Due to C.A.R.'s opposition, the author amended AB 899 to only require distribution of the index to HOA members who request it, eliminated duplication of reserve requirement notices and permitted these documents to be distributed to the requesting HOA members electronically. With these amendments, C.A.R. removed its opposition.

**Position:** Watch as Amended

**Status:** Signed by the Governor on October 11, 2009 (Chapter 484, Statutes of 2009)

**AB 1020 (Emmerson) Swimming Pool Anti-Entrapment Devices** - The federal "Pool & Spa Safety Act," (ACT) enacted in 2007 and effective at the end of 2008, requires all "public pools and spas" to be equipped with anti-entrapment drain devices. The definition of "public pools and spas" includes pools open to the public as well as pools in apartment complexes, residential real estate developments and multi-family apartment buildings. AB 1020 proposes to enact the substantive portions of the federal ACT in state law, in order to allow these requirements to be enforced by state and local agencies. Specifically, this bill would require a "public swimming pool" constructed or renovated after December 18, 2009 to be equipped with an anti-entrapment device or system that meets federal safety requirements. Any pool constructed prior to December 18, 2009 must install an anti-entrapment device by December 19, 2011. C.A.R. favors AB 1020 because it seeks to make state and federal law consistent.

**Position:** Favor

**Status:** Signed by the Governor on October 11, 2009 (Chapter 267, Statutes of 2009)

**AB 1170 (Calderon) Consumer Information Booklet on Megan's Law** - This bill would require the Department of Justice (DOJ) to develop a Megan's Law Disclosure Booklet that would provide prospective and current tenants of real property with a summary of federal and state law relating to sex offender registration. Owners and/or owner's agents providing this booklet to tenants would not be required to provide any additional information relating to sex offender registration. AB 1170 attempts to avoid fiscal constraints by creating a voluntary funding mechanism to pay for the costs directly associated with the development of this consumer information booklet. C.A.R. obtained amendments to AB 1170 that removed the unreasonable and liability-inducing disclosure obligations for landlords and their agents. The sponsor (Community Associations Institute) added amendments that removed the liability shield that exists in current law to protect landlords and their agents when they deliver the Megan's Law Booklet. C.A.R. will oppose AB 1170 until it is amended to re-instate this liability shield.

**Position:** Oppose Unless as Amended  
**Status:** Assembly Appropriations Committee

**AB 1171 (Ammiano) Tenant Notice Requirement** - The "Ellis Act" requires rental property owners in rent controlled jurisdictions to provide tenants with a 120-day notice of termination of tenancy when removing residential rental property from the rental market. Tenants who are either disabled or are senior citizens (62 years of age or older) are entitled to a notice of one year. AB 1171 was amended in early April to require landlords electing to "go out of business" to give all tenants a one-year notice of termination of tenancy if even one disabled or senior citizen resides in the rental property's units. C.A.R. strongly opposes AB 1171 because it discourages investment in rental housing, places a substantial limitation on a property owner's right to legitimately take a property off the rental market, negatively affects property values, and could cause substantial financial losses to rental property owners.

**Position:** Oppose  
**Status:** Assembly Housing and Community Development Committee

**AB 1263 (Strickland) Revisions to Service of Process Requirements for Unlawful Detainer Actions** - This bill proposes to revise the process for serving an unlawful detainer notice. Current law requires that service of an unlawful detainer be made at the tenant's place of residence or usual place of business. AB 1263 would delete that provision, and instead require that service be made by delivering a copy of the notice to the tenant at the property. If the tenant is absent from the property, AB 1263 would permit the notice to be served by both affixing a copy of the notice in a conspicuous place on the property and mailing a copy to the tenant. C.A.R. supports AB 1263 because it makes the unlawful detainer process more efficient and procedurally effective.

**Position:** Support  
**Status:** Assembly Judiciary Committee

**AB 1328 (Salas) Common Interest Development Contracts** - In order to take advantage of energy and water efficiency technologies in CIDs, AB 1328 proposes to allow homeowner associations to enter into long term contracts with a maximum duration of 5 years for energy and water conservation. Current law restricted the term of these contracts to no longer than one year. C.A.R. supports AB 1328 because it will remove unnecessary barriers to energy and water conservation in common interest developments, thus, helping the environment and enhancing the value of homes in CIDs.

