



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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**STATEMENT OF
VINCE MALTA ON BEHALF OF
THE NATIONAL ASSOCIATION OF REALTORS®**

Before a joint hearing of

**The Subcommittee on Housing and Community
Opportunity and the Subcommittee on Capital
Markets, Insurance, and Government-Sponsored
Enterprises of the House Committee on Financial
Services**

**“H.R. 3355, THE HOMEOWNERS’
DEFENSE ACT OF 2007”**

September 6, 2007

Introduction

Thank you, Chairwoman Waters, Chairman Kanjorski, Ranking Member Biggert, Ranking Member Pryce, and Members of the Housing and Capital Markets Subcommittees for inviting me to present the views of the National Association of REALTORS[®] (NAR) on H.R. 3355, the Homeowners' Defense Act of 2007.

My name is Vince Malta. I am the owner and broker of Malta & Co., Inc., a San Francisco, California firm handling real property sales and management of over 300 residential rental units. I am a member of the California Association of REALTORS[®] and the National Association of REALTORS[®] and have held a number of leadership positions in both associations, including serving as the 2006 President of the California Association of REALTORS[®] and the 2007 Vice-Chair of the Public Policy Coordinating Committee for the National Association of REALTORS[®].

The National Association of REALTORS[®] is America's largest trade association, representing more than 1.3 million members involved in all aspects of the residential and commercial real estate industries. NAR is the leading advocate for homeownership, affordable housing and private property rights. NAR also is a member of the National Catastrophe Policyholders Coalition, an alliance of organizations formed to ensure that the concerns of commercial real estate are addressed in federal catastrophic insurance legislation.

Overview

The availability and affordability of property insurance is, at its core, a consumer issue. The importance of available and affordable insurance to homeowners, commercial property owners and those who would like to own their own home or place of business cannot be

overstated. Unfortunately, it is also something that consumers nationwide – even those who are not in what have traditionally been considered “disaster-prone” areas – now know all too well.

The National Association of REALTORS® strongly encourages Congress to enact a comprehensive natural disaster policy to help property owners prepare for and protect against losses from future catastrophic events. Such a policy would recognize the respective responsibilities of property owners, private insurance markets, and all levels of government in preparing for and recovering from future catastrophic events. My testimony today offers suggestions for what REALTORS® believe must be included in a comprehensive approach to addressing future catastrophic natural disasters.

H.R. 3355, the Homeowners’ Defense Act of 2007, defines a process for supporting reinsurance markets nationwide, and as such, marks a solid first step in ensuring the availability and affordability of homeowners insurance in at-risk markets.

Catastrophic Natural Disasters are a National Issue

The catastrophic events of 2004 and 2005 should serve as a wake up call that highlights not only the importance of having insurance, but also that individual property owners, insurance companies, all levels of government, and taxpayers have a role in preparing for and recovering from future catastrophic events. The ongoing recovery from these storms shows that all taxpayers in the country have a stake in a federal natural disaster policy because their tax dollars are funding recovery efforts.

As a result of the 2004 and 2005 hurricanes, attention has focused on Florida and the Gulf Coast states, but other areas of the country are also susceptible to large-scale natural disasters. Any of the following events could cause damage as great as, if not greater than Hurricane Katrina: a repeat of the 1906 San Francisco earthquake, another 1938 “Long Island

Express” hurricane, or a significant seismic event along the New Madrid fault, which extends from northeast Arkansas, through southeast Missouri, western Tennessee, western Kentucky to southern Illinois. While it is true that not all areas of the country are susceptible to the large-scale disaster scenarios above, the effects of these disasters certainly would be felt by all taxpayers.

The Problem Defined: Residential and Commercial Properties at Risk

A strong real estate market is central to a healthy economy by generating jobs, wages, tax revenues and a demand for goods and services. In order to maintain a strong economy, the vitality of residential and commercial real estate must be safeguarded.

