HOUSING FINANCE REFORM

FHA Reform

Action Needed:
HOUSE: Pass legislation (H.R.1852, Expanding American Homeownership Act of 2007 introduced by Reps. Frank [D-MA] and Waters [D-CA]) to reform the FHA single family mortgage insurance program.
SENATE: Introduce and cosponsor companion legislation in the Senate.

What is the Issue:
Recently, FHA has not been a player in the home finance market, leaving many borrowers to be enticed by "specialty" mortgages. These products can impose severe risk burdens on consumers who may be unable to afford an increased mortgage payment in the future. FHA's market share has dwindled because its loan limits, inflexible downpayment requirement and fee structure have lagged behind the current mortgage marketplace. If FHA had been a viable mortgage alternative, many homebuyers would not have explored non-traditional mortgages, many of which are very risky.

FHA's loan limits are too low. Thus, FHA mortgage insurance is not a viable product in many areas of the country.

Increasing the FHA loan limits will create homebuying opportunities in all regions of the country. Higher loan limits would allow homebuyers in high cost areas to benefit from the advantages that FHA users in less costly parts of the country now enjoy.

FHA mortgage insurance is not available to some homebuyers because of its rigid downpayment requirements.

The ability to accumulate the downpayment and settlement costs associated with buying a home remains the most challenging hurdle for many homebuyers. Reform proposals eliminate the statutory 3-percent minimum downpayment and provide FHA with enough flexibility to offer varying downpayment terms to different borrowers.

The FHA fund is in jeopardy because FHA does not have the ability to price its loans based on risk.

Currently all FHA borrowers pay the same premiums, regardless of the credit risks they present. Reform proposals allow FHA to provide flexible pricing and charge risk-based premiums that will more nearly mirror the risk that each borrower brings to the transaction. Risk-based pricing will replenish the FHA fund and reinvigorate and sustain the relevance of FHA in the mortgage marketplace.

GSE Reform – Conforming Loan Limits

Action Needed:

HOUSE: Pass the H.R. 1427, Federal Housing Finance Reform Act of 2007 sponsored by Reps. Frank [D-MA], Baker [R-LA], Watt [D-NC] and Miller [R-CA], which overhauls the regulatory structure for our nation's housing finance Government Sponsored Enterprises (GSEs).
SENATE: Introduce and cosponsor companion legislation in the Senate.

What is the Issue:
Congress needs to pass legislation to preserve the housing mission of Fannie Mae and Freddie Mac, the housing finance GSEs. That mission is best preserved if legislation equalizes housing opportunities for families in high-cost areas.

A key provision in pending GSE reform legislation is authorization for regional adjustments to conforming loan limits.

Such an adjustment is needed as a matter of simple equity for the families residing in a relatively small number of high cost metropolitan areas.

Regional adjustments will help more moderate-income working families in high-cost areas qualify for safer GSE loans.

Veterans, teachers and nurses are examples of those who may be forced into expensive non-traditional jumbo loans unless Congress enacts H.R. 1427 to allow regional adjustments to the loan limits.

NAR Contact:

Megan Booth (FHA Reform)……………………………………202-383-1222
Lynn King (GSE Reform)……………………………………….202-383-1156

COMPREHENSIVE NATURAL DISASTER POLICY

Action Needed:
Pass legislation consistent with NAR's comprehensive natural disaster policy (see below). Members of the House and Senate are developing national natural disaster legislation but, to date, no single bill in either body reflects a comprehensive approach. Separately from the natural disaster efforts, Congress should reform the National Flood Insurance Program to ensure its long-term viability.
HOUSE: Several bills include provisions that move toward a comprehensive policy. Cosponsoring one or more of these bills would reflect support for NAR's goals and would reinforce the need for a comprehensive policy. The bills are:

- H.R.91 (Homeowners Insurance Protection Act) Rep. Brown-Waite (R-FL)
- H.R. 537 (Commission on Catastrophic Disaster Risk and Insurance Act) Rep. Meek (D-FL)
- H.R.913 (Hurricane and Tornado Mitigation Investment Act) Rep. Bilirakis (R-FL)

SENATE: As in the House, no single bill sets out a comprehensive policy. Cosponsoring one or more of these bills sends a strong signal about the importance of a broad approach.