**Position:** Support  
**Status:** Vetoed by the Governor on October 11, 2009

**AB 1422 (Bass) Affordable Housing Redevelopment** – This bill would have provided redevelopment agencies with the authority to utilize some of their funds to assist local low or moderate income homeowners to mitigate their sub-prime loan difficulties and to purchase vacant

foreclosed homes. The provisions of this bill would have sunseted January 1, 2013. C.A.R. supported AB 1422 because any step taken to remove foreclosed homes from the marketplace is a step towards re-invigorating local home ownership opportunities. AB 1422 was "gutted and amended" in the final weeks of session to instead pertain to healthy families.

**Position:** Watch as Amended

**Status:** Died on the Senate Floor Due to Amendment

**AB 1529 (Salas) Community Stabilization Home Loan Program** - Existing law authorizes the California Housing Finance Agency (CalHFA) to assist first-time homebuyers in utilizing existing mortgage financing programs. AB 1529 would permit CalHFA to continue to use the Community Stabilization Home Loan Program and places property eligibility restrictions on first-time homebuyers applying for the program. The bill requires eligible properties to be vacant single-family detached homes that meet the program's sales price restrictions based on county. Eligibility for the program cannot be denied based upon the property's location. C.A.R. supports AB 1529 because it enhances CalHFA's ability to assist first-time homebuyers. The author has opted to make this a two-year bill due to the current condition of the bond market.

**Position:** Support

**Status:** Assembly Housing and Community Development Committee

**SB 111 (Correa) Mobile Home Residency Law Simplification** - SB 111 was introduced to modestly reorganize and simplify the Mobile Home Residency Law (MRL). The intent was to make the MRL more "user friendly" without making any substantive changes in the law, essentially reorganizing sections more logically. C.A.R. would have supported SB 111 if it had been amended to include section titles for each MRL code section, which would have better assisted mobilehome owners in understanding the meaning of each section. SB 111 was amended to instead make minor technical changes to the MRL.

**Position:** Watch as Amended

**Status:** Signed by the Governor on October 11, 2009 (Chapter 558, Statutes of 2009)

**SB 290 (Leno) Repeal of Sunset Date on 60-Day Notice Requirement for Termination of 1-year+ Tenancies** - Current law requires an owner of a residential dwelling wishing to terminate a tenancy to provide at least 60-days' notice, in writing, when tenants have been in occupancy more than 12 months, and at least 30 days' notice prior to termination if any tenant or resident has resided in the dwelling for less than one year. This bill would delete the January 1, 2010 sunset date on this 60-day notice mandate, which if left in place would repeal the 60-day notice requirement. C.A.R. opposed SB 290 and sought amendments to require tenants to give the same 60 days' notice for terminating a tenancy in excess of one year that is currently required for residential rental property owners.

**Position:** Oppose Unless Amended

**Status:** Signed by the Governor on October 11, 2009 (Chapter 347, Statutes of 2009)

**SB 782 (Yee) Domestic Violence and Residential Tenancies** - The City and County of San Francisco enacted an ordinance in 2008 to provide protections for tenants who are victims of domestic violence or sexual assault or stalking, including protection from evictions based on the actions of abusers or stalkers. SB 782 was amended to emulate this ordinance in State law. SB 782 intends to build upon protections for victims of domestic violence established last year by AB 2052 which authorized a tenant to notify the landlord in writing that he or she was a victim of an act of domestic violence, sexual assault, or stalking and, after meeting specified pre-conditions, could terminate the tenancy. As amended, SB 782 provides that the conduct of an abuser may be a defense to an eviction of the victim tenant when the notice to vacate is substantially based on the abuser's act or acts that constitute domestic violence, sexual assault or stalking. The bill also provides confidentiality protections to the victim, regarding information provided to a landlord

about the abuse. Lastly, the bill permits a court to order the eviction of an aggressive tenant who has perpetrated the domestic violence. AB 782 has technical inconsistencies with last year's AB 2052 and C.A.R. will maintain a "Not Favor" position until these deficiencies are eliminated from the bill.

**Position:** Not Favor

**Status:** Assembly Judiciary Committee

## Land Use, Environment & Infrastructure

**AB 51 (Blakeslee) Electrical Corporation Energy Efficiency Programs** - This bill would prohibit the Public Utilities Commission from using more than 10% of its energy efficiency program funds for administration expenses. Currently, there is no cap for administrative expenses. C.A.R. supports AB 51 because it will significantly increase the implementation of energy efficiency improvements in homes and business through increased incentives and rebates to customers and will allow energy customers to immediately save money while reducing green gas emissions.