Today, insurance availability and affordability concerns are not limited to the Gulf Coast region. We have heard REALTORS® in numerous states, including New York, New Jersey, South Carolina and North Carolina, express concerns about the availability and affordability of property insurance. Their insurance concerns extend beyond homeowners’ insurance and include multifamily rental housing and commercial property insurance.

Insurance is a key component to financing the purchase of real estate. Without property insurance, lenders will not lend; without insurance, property owners could be in violation of their mortgage terms. The limited availability and high cost of insurance, therefore, not only threatens the ability of current property owners to hold onto their properties, but also to slow the rate of housing and commercial investment in these communities. Either of these threats could, in turn, further delay the rebuilding of communities on our storm-ravaged coasts.

The inability to obtain affordable insurance is a serious threat to the residential real estate market, impacting not only single family detached homes, but condominiums, co-operatives and rental units as well. New home purchases, resale transactions and housing affordability are affected in the following ways:

- **Homeowners' insurance is a necessary component in securing a mortgage and buying and selling a home.** If a potential homebuyer is unable to obtain or afford the required insurance, the sale will not be completed. As a result, potential homebuyers are excluded from the market.
- **The cost of owning a home is directly tied to insurance costs.** Homeowners are required by their mortgage lenders to maintain homeowners insurance, regardless of its cost. If the homeowner is unable to afford the cost of that insurance, the mortgage is in default and the lender may foreclose. If disaster insurance coverage is required, potential buyers may choose not to purchase a home because the insurance they need is too expensive. If disaster coverage is optional but expensive, owners may choose to go unprotected.
- **Insurance costs impact rent levels.** Insurance costs incurred by multi-family property owners are ultimately passed on to tenants through higher rents. This impacts housing affordability, particularly for low-income renters.

Many of NAR's commercial members in the Gulf Coast have reported problems with commercial insurance availability and affordability. Members have experienced large increases in premiums – in some cases more than four-fold with concurrent increases in deductibles and decreases in coverage – and in other cases, a complete lack of availability. These changes put property owners at greater financial risk to recover from losses, while also affecting property values since dramatic insurance increases often cannot be passed on to tenants.

Often it is the smaller property owner that suffers the greatest. Small owners cannot offset the increases in insurance costs for one property with lower insurance costs in other parts of the country; nor are they able to negotiate a lower multiple property rate. In commercial real

estate, there is a point at which insurance becomes unaffordable – when insurance expenses are so high that the property no longer generates sufficient income to cover expenses. This problem forces many owners to sell their property.

The Homeowners' Defense Act of 2007 (H.R. 3355)

On behalf of NAR, I would like to thank Representatives Ron Klein and Tim Mahoney for their efforts to address the problem of decreasing availability and affordability of property insurance. The Homeowners' Defense Act of 2007, H.R. 3355, defines a process for supporting reinsurance markets nationwide, and as such, marks a solid first step in ensuring the availability and affordability of homeowners insurance in at-risk markets. More importantly, the legislation allows private markets to work effectively where they are already working and allows states to actively participate in assessing and customizing their catastrophe bond needs depending upon the kinds of risks their citizens face.

The Homeowners' Defense Act authorizes two primary activities: (1) The creation of a National Catastrophe Risk Consortium; and (2) the creation of a program to make liquidity and catastrophic loans to state or regional reinsurance programs after a natural catastrophe. The Consortium will act as a clearinghouse for risk data and information and as a facilitator for states, catastrophe bond underwriters and other reinsurance market players. The loan programs would allow a state's catastrophe fund to cover its liability in the event that it is not fully funded, and allow state catastrophe funds to cover damages that exceed its liability.

Both of these programs authorized by the legislation would enhance a state's ability to institute disaster mitigation activities, support the availability and affordability of insurance, and help states and property owners recover faster after a disaster strikes.

The bill authorizes the Secretary of the Treasury to make liquidity and catastrophic loans to states with qualified reinsurance programs and, in the case of catastrophic loans, to FAIR or Windstorm Plans. NAR believes these loan programs would help provide consumers access to homeowners insurance by stabilizing insurance markets, particularly after a disaster has struck.