- S.928 (Homeowners Protection Act) Sen. Bill Nelson (D-FL)
- S.292 (Commission on Catastrophic Disaster Risk and Insurance Act) Sen. Nelson (D-FL)
- S.930 (Hurricane and Tornado Mitigation Investment Act) Sen. Martinez (R-FL)

What is the Issue:
Property owners – both residential and commercial – are facing insurance availability and affordability challenges. This problem extends well beyond the Gulf Coast region. Insurers have been issuing non-renewal notices to current customers and refusing to write new policies from the Gulf Coast to New England. This pull-back has occurred even in areas that have not experienced a recent significant catastrophic event.

The stability of the real estate market is threatened when insurance is unavailable or unaffordable. This pressure is felt not only in the single-family home sector, but in all segments, including condominiums, co-operatives and rental units and extends as well to commercial and investment property. Accordingly, NAR is guided by six core principles:

1. Protect property owners by ensuring that transparent and comprehensive insurance coverage is available and affordable. Premiums should adequately reflect risk.
2. Acknowledge the personal responsibility of property owners in high-risk areas to protect their property with adequate insurance and safety enhancements.
3. Provide property owners with adequate incentives to undertake safety enhancements.
4. Acknowledge the importance of building codes and smart land use decisions while emphasizing the enforcement of both is the function of state and local governments.
5. Recognize the role of States as the appropriate regulators of property insurance markets while identifying the property role of federal government intervention in "mega-catastrophes."
6. Recognize the responsibilities of the local, state and federal governments to invest in the building and maintenance of critical infrastructure including levees, dams and bridges.

A comprehensive natural disaster policy cannot succeed unless multiple actors share a variety of responsibilities. These actors include property owners, insurance companies and insurance regulators. Each level of government (state, local and federal) is uniquely qualified for differing but integrated roles. These actors must be prepared for and able to indemnify future catastrophic events. Because mitigation saves lives, property and money, federal and state governments can provide incentives to property owners to undertake appropriate mitigation measures for their homes and businesses.

Congress Should Consider All Reasonable Approaches

Presently, each U.S. taxpayer is paying, on average, more than $800 for Katrina-related relief. The present system of ad hoc, post-disaster relief is inefficient and costs too much. Congress must act now to pass a comprehensive natural disaster policy that is consumer-based and protects property owners.

Congress Must Reform the National Flood Insurance Program (NFIP)

The National Flood Insurance Program (NFIP) offers an important element of protection to homeowners in areas of the country vulnerable to flooding and helps reduce federal expenditures for disaster assistance and flood control. The National Association of REALTORS® strongly supports efforts to reform the NFIP that would ensure its long-term viability and recognize its importance in protecting property owners across the country.

NAR supports the goals of H.R. 1682, the Flood Insurance Reform and Modernization Act of 2007 introduced by Rep. Frank(D-MA) and Rep. Biggert (R-IL), specifically: to protect the integrity of the NFIP, to increase incentives for homeowners and communities to participate in the NFIP and increase homeowners' awareness of flood risks. Ask your Member of Congress to cosponsor H.R.1682.

NAR strongly supports the map modernization program and encourages Congress to provide adequate funding to update the maps for the 100-year floodplain. NAR is concerned, however, that the bill would complicate this effort and possibly delay its completion by expanding the scope to include mapping of the 500-year floodplain. NAR requests that the ongoing map modernization program be completed as soon as possible.

NAR Contact:

Mark J. Washko …………………………………………………………….....202-383-7526

SMALL BUSINESS HEALTH COVERAGE

Action Needed:
HOUSE AND SENATE: Tell Congress it is time to take steps to correct the inequities inherent in the nation's health insurance delivery system and enact small business health reforms. Solving the problem of the uninsured must become a top legislative priority.

What is the Issue:
Over 46 million Americans have no health insurance. More than half of them go to work every day, but work for small businesses that do not provide insurance benefits or are self-employed and unable to find insurance in the individual insurance market. There is a growing consensus among opinion leaders that market-based, small-business pooling arrangements can help reduce costs and expand access, thus improving the quality of health care.