**Position:** Support

**Status:** Senate Energy, Utilities and Communications Committee

**AB 210 (Hayashi) Green Building Standards** - Current law permits cities and counties to adopt local modifications to the state building code provided that those changes are at least as stringent as the state codes. C.A.R. supported the passage of AB 210 which will provide a necessary clarification to current law, assuring that local jurisdictions do have the authority to adopt green building standards that are more stringent than those adopted by the state, but only if they follow the same procedure currently in place to change any other local building codes, which is to make a finding of need for the more stringent standards.

**Position:** Support

**Status:** Signed by the Governor on August 5, 2009 (Chapter 89, Statutes of 2009)

**AB 226 (Ruskin) Coastal Resources and Enforcement** - Under current law, the California Coastal Commission (CCC) is authorized to seek, through the Attorney General, civil penalties and fines on individuals who engage in unpermitted development activities. All fines collected from these violations are paid into the state's general fund. AB 226 proposes to extend the judicial authority to the CCC, allowing the commission to impose civil penalties and to retain the penalties collected in an effort to augment their own operating budget, creating a "bounty hunter" incentive to fine landowners. Recent amendments attempted to remove this "bounty hunter" provision by redirecting the fines into a special mitigation fund. C.A.R. opposed the passage of AB 226 because judicial authority to pursue fines and penalties should remain in the courts where due process is afforded.

**Position:** Oppose

**Status:** Senate Floor Inactive File

**AB 291 (Saldana) Coastal Commission Enforcement Authority** - Current law permits the California Coastal Commission (CCC) to pursue cease and desist orders against land owners who engage in unpermitted development activities and conditions pending permit approval upon the mitigation of existing violations. This bill would have allowed the staff of the CCC to halt the processing of a permit application if the CCC staff asserted that a violation existed on either that property or any contiguous parcel owned by the applicant. While AB 291 was amended to remove the restriction on contiguous parcels, the bill still allows CCC staff to halt permit application processing for violations that have no nexus between the application and the existing violation on the parcel in question. C.A.R. opposed AB 291 because it halts the processing of otherwise valid applications.

**Position:** Oppose

**Status:** Senate Floor Inactive File

**AB 300 (Caballero) Subdivisions Water Supply** - Current law requires housing projects in excess of 500 units to receive verification from the public water system that sufficient water supplies are, or will be, available prior to the completion of the project. AB 300 permits local governments to consider a reduction in the anticipated water demand for new housing projects if the development voluntarily implements water demand reduction measures. C.A.R. supports AB 300 because it will help to reduce the water demands needed to provide more housing to the state's increasing population by maximizing the utilization of the states water supply through conservation. However, C.A.R. would oppose AB 300 if hostile amendments are adopted to require home owner associations to inspect and enforce interior water fixtures. The author is working with the stakeholders to develop a realistic enforcement mechanism to ensure continued use of the water saving features.

**Position:** Support

**Status:** Senate Natural Resources and Water Committee

**AB 333 (Fuentes) Subdivision Map Expiration Dates** - The Subdivision Map Act provides for the expiration of tentative maps, and specifically extends the expiration date 12 months for any approved tentative map that has not expired before January 2, 2011. This bill will extend that expiration date 24 months for any tentative map that is set to expire before January 1, 2012, but has not expired prior to the enactment of AB 333. C.A.R. supported AB 333 because it will keep housing projects alive during these economically difficult times, which will allow the projects to go forward as soon as the housing market recovers.

**Position:** Support

**Status:** Signed by the Governor on July 15, 2009 (Chapter 18, Statutes of 2009)

**AB 531 (Saldana) Energy Consumption Data Disclosure** - Beginning January 1, 2009, AB 1103, which was signed into law in 2007, requires non-residential building owners to benchmark their building(s) energy consumption for the last 12-months using the United States Environmental Protection Agency's Energy Star Portfolio Manager (ESPM), and to disclose this data to a prospective buyer, lessee or lender beginning January 1, 2010. C.A.R. supports AB 531 which will delay the implementation of AB 1103, allowing more time to fully develop the program, and gives the State Energy Commission the authority to establish regulatory guidelines and a schedule of compliance.

