

Memo

To: Michigan House Committee on Natural Resources and Outdoor Recreation

From: Brian Westrin

Date: 9/28/2022

Re: **HB 6101 Point of Sale Septic Mandate**

Michigan Realtors® is strongly opposed to HB 6101. As a matter of policy, our association has long been an opponent of "time of transfer" approaches for a variety of reasons. However, it is important to note that Michigan Realtors® has also been actively engaged over the last decade in finding common ground on a statewide septic code that could benefit property owners and promote healthy groundwater in our great state. We are hopeful that there will be a renewed opportunity to explore a more wholistic approach to a statewide code. Until that time, we remain opposed to the approach represented by HB 6101. After reviewing the concerns outlined below, we hope this committee will agree that HB 6101 is not the right approach.

The difficulties created by "point of sale" or "time of transfer" inspections are numerous, and the proposed state approval for each and every sale compounds them. First and most obvious, inspection should happen when it is needed. The need is most often related to the age of the septic system, not sale. A house may not be sold for 20 or 30 years, or it may be sold in 3 or 4 years. Inspections at regular intervals ensure good function and good compliance. Regular inspections also address the need for regular pumping and maintenance of septic systems.

When regular inspections are conducted, the responsible owner – the current owner – is responsible for them. At the time of sale, Realtors® do advise their clients to have the house and all of its systems inspected. That allows the seller and buyer to negotiate as to responsibility for any conditions and repairs which may bear on the purchase price as well.

How best to deal with any problem is for the buyer and seller to decide, depending upon the nature of the problem, its severity, time of year, change in number of occupants, and the cost. Requiring immediate correction of all problems is barrier to many sales. A buyer still must fix the system to live there or rent it. An absolute rule as prescribed here just prevents the sale and the return of property to productive use.

These issues are dramatically compounded by the requirements proposed by HB 6101 - that each and every inspection be reviewed by the state and each transfer be authorized by the state. There is no limit on the time the state may take to review and evaluate a report, nor any apparent limit on the repairs that may be required. Home sales, mortgage approvals, and rate locks are all time-dependent. No appeal is provided or required.

Currently, septic systems are entirely regulated by local health departments under the Public Health Code. HB 6101 does not even acknowledge, much less provide any mechanism to address, the conflicts that will arise. Not only does this concern our organization, it should also concern the various local health departments across the state. Local health departments all have rules for inspection and the required maintenance of a working septic system. Why not enforce them instead of creating new laws to do the same thing with another level of government?

And finally, inspection should be based on characteristics of the septic system, like its age, the number of people in the home using the system, and proximity to an area where E. coli contamination has been found. Local health departments have the local knowledge and clear authority already. If the issue is to ensure that they take action, creating and funding a parallel system, as though county health departments did not already exist, is a recipe for delaying and preventing home sales and distorting the market. For these reasons, we are opposed to HB 6101. If you have questions regarding the position of Michigan Realtors®, please don't hesitate to call me at 517-334-5558.