

NAR Talking Points

2015 August District Work Period

H.R. 9 THE INNOVATION ACT OF 2015

Congressional Action Needed: Pass H.R. 9 – The Innovation Act of 2015

This legislation will take vital steps to protect our industry from frivolous lawsuits brought by patent trolls. REALTORS® need to urge your Members of Congress to support it.

Congressional Actions to Date:

The bill has passed out of the House Judiciary Committee and is awaiting a vote by the House of Representatives.

What to Tell Your Representatives:

NAR Supports H.R. 9, “The Innovation Act of 2015.” Congress must pass common-sense comprehensive patent litigation reform to protect Main Street businesses from patent troll abuse. REALTORS® are targeted by patent trolls at alarming rates. Patent trolls do not manufacture or make anything. They exist solely to purchase old patents and to use the threat of expensive lawsuits to extort money from legitimate businesses. The Innovation Act will help close the loopholes in our legal system which permits patent trolls to thrive.

Issue Background:

Patent trolls target REALTORS® in their role as end-users of common business technologies such as:

- Dropdown menus on websites
- Website mapping technologies
- On line search alert functions
- Scan-to-email technologies

Enact Common-Sense Comprehensive Patent Reform:

- Require patent demand letters to include basic information about the alleged infringement and the method by which a royalty demand is calculated
- Require patent owners to reveal their ownership when demanding licenses and royalties;
- Protect customers and end users from lawsuits based on infringements by manufacturers and service providers

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1031 LIKE-KIND EXCHANGES

Congressional Action Needed: Like-Kind Exchanges Must Be Retained

Though comprehensive tax reform is not likely to be enacted in 2015, key Members of Congress are still exploring the possibility of some limited tax changes. Lawmakers and their staffs must continue to be educated about the vital role that investment and commercial real estate tax provisions play in the nation's economy. Congress should oppose proposals that would repeal like-kind exchanges.

Congressional Actions to Date:

- No viable comprehensive tax reform legislation has been introduced, but leaders of the tax committees (House Ways and Means and Senate Finance) have begun discussions on the outline of tax reform.

What to Tell Your Representatives and Senators:

- **Like-Kind Exchanges:** Since 1921, the Section 1031 provision has allowed investment real estate to be exchanged for property of a like kind on a tax-deferred basis. Exchanges are essential in investment and commercial real estate transactions; if repealed, fewer redevelopment projects will go forward, resulting in fewer new jobs. The like-kind exchange provision provides liquidity to an illiquid asset. Repealing it would harm economic growth.

Issue Background:

While enactment of tax reform has little chance this year, the ideas promoted by House and Senate tax leaders will be on the table when Congress gets serious about moving tax reform. Members of Congress need to understand now that tax proposals that harm real estate are nonstarters.

Like-Kind Exchanges Must Be Retained

- More than 60% of REALTORS® have participated in a 1031 exchange transaction in the past 4 years
- Repealing the like-kind exchange provision would be counterproductive and result in the loss of jobs and economic growth with little gain in revenue.

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WATERS OF THE UNITED STATES

Congressional Action Needed: Require the EPA to Withdraw the Waters of the U.S. Regulation and Start Over

The EPA recently finalized its “Waters of the U.S.” (WOTUS) regulation. This regulation will place more U.S. bodies of water, including small streams and isolated wetlands, under the jurisdiction of the federal government. This will have significant impact on real estate development and property rights in communities across the country. The House has passed legislation. The Senate must act now to force the EPA to withdraw the rule and start from scratch.

Congressional Actions to Date:

- [H.R. 1732](#), the Regulatory Integrity Protection Act, sponsored by Rep. Shuster (R-PA) passed out of the House in May.
- [S. 1140](#), the Federal Water Quality Protection Act, sponsored by Sen. Barrasso (R-WY) and Sen. Donnelly (D-IN) passed out of the Senate Environment and Public Works Committee. This bill must get to the Senate floor as soon as possible for passage and get to the President’s desk.

What to Tell Your Representatives and Senators:

- **Representatives** – Thank them for passing H.R. 1732.
- **Senators** – Encourage them to bring S. 1140 to the Senate floor for a vote.
- **Both bills require the EPA to withdraw the regulation and start the process from scratch.**

Issue Background:

Currently, the Clean Water Act authorizes the federal government to protect “navigable waters”. The EPA has been trying for years to enlarge its jurisdiction over “all waters” of the U.S., despite three Supreme Court rulings that narrowed the scope of their authority over U.S. waters. Under the guise of “clarifying” which waters are regulated by the federal government and which waters are not, the EPA has finally accomplished this goal by including many more waters of the U.S. under the Agency’s authority. Only Congress can change the scope and authority of the Clean Water Act. Congress needs to force the EPA to withdraw this damaging rule and start over.