**Position:** Support

**Status:** Signed by the Governor on October 11, 2009 (Chapter 323, Statutes of 2009)

**AB 580 (Huber) Onsite Sewage Treatment Systems** - AB 885 (Jackson) of 2000 mandated the State Water Resources Control Board (SWRCB) to create a statewide standard for operating and permitting septic systems. C.A.R. has actively participated in the development of the new standards since 2002 and continues to argue aggressively for the rights of property owners, while seeking to alleviate the compliance costs. AB 580 encourages the SWRCB to draft regulations that will ensure local control, address only failing septic systems and minimize costs to homeowners. The bill directs the statewide septic law away from a "one size fits all" regulatory approach by requiring septic systems to be classified into regulatory tiers based on the demonstrated risk each system poses to the public health and environment. The bill also empowers local agencies to certify that their local septic system ordinances are functionally equivalent to statewide regulations. C.A.R. supports AB 580 because it would legislatively create a more reasonable approach to the application of the proposed septic regulations if the SWRCB does not take this approach voluntarily.

**Position:** Support

**Status:** Senate Environmental Quality Committee

**AB 758 (Skinner and Bass) Energy Audit** - AB 758 is a reintroduction of AB 2678 (Nunez), the home energy audit and retrofit bill from 2008, where the California Energy Commission would have required energy audits and recommended retrofits to be made at point-of-sale. The point of sale language was removed at C.A.R.'s request. This year, AB 758 does not include point-of-sale and instead ensures that any home energy audit or improvement will not unreasonably or unnecessarily affect the home purchasing process and must be cost effective. C.A.R. supports AB 758 because it tasks the State Energy Commission and Public Utilities Commission with creating a comprehensive statewide campaign of flexible cost-effective energy efficiency improvements for existing buildings that will not impact the home purchasing process.

**Position:** Support

**Status:** Signed by the Governor on October 11, 2009 (Chapter 470, Statutes of 2009)

**AB 920 (Huffman) Net Metering** - This bill will permit owners of solar and wind renewable energy systems to receive compensation from their electric utility for any excess power generated at their home on an annual basis. Currently, utilities are not required to compensate homeowners for any energy their home systems may add to the grid. C.A.R. supported AB 920 because it will ensure that property owners are given the necessary incentives to not only install renewable energy systems, but also to conserve the energy they produce. AB 920 will also provide direct compensation to homeowners who are actively adding energy back to the grid.

**Position:** Support

**Status:** Signed by the Governor on October 11, 2009 (Chapter 377, Statutes of 2009)

**AB 1085 (Mendoza) CARB Regulation "Sunshine" Law** - This bill requires the California State Air Resources Board (CARB) to make all of the technical data used in the development and cost analysis of a proposed regulation available to the public. C.A.R. supported AB 1085 because it will ensure that the public has access to data and assumptions as CARB develops new air quality and greenhouse gas regulations.

**Position:** Support

**Status:** Signed by the Governor on October 11, 2009 (Chapter 384, Statutes of 2009)

**AB 1105 (Blakeslee) Building Energy Retrofit Revolving Loan Program** - This bill would require the State Energy Commission to establish the Building Energy Retrofit Revolving Loan Program for nonresidential buildings built prior to July 1, 1978. C.A.R. supports AB 1105 because providing an alternate loan program to commercial buildings, in a time where credit is increasingly more difficult to obtain, will greatly benefit owners seeking to cut down on energy use and will provide an economically feasible way to comply with new state and federal energy efficiency standards.

**Position:** Support

**Status:** Assembly Natural Resources Committee

**AB 1107 (Blakeslee) California Environmental Protection Agency (Cal-EPA) Economic Analysis** - AB 1107 would prohibit Cal-EPA departments, boards, and offices from adopting rules and regulations unless they have completed an economic analysis that can be presented in conjunction with the proposed regulation for public hearing and comment. The economic analysis would evaluate the costs and benefits of a proposed rule. The bill also permits any interested party to request that the economic analysis be subject to external peer review, at which point the requesting party would be obligated to cover all costs associated to the external review. C.A.R. supports AB 1107 because it will require Cal-EPA to thoroughly vet the economic impacts of proposed regulations and creates a uniform process that promotes transparency.

**Position:** Support

**Status:** Assembly Environmental Safety and Toxic Materials Committee

**SB 144 (Pavely) Forest Resource Management** - Current law requires counties to determine if land use changes cause a significant effect on oak woodlands that would require mitigation, lists options for mitigation, and permits counties to override the need for mitigation for economic reasons. SB 144 would require the Department of Forestry and Fire Protection (DFFP), in consultation with the State Air Resources Control Board and the Department of Fish and Game to develop regulations to fully mitigate the increased carbon emissions resulting from forest land conversions. The bill authorizes the DFFP to impose a fee on woodland conversion applicants in order to cover the department's program costs. C.A.R. opposes this bill because existing law already provides a process to mitigate woodland conversions.

