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Realtors Push Lawmakers to Shrink Lease Tax, Fund Affordable Housing

Carla Vianna, Daily Business Review

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Florida's real estate industry will make sure its voice is heard as lawmakers convene Tuesday and weave through Gov. Rick Scott's proposed \$79.3 billion budget proposal, which includes a \$1 billion tax-cut wish list.

Backed by nearly 100 members — an association record — the Miami Association of Realtors will back a number of issues affecting the South Florida real estate community in Tallahassee.

The biggest push of the legislative session is a familiar one aimed at reducing a sales tax on commercial leases, which real estate professionals have opposed for years. Other top issues include allocating funds for affordable housing and capping a controversial estoppel certificate fee.

The business rent tax is the No. 1 priority for Florida Realtors this year.

Florida is the only state to charge a 6 percent sales tax on commercial leases, a factor opponents argue hurts the state's business-friendly environment.

"This is a competitive disadvantage when you're trying to keep a business here. This is a cost that could potentially drive them away," said Danielle Blake, senior vice president of government affairs and housing for the Miami Association of Realtors.

Brokers realize full repeal of a tax that generates more than \$1 billion a year could take some time.

"We can't get there in one year," said Trey Goldman, legal counsel for Florida Realtors, an Orlando-based trade group.

Although the industry wants to eventually phase out the tax entirely, it's seeking a 1 percent reduction this year — an initiative backed by the governor. Scott's budget recommends dropping the tax to 5 percent for 2017.

State Sen. Dorothy Hukill, R-Port Orange, filed Senate Bill 116, which would shave off 1 percent. Its companion, House Bill 247, was filed by Rep. Heather Fitzenhagen, R-Fort Myers. The Senate bill has unanimously passed two committees and now sits in the Appropriations Committee.

The bill has garnered statewide support from the 31-member Business Rent Tax Coalition, which included the Florida Chamber of Commerce.

The chamber maintains a 1 percent reduction "would keep \$287 million in the hands of Florida's job creators," while Florida Realtors said full repeal of the tax has the potential to add 185,000 jobs and bring \$21 billion back to the state's economy.

"That's why it's a big deal for us," Goldman said. "It is jobs and revenues."

affordable housing

Another hot-button issue is funding for affordable housing.

Last year, the real estate community applauded the Legislature for allocating \$175 million to affordable housing, the highest level in eight years.

State and local housing trust funds are funded by a documentary stamp tax paid on all real estate transactions. When Florida's economy fell with the rest of the nation's during the financial crisis, the housing funds were moved to other areas.

"They've been sweeping those funds to go to other things," Blake said.

This year there will be about \$297 million in documentary stamp tax revenues available, plus a projected balance of \$27 million in housing trust funds as of June 30, according to the Sadowski Housing Coalition, a collection of 30 statewide organizations that came together in 1991 to secure a dedicated revenue source for Florida's affordable housing programs, now known as the Sadowski Act.

The coalition is urging legislators to allocate almost \$324 million to the trust funds.

Cautiously optimistic, Florida Realtors hope to achieve a dollar value north of last year's \$175 million.

The trust funds are more robust now than in previous years, Goldman said.

The Florida Housing Coalition's latest Home Matters report said more than 951,000 very low-income households pay more than half of their income on housing when one-third is considered a maximum threshold. If the \$324 million were used for affordable housing development in fiscal year 2016-17, the Sadowski coalition said more than 32,000 jobs and \$4.6 billion in economic activity would be generated.

Keith Poliakoff, a partner in the Fort Lauderdale office of Arnstein & Lehr, said the South Florida development community hopes is the funding comes through.

"There appears to be an immediate demand for senior affordable housing," he said.

Without the appropriate funds, it becomes difficult for developers to carry the costs of affordable housing projects and maintain their affordability.

Fee Cap

Perhaps the most hotly debated item backed by real estate professionals are Senate Bill 722 by Sen. Kelli Stargel, R-Lakeland, and House Bill 203 by Rep. John Wood, R-Winter Haven.

Both aim to cap an estoppel certificate fee condominium or homeowner associations can levy on sellers.

An estoppel certificate is a payoff letter, which tells a buyer whether or not the seller is current on association dues and other related finances.

Homeowner associations are required to keep track of this financial information by Florida law. The law allows associations to charge a reasonable fee to prepare the estoppel certificate, but some associations have reportedly charged as much as \$1,000.

Florida Realtors contends this is an unreasonable and want to cap the fee. The measure would require the state Department of Business and Professional Regulation to set a maximum fee.

Meanwhile, developers in particular may keep their eyes on House Bill 95 filed by Rep. Greg Steube, R-Sarasota, for public-private partnerships.

It would be the first major modification to the P-3 law passed in 2013 and would make unsolicited proposals confidential, Poliakoff said.

An overhaul of Florida's water policy also is a priority. Senate Bill 552 and House Bill 7005, sponsored by Sen. Charlie Dean, R-Inverness, and Rep. Matt Caldwell, R-Lehigh Acres, have sped through committees.

Although the bills face opposition from environmentalists who contend the legislation wouldn't go far enough to ensure clean waterways, the legislation is expected to win quick approval from both houses.

Florida Realtors backs the creation of the Florida Springs and Aquifer Protection Act; agrees that the state Department of Environmental Protection, in cooperation with water management districts and other regional water supply authorities, should operate by a set of statewide standards when it comes to collecting and analyzing water supplies and water quality; and supports establishing water flow levels for the state's natural springs.

"We don't just sell homes, we sell communities," Goldman said, alluding to the significance of water for Florida's real estate community. "It's important not just for our industry, but for Floridians and our future."

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