Self-employed Individuals Face Unique Challenges

In most states, the self-employed, including REALTORS,® depend upon the individual insurance market for health insurance. Group policies that spread risk are not available to them. The individual insurance market is a market where there is no negotiating. The customer either takes or leaves whatever coverage is offered - at whatever price offered. Today, nearly 30% all REALTORS® have no health insurance

In recent years, the cost of individual insurance policies has risen more rapidly than other goods and services or household incomes. Between 1996 and 2002, the average premium for an individual market health insurance policy increased by 44 percent.

Tax Rules Don't Solve the Problems of the Self-employed

Self-employed people are given the same tax treatment for the payment of health insurance premiums as employers; they can deduct the cost of the premium. While the tax treatment is the same for employers and the self-employed, the economic impact is significantly different because the self-employed person will pay substantially more for the same coverage that a larger employer can provide. The deduction provides a fair result when compared with an employer's treatment, but the deduction is only available when the self-employed person can find an affordable policy with more than catastrophic coverage.

Large employers who provide health insurance are able to achieve economies of scale by spreading risks and administrative costs among a large number of participants. The larger the group, the more risk and cost are spread. A self-employed person in the individual insurance market can spread neither the risks nor the administrative costs because each policy is specific to the purchaser. Thus, $1000 of premiums in a group policy is likely to provide substantially more benefits than $1000 of premiums in the individual market.

Cost Matters

In 1996, 13% of REALTORS had no health insurance. In 2006, 28% had none. Realtors are self-employed, independent contractors. Like all self-employed individuals, REALTORS bear the total cost of their insurance premiums. It's not surprising then that 84% of uninsured REALTORS indicate that cost is the primary reason they are uninsured. Among those lucky enough to have insurance, it's not unusual for them to report that their health insurance premiums costs now rival the size of their home mortgage payments.

Small Businesses Need Good Workers: Workers Need Health Insurance

The self-employed and small firms are widely recognized as the largest source of new American jobs and important technological innovation for more than two decades Yet when small firms and the self-employed are unable to secure health insurance, workers leave when they discover other opportunities where both meaningful work and health insurance are available. Without changes, problems with the availability and affordability of health coverage will undermine the businesses and individual endeavors that are a major source of job growth and a growing component of the U.S. workforce.

Independent contractors, freelancers, and sole proprietors constituted 30% of the American workforce in 2000, according to the U.S. General Accountability Office (GAO). By 2010, some estimate 41% of the US workforce could be composed by these so-called "free agent" workers. Without attention to the health coverage challenges facing these entrepreneurs, many may not be able to stay "free".

Small businesses can't wait for major health care reform.

The individual insurance market is broken. Mechanisms must be found so that the self-employed and small employers can achieve the savings of spreading risks and costs to groups through pooling or some similar model.

It is time for Congress to take up the task of finding alternatives means of access to health insurance for the nation's self-employed, small business owners, their employees and dependents.

NAR Contact:

Marcia Salkin……………………………………………………………202-383-1092

RESPONSIBLE LENDING

Action Needed:
HOUSE AND SENATE: Pass legislation that protects all Americans from predatory lenders and preserves access to credit for future homebuyers.

What is the Issue:
As many as 2.2 million American households may lose their homes and as much as $164 billion in equity due to foreclosures in the subprime market. The subprime market is generally comprised of individuals with checkered credit histories and who present unconventional risk characteristics.

How did the subprime market become such a mess? Caught in the real estate boom's great momentum, mortgage lenders and brokers saw easy money-making opportunities. Unfortunately, too many lenders originated risky mortgages. These mortgages have two prevalent characteristics: floating interest rates and weak underwriting standards.

The initial interest rates on these products are generally below market, so-called "teaser" rates. That rate then adjusts to an above-market rate within a few years. Lenders also relaxed their underwriting standards, often requiring no income verification from subprime borrowers. Many of these mortgages were made with no consideration as to whether the borrower could repay the loan. Lenders were counting on borrowers refinancing their way out of the problematic loan in an ever-appreciating boom market.

Federal and state banking regulators are trying to address the subprime problem by considering new guidelines that offer greater borrower protections and tighten mortgage underwriting standards for risky loan products.

Key members of Congress have recognized the banking regulators' proposed underwriting guidelines are a step in the right direction. Policymakers are also likely to consider anti-predatory lending legislation that aims to protect our nation's home buyers and owners and ensures we do not repeat the problematic subprime cycle again.