**Position:** Oppose

**Status:** Assembly Natural Committee

**SB 310 (Ducheny) Water Quality and Stormwater Runoff** - This bill will broaden the authority of local water districts to provide a comprehensive stormwater management service and authorizes a local water district to construct and maintain facilities to manage and treat stormwater by creating a stormwater diversion and treatment system to deal with urban runoff. C.A.R. supported SB 310 because it will facilitate coordination between local governments, agencies and districts when developing necessary programs and plans to address stormwater drainage and watershed protection goals for an entire region.

**Position:** Support

**Status:** Signed by the Governor on October 11, 2009 (Chapter 577, Statutes of 2009)

**SB 488 (Pavley) Energy Efficiency Financing** - As introduced, C.A.R. supported SB 488 which would have removed the financial barrier to improving energy efficiency in existing homes and commercial buildings. The bill proposed to establish an energy efficiency financing program that would have allowed energy efficiency improvements to be financed by an on-bill cost-avoidance financing program funded by the energy saved with the improvements. As amended, SB 488 instead requires utilities, on or before July 1, 2010, to periodically disclose a residential customer's energy usage compared to other residences on their billing statement. The bill requires utilities to identify those residences that use significantly more energy than similar residences, and to provide information to those subscribers on energy saving strategies and programs. C.A.R. continues to favor the passage of SB 488 because the program and energy usage information will empower residents to not only lower their energy usage, but their utility bill.

**Position:** Favor

**Status:** Signed by the Governor on October 11, 2009 (Chapter 352, Statutes of 2009)

## **Taxation**

**SB 17xxx (Ducheny), AB 19xxx (Evans) and SB 19xxxx (Ducheny) 3% Withholding for Independent Contractors** - C.A.R. opposed a budget proposal, intended to bridge the state's budget gap, that would have forced those making payments to independent contractors to withhold 3%. This would be in addition to the quarterly estimated tax payments independent contractors must pay. This provision was included in several proposals intended to increase revenues to the state. The Governor vetoed one of these and the others were defeated in the legislature.

**Position:** Oppose

**Status:** Defeated

**AB 111 (Niello) Cancellation of Mortgage Indebtedness** - The federal government enacted the Mortgage Debt Relief Act of 2007 that permitted 3 years of mortgage debt relief by not requiring borrowers to pay income tax on debt forgiven in a "short" sale. In late 2008 the federal government extended this relief through December 31, 2012. Last year, California enacted SB 1055 which provided conformity with the federal statute for the 2007 and 2008 tax years. AB 111 would fully conform to the federal rule and extend debt forgiveness on "phantom" income through December 31, 2012. (see also, SB 97)

**Position:** Support

**Status:** Assembly Revenue and Taxation Committee

**AB 157 (Anderson) Property Tax Base Year Value Transfers for Disaster Relief** - Currently, homeowners whose homes are damaged or destroyed by a disaster are permitted to transfer the property tax base year value of that property to a replacement property of comparable value within five years of the disaster, provided the replacement property is located in the same county as the original property. AB 157 would extend that time period to seven years. C.A.R. supports AB 157 because disputes with home insurers regarding compensation can be extremely protracted in the wake of a disaster. AB 157 recognizes this fact by extending the period for these transfers by an additional two years.

**Position:** Support

**Status:** Senate Revenue and Taxation Committee

**AB 321 (Niello) Retention of Spouse's Eligibility Under Proposition 60** - Proposition 60 allows a homeowner 55 years of age or older to transfer – on a one-time basis – their property tax base year value to another home of equal or lesser value. Currently, married homeowners can transfer the property tax base year value of their home to another home based on the qualification of one of the spouses. Unfortunately, the other spouse loses the ability to similarly transfer the base year value of a property. If the two individuals were not married, both individuals would be able to transfer the base year value of their home one time. This measure would preserve the ability of the non-qualifying spouse to subsequently transfer the base year value of that, or another home subsequently owned by that individual. C.A.R. supports AB 321 because it addresses this inequity by proposing to amend the existing statute so that the non-qualifying spouse is not considered a "claimant" of the Proposition 60 benefit.

**Position:** Support

**Status:** Assembly Appropriations Committee

**AB 474 (Blumenfield) Water Efficiency Improvements** - Existing law, created by AB 811 of 2008, permits cities and counties to designate an area within its jurisdiction where local government officials and willing property owners can enter into contractual agreements to finance the installation of energy efficiency improvements on existing homes. AB 474 will permit these contractual agreements to also be applied to water efficiency improvements made to real property. C.A.R. supported the passage of AB 474 because it offers a workable alternative to point-of-sale for water efficiency upgrades to existing property. Utilizing a voluntary contractual obligation between property owners and utilities through both public and private incentives allows homeowners to more affordably make the appropriate upgrades to their homes.