One of the biggest obstacles to sustained redevelopment in the Gulf Coast region has been the lack of available and affordable homeowners' insurance. One result of the storms of 2004 and 2005 has been a ripple effect in many coastal communities where insurance companies – in an effort to manage risk and decrease their financial liability – have increased premiums, cancelled existing policies, or declined to write new policies. This is happening not just in communities that were directly impacted by Hurricane Katrina, but also in states that have not experienced a hurricane in many years (e.g., Delaware, New Jersey, and New York). Having the ability to tap into a readily available source of federally-backed loan funds will allow states to "smooth out" gaps in coverage, provide confidence to reinsurance and insurance markets, and allow FAIR and Windstorm Plans to offer limited insurance products as a last resort for those homeowners unable to obtain insurance from traditional sources.

The Homeowners' Defense Act of 2007 allows private markets – not federal tax dollars – to accept and pool catastrophe risk through the purchase of catastrophe bonds and reinsurance contracts. This legislation fosters stronger, more competitive insurance markets, which may ultimately provide homeowners with greater access to insurance and lower insurance rates nationwide.

H.R. 3355 addresses one element of what can be a comprehensive national policy to address future catastrophic events. NAR also would like to see legislation such as tax credits to support mitigation activities and increased funding for infrastructure – two areas outside the jurisdiction of the Committee on Financial Services – combined with this bill.

The Importance of a Comprehensive Federal Natural Disaster Policy

States are the appropriate regulators of property insurance markets, but there is a proper role for the federal government in addressing mega-catastrophes. Some disasters are just too large or unpredictable for the private market to deal effectively with the resulting damage. At some level, there is an appropriate role for the federal government to intervene in insurance markets to prevent market disruption and insolvencies among insurance companies. The level of intervention, however, must be set at a level that will not interfere with normal market forces. The difficulty lies in determining the level at which such intervention would be appropriate.

As the catastrophic events of 2004 and 2005 showed, there is the potential at some point in the future that one or more catastrophic natural disasters will require governmental intervention to prevent a collapse of insurance markets. Perhaps it will be a hurricane that devastates Miami or New York City, an earthquake that rocks the Midwest along the New Madrid Fault Line, or some other catastrophic event. Markets would benefit from the knowledge that there is a backstop to prevent market failure. Preventing market failure is one element of what could be a comprehensive natural disaster policy enacted by the 110th Congress. H.R. 3355 is a piece of that puzzle, but should not be the only piece.

The National Association of REALTORS[®] strongly encourages Congress to develop and enact a comprehensive natural disaster policy to mitigate exposure to the risks of natural disasters and foster the availability and affordability of homeowners' insurance coverage. NAR supports the development of a comprehensive natural disaster policy that encourages personal responsibility, promotes mitigation measures, ensures insurance availability, and strengthens essential infrastructure (e.g., levees, dams, bridges, etc.).

A comprehensive federal natural disaster policy would promote the availability of affordable homeowners' insurance in disaster-prone areas. Conversely, the lack of a national natural disaster policy has had a measurable direct impact on the availability and affordability of property casualty insurance in many parts of the country. The inability to obtain affordable homeowners' insurance is a serious threat to the residential real estate market – and thus, our economy.

Homeowners and commercial property owners need insurance to protect themselves, their families and their property in case of catastrophe. However, if insurance is not available or affordable, many make the unfortunate, but understandable, decision to purchase only the minimal amount or type of insurance required. The problem with this rational economic decision is that if “the big one” hits, and people are not insured for that type of catastrophe, then the American Taxpayer, that is to say everyone in the country, will pay through taxpayer-funded disaster assistance. Property owners who bear risk should pay a fair share – by obtaining and maintaining adequate insurance coverage.

They also should have confidence that their homes and businesses will survive future catastrophic events. Appropriate mitigation measures can help to create that confidence. Federal and state governments can provide incentives (e.g., tax credits, insurance rate reductions) to property owners to undertake appropriate mitigation measures for their homes and businesses. Research conducted by the Multihazard Mitigation Council of the National Institute of Building Sciences found that a dollar spent on mitigation saves society an average of nearly four dollars.¹

Finally, an essential part of a comprehensive natural disaster policy is the recognition of the basic responsibility of government at all levels to build and maintain infrastructure.