Subprime Lending Does Have a Legitimate Role for Some Borrowers

While abusive lending occurs much too often in subprime markets, not all subprime loans are abusive or problematic. In fact, responsible subprime lenders have played an important role in helping millions of consumers achieve homeownership. Unfortunately, some lenders and brokers have abused their roles and taken advantage of vulnerable borrowers by steering consumers into unnecessarily expensive or inappropriate loan products.

REALTORS® have a strong stake in preventing abusive lending.

Abusive predatory practices can be a disaster not only for the borrower and his or her family, but for the community as well. Abuses in the subprime market are generating higher foreclosure rates. Families are losing their homes and their savings. Some neighborhoods that are experiencing high foreclosure rates also face increased vacancy rates. Empty neighborhoods or neighborhoods where the majority of houses are for sale can be perceived as blighted. This, in turn, leads to declining prices. This cycle inevitably devastates the strength and stability of communities.

REALTORS® support strong, responsible lending principles to curtail abuses in the subprime market. These principles must preserve access to a safe and stable mortgage marketplace, the backbone of sustainable homeownership.

REALTORS® believe that loan originators should treat all parties honestly in a mortgage transaction.   REALTORS® support strong underwriting standards that require mortgage originators to determine if the borrower has the ability to repay the mortgage. It is also important that lenders offer borrowers a reasonable choice of mortgages with interest rates and other fees that appropriately reflect the borrower's credit risk. Borrowers should have information and alternatives so they can choose the mortgage that is best for them. The NATIONAL ASSOCIATION OF REALTORS ® urges lenders to work with borrowers to help them avoid foreclosure.

NAR Contact:

Lynn King………………………………………………………….202-383-1156

MORTGAGE CANCELLATION

Action Needed:
HOUSE: Pass legislation (H.R.1876, The Mortgage Cancellation Tax Relief Act introduced by Reps. Rob Andrews [D-NJ] and Ron Lewis [R-KY]) to assure that borrowers will incur no income tax liability when lenders forgive some portion of a mortgage in a “short” sale or in a foreclosure.
SENATE: Introduce and cosponsor companion legislation in the Senate.

What is the Issue:
Under current law, when a lender forgives (i.e., does not require payment) some or all of a mortgage debt, the borrower is required to treat the forgiven debt as taxable income, taxed at ordinary rates.

In today’s marketplace, declining property values have left some sellers in the position of having to sell their homes for less than the outstanding balance on the mortgage debt. Even though the loss of value occurs through no fault of their own, if the lender forgives the shortfall, that amount is taxable income for sellers. This phantom income tax places a heavy burden on a family that has incurred a significant economic loss. Similarly, an individual in foreclosure must pay tax on any mortgage debt amount that the lender cannot recover on disposition of the property.

It is unfair to tax the phantom income that can arise when a lender forgives some portion of a mortgage debt.

Current law treats the cancellation of any debt as a taxable event, even though the borrower receives no cash. Some borrowers are unable to pay the full balance on their mortgages at the time of sale because the value of homes in their market has declined. In other cases, borrowers who had subprime or interest-only mortgages (or similar products) find themselves in foreclosure when they are unable to meet their payments at the time the mortgage payment adjusts upward. In other cases, the loss of employment can make a borrower unable to pay the mortgage and face foreclosure, no matter what the terms of the mortgage might have been.

Congress has previously provided tax relief when mortgage debt is forgiven.

Over the past 25 years, several regional markets have experienced severe housing slumps and falling property values. In response to such circumstances, the House and Senate in 1999 and 2000 each passed a tax bill that provided tax relief for mortgage cancellation, but neither bill was enacted. The 2005 Katrina tax relief legislation provided mortgage cancellation relief for the many families in the disaster zone who lost their homes and whose mortgages were forgiven. That same relief should be available to the whole nation, not just the Katrina disaster zone.

Congress provided permanent relief to owners of commercial real estate in 1993 when some portion of the debt on commercial and investment property was forgiven. Similar relief should be accorded to families in these distressing situations.

Families who have mortgage debts that cannot be paid in full have suffered monumental economic losses and should not face a tax liability, as well.

A home is the primary, and often the sole, asset that most families have. If they sell at a loss or lose their homes in foreclosure, current law will require that they pay tax if the lender cancels some portion of the debt. At the same time, however, if a family had the good fortune to sell at a profit, they would