**Position:** Support

**Status:** Signed by the Governor on October 11, 2009 (Chapter 444, Statutes of 2009)

**AB 765 (Caballero) Housing Tax Credit** - SB 15XX, which was signed into law as part of the "marathon" negotiations on the state budget last February, created a tax credit for new home purchasers equal to 5% of the sale price of a home, not to exceed \$10,000. The credit is only available for completed purchases of new (previously unoccupied) homes between March 1, 2009, and March 1, 2010. The current program authorized by SB 15XX allocated \$100 million in

state funds to provide these tax credits. As introduced, C.A.R. supported AB 765 which would have removed the tax credit funding cap for homes purchased prior to December 1, 2010. As amended in June, however, AB 765 does not eliminate the \$100 million cap, given the state budget shortfall, but rather changes the eligibility criteria for the tax credit by requiring purchasers to execute an enforceable contract by March 1, 2010 and to close escrow before December 1, 2010. The bill was further amended to revise the Franchise Tax Board (FTB) process for calculating the number of tax credits available. For each certification received from a seller, FTB is required to reduce the total amount of credit available for allocation by an amount equal to 70% of the credit allocated to a taxpayer. C.A.R. supports AB 765 because it will allow approximately 5,000 more home buyers to access this tax credit. (see also, SB 49)

**Position:** Support  
**Status:** Senate Floor

**AB 827 (Yamada) Recording Fees to Fund Historical County Records** - As introduced, AB 827 would have allowed counties to impose an additional per page recording "fee" of up to \$3 for the first page of a document and \$1 each for the remaining pages for the archiving of documents of historical interest. AB 827 was amended to instead limit the recording fee to the actual costs of providing archival services up to a maximum of \$3 per property-related document. Under state law, a fee can only be charged to cover the cost of providing the service for which the fee is collected. That is not the case here; C.A.R. opposed AB 827 because this "fee" is really a transfer tax. AB 827 also attempts to circumvent the voters' right to approve local taxes.

**Position:** Oppose  
**Status:** Senate Floor Inactive File

**AB 902 (Torres) Foreclosed Homes Income Tax Credit** - AB 902 would grant purchasers of foreclosed homes, whose annual gross income is no more than 120% of the area's median income, a tax credit equal to two percent of the cost of the home up to \$3,000. The credit will be available to buyers purchasing the foreclosed property as a principal residence if the purchase is made after January 1, 2009, and before January 1, 2012. Unfortunately, AB 902 was amended in May to fund this tax credit by repealing mortgage interest deductions for second homes from January 1, 2010, through January 1, 2012. C.A.R. will oppose AB 902 unless it is amended to utilize an alternative funding source.

**Position:** Oppose Unless Amended  
**Status:** Assembly Revenue and Taxation Committee

**ACA 9 (Huffman) Property Tax and Special Tax Vote Threshold Reduction** - Proposition 13, which was approved by the voters in 1978, prohibits property taxes from exceeding 1% of the full cash value of the property. Current law also requires a two-thirds vote to approve special taxes. ACA 9 proposes to reduce the vote requirement for the imposition of property taxes and special taxes to 55%. C.A.R. opposes ACA 9 and argues that California voters have on several occasions clearly stated that property taxes and special taxes should only be approved by a two-thirds vote and that the higher standard that a two-thirds vote represents reflects the public's view that the imposition of special taxes should be held to that standard.

**Position:** Oppose  
**Status:** Assembly Floor

**ACA 10 (Torlakson) Education Finance District Special Tax Vote Threshold Reduction** - ACA 10 would reduce the vote required to approve special taxes for education finance districts from a two-thirds vote to a simple majority. C.A.R. opposes ACA 10 because it runs counter to the expressed views of California voters who have clearly stated that special taxes should only be approved by a two-thirds vote.

**Position:** Oppose

**Status:** Assembly Floor

**ACA 15 (Arambula) Local Transportation Project Special Tax Vote Threshold Reduction -**

This bill would reduce the vote required to approve special taxes for local transportation projects, from a two-thirds vote to 55 percent. C.A.R. opposes ACA 15 and argues that California voters have on several occasions clearly stated that special taxes should only be approved by a two-thirds vote, and that the higher standard that a two-thirds vote reflects the public's view that the imposition of special taxes should held to that standard.