¹ Multihazard Mitigation Council, “Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities, Volume 1 – Findings, Conclusions and Recommendations,” National Institute of Building Sciences, Washington, D.C. (2005), p.5.

Hurricane Katrina showed the importance of properly constructing and maintaining levees to protect lives and property. The tragic collapse of the Interstate 35 bridge in Minneapolis on August 1 provides additional evidence of the need for increased focus on maintaining infrastructure. A recently-released GAO report raises questions about the safety of railroad bridges and tunnels.² Infrastructure development and maintenance is an essential government function and must be an integral part of a comprehensive plan to address future catastrophic events.

NAR believes that it is in the best interests of all Americans to have a comprehensive federal natural disaster policy that includes aggressive mitigation and appropriate assumption of risk so that affordable insurance for homeowners and commercial properties is available. Creating a comprehensive natural disaster policy is essential in the coming years. There is no guarantee that 2007 or any future years will be as benign for natural catastrophes as 2006. The question is not whether there will be another Katrina-like event in size and scope of destruction, but when. As we have learned, it is far less costly to prepare ahead of time than to fund recovery efforts.

NAR encourages the consideration of additional proposals that would provide incentives for property owners to undertake mitigation measures, allow individuals to establish catastrophe savings accounts to pay for losses resulting from catastrophic events, strengthen the nation's infrastructure, and ensure the long-term viability of the National Flood Insurance Program. NAR believes that all reasonable proposals should be considered as part of a comprehensive solution to address future catastrophic events. A comprehensive solution to the insurance availability and

² Government Accountability Office, "Railroad Bridges and Tunnels: Federal Role in Providing Safety Oversight and Freight Infrastructure Investment Could Be Better Targeted," GAO-07-770, Washington, D.C. (August 2007).

affordability crisis will take a combined effort of several House Committees including Financial Services, Transportation and Infrastructure, and Ways and Means.

Elements of a Comprehensive Natural Disaster Policy

NAR encourages Congress to develop a comprehensive natural disaster policy that encourages personal responsibility, promotes mitigation measures, ensures insurance availability, and strengthens critical infrastructure (e.g., levees, dams, bridges, etc.). NAR supports the creation of a federal natural disaster policy that:

- 1) Protects property owners by ensuring that transparent and comprehensive insurance coverage is available and affordable, with premiums being reflective of the risk involved;
- 2) Acknowledges the importance of personal responsibility of those living in high-risk areas to undertake mitigation measures and purchase adequate insurance;
- 3) Provides property owners adequate incentives to undertake mitigation measures where and when appropriate;
- 4) Acknowledges the importance of building codes and smart land use decisions while also emphasizing that proper enforcement of both is best left in the hands of state and local governments;
- 5) Recognizes the role of States as the appropriate regulators of property insurance markets while identifying the proper role of federal government intervention in cases of mega-catastrophes; and
- 6) Reinforces the proper role of all levels of government for investing in and maintaining critical infrastructure including levees, dams, and bridges.

Conclusion

Thank you again for inviting me to present the views of the National Association of REALTORS® on H.R. 3355 to the Subcommittee on Housing and Community Opportunity and the Subcommittee on Capital Markets, Insurance, and Government-Sponsored Enterprises. The National Association of REALTORS® encourages Congress to develop a comprehensive approach to natural disaster preparedness that encourages personal responsibility, promotes mitigation measures, ensures insurance availability, and strengthens the nation's infrastructure. NAR believes that the Homeowners' Defense Act is a positive and timely first step in the development of such an approach.

Passage of an appropriate comprehensive national disaster policy is a top legislative priority for REALTORS® nationwide. We stand ready to work with you, Chairwoman Waters, Chairman Kanjorski, the Committee on Financial Services and others in Congress to develop a responsible natural disaster policy that addresses the needs of consumers, the economy and the nation.