**Position:** Oppose

**Status:** Assembly Floor Inactive File

**SB 49 (Dutton) Housing Tax Credit -** SB 15XX, which was signed into law as part of the "marathon" negotiations on the state budget, created a tax credit for new home purchasers equal to 5% of the sale price of a home, not to exceed \$10,000. The credit is only available for the purchase of new, or previously unoccupied, homes between March 1, 2009 and March 1, 2010. The current program authorized by SB 15XX allocated \$100 million in state funds to provide these tax credits. By the end of April, more than \$40 million of the tax credit funds had been allocated. SB 49 was amended in April to remove the \$100 million funding cap for the tax credits for homes purchased prior to December 1, 2010. C.A.R. supports SB 49 because the revisions to the current state housing tax credit will further assist the recovery of California's housing economy. (see also, AB 765)

**Position:** Support

**Status:** Senate Revenue and Taxation Committee

**SB 97 (R. Calderon) Conforms to Original Federal Debt Forgiveness Legislation -** The federal government enacted the Mortgage Debt Relief Act of 2007 that permitted 3 years of mortgage debt relief by not requiring borrowers to pay income tax on debt forgiven in a "short" sale. In late 2008 the federal government extended this relief through December 31, 2012. Last year, California enacted SB 1055 which provided conformity with the federal statute for the 2007 and 2008 tax years. SB 97 would fully conform to the federal rule and extend debt forgiveness on "phantom" income through December 31, 2012. (see also, AB 111)

**Position:** Support

**Status:** Senate Revenue and Taxation Committee

**SB 274 (Dutton) Transfer to More Expensive Home -** Currently, Proposition 60 allows a homeowner 55 years of age or older to transfer, on a one-time basis, their property tax base year value to another home of equal or lesser value. This measure would allow senior homeowners to transfer their property tax base year value to a more expensive home; however, the difference in value between the original and replacement homes would be added to the base year value, which would eliminate any negative fiscal impacts on government. C.A.R. supports SB 274 because it protects seniors who are often on a fixed and/or limited income from property tax increases that can occur when purchasing a new home.

**Position:** Support

**Status:** Senate Revenue and Taxation Committee

**SB 279 (Hancock) Mello-Roos Districts/Energy Efficiency -** This bill would authorize a Mello-Roos District to finance the acquisition and installation of energy efficiency improvements on public and privately owned real property. C.A.R. opposed SB 279 until it was amended to allow Mello-Roos districts to finance energy efficiency improvements, but only if those districts are formed through an alternative method that assesses only those homeowners who opt-into the district.

**Position:** Watch as Amended

**Status:** Vetoed by the Governor on October 11, 2009

**SB 306 (Calderon) Real Property Transactions** - Created in 1982, the Escrow Agents' Fidelity Corporation (EAFC) serves to indemnify escrow agents against certain losses. EAFC membership is required for each person licensed under the Escrow Law who engages in the business of receiving escrows for deposit or delivery of real property transactions. As introduced, SB 306 appeared to exempt money or property held by, or deposited with, a person acting as an exchange facilitator from real property escrows for which EAFC is required to provide fidelity coverage. C.A.R. opposed SB 306 until it was amended to clarify that this provision only applies to funds placed with an escrow to meet the financial responsibility requirements imposed on exchange accommodators by last year's SB 1007, which requires all exchange funds be deposited in a qualified escrow account or qualified trust.

**Position:** Favor

**Status:** Signed by the Governor on August 5, 2009 (Chapter 43, Statutes of 2009)

**SB 676 (Wolk) Recording Fees** - C.A.R. opposed SB 676 which proposes to increase the cost for recording the first page of a document from \$4 to \$10 without any reference to the actual cost of providing the recording service. C.A.R. argued that the amount of the recoding fee should be limited to the actual cost of providing the service, and was concerned that SB 676 was merely intended to increase revenue for local governments. In order to satisfy C.A.R.'s concerns, SB 676 was amended to limit the recoding fee to actual costs up to a maximum of \$10. With this amendment, C.A.R. has removed its opposition.

**Position:** Watch as Amended

**Status:** Signed by the Governor on October 11, 2009 (Chapter 606, Statutes of 2009)

**SCA 6 (Simitian) Vote Threshold Reduction for Parcel Taxes** - This measure would reduce the vote required for a school district to impose a parcel tax from two-thirds to 55%. C.A.R. opposes SCA 6 because parcel taxes are not limited to facility construction, can be imposed indefinitely, and are a "flat fee" per parcel that may place an additional burden on homeowners least able to afford it.

**Position:** Oppose

**Status:** Senate Floor

**SCA 11 (Dutton) Property Tax Base Year Values** - Currently, Proposition 60 allows a homeowner 55 years of age or older to transfer, on a one-time basis, their property tax base year value to another home of equal or lesser value. SCA 11 would allow senior homeowners to transfer their property tax base year value to a more expensive home; however, the difference in value between the original and replacement homes would be added to the base year value, which would eliminate any negative fiscal impact on government. C.A.R. supports SCA 11 because it protects seniors who are often on a fixed and/or limited income from property tax increases that can occur when purchasing a new home.

**Position:** Support

**Status:** Senate Revenue and Taxation Committee

**SCA 12 (Kehoe) Special Tax and Bonded Indebtedness Vote Threshold Reduction** - This bill would reduce the vote required to approve special taxes and bonded indebtedness to fund emergency and public safety services, from a two-thirds vote to 55 percent. C.A.R. opposes SCA 12 and argues that California voters have on several occasions clearly stated that special taxes and bonded indebtedness should only be approved by a two-thirds vote and that the higher standard that a two-thirds vote reflects the public's view that the imposition of special taxes and bonded indebtedness should held to that standard.

**Position:** Oppose

**Status:** Senate Floor

**SB 15XX (Ashburn) Housing Tax Credit** - SB 15XX created an additional tax credit for new home purchasers that equals 5% of the sale price of a home, not to exceed \$10,000. The credit is only available for new, or previously unoccupied, homes purchased between March 1, 2009 and March 1, 2010. The purchaser must live in the home for at least two years or forfeit the credit (i.e. repay it to the state). The bill allocated \$100 million from the state's general fund for these tax credits. C.A.R. sought amendments to expand this credit to all homes.

**Position:** Oppose Unless Amended

**Status:** Signed by the Governor on February 20, 2009 (Chapter 11, Statutes of 2009)

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## **C.A.R. Policy Positions**

C.A.R., through its policy committees and Board of Directors, may take any of nine different positions on pending legislation. These positions range from strongest opposition to the strongest possible support through sponsorship. The positions are set out below:

- **SPONSOR** - The proposal is required in order to further C.A.R. policy objectives and is worthy of the highest prioritization and allocation of C.A.R. resources.
- **SUPPORT** - The proposal is consistent with C.A.R. policy and is so beneficial that it merits an unsolicited expenditure of legislative resources. It is relatively rare for such legislation to be introduced unless C.A.R. input has been solicited in advance of its drafting.
- **SUPPORT IF AMENDED** - The proposal is one of interest to C.A.R., but does not merit active support. Like its counterpart in opposition, it connotes a lower priority of resource allocation and represents a target of opportunity rather than a concerted legislative campaign.
- **OPPOSE** - The proposal is one so offensive to C.A.R. policy that it cannot avoid C.A.R. opposition by any amount of amendment. This position may be adopted to make a statement as to the depth of opposition or to keep a policy issue squarely before the Legislature and not confused by tempering amendments.
- **OPPOSE UNLESS AMENDED** - The proposal is one that cannot be reconciled with C.A.R. policy in its present form, but may be salvaged by amendment. The position calls for a more conciliatory posture from legislative staff than "OPPOSE", and tends to receive a lower priority than the all out attack that results from undiluted opposition.
- **NOT FAVOR** - The proposal is inconsistent with C.A.R. policy, but opposition is of a lower priority than either "oppose" positions. Opposition will be expressed as resources are available, but an active campaign will not be waged. Position is relatively common in the situation where an objectionable bill has been watered down to the point that active opposition is no longer merited, but the bill is still flawed.
- **FAVOR** - The proposal is a good idea based upon its consistency with C.A.R. policy goals, but does not merit active support. In addition, there is no particular amendment to be sought that would raise it to a higher level of support. Position is relatively common and will usually result in a public statement of support if a request is received from the legislative author.
- **AMEND** - Staff will seek changes in the proposal to be more consistent with C.A.R. policy, but support will not result from the amendment, nor will the bill be opposed if the changes are rejected.

- **WATCH** - The proposal involves an area of interest to C.A.R., but is not one that merits the expenditure of lobbying resources to either pass or defeat it. This position is often the result of "OPPOSE UNLESS AMENDED" being successfully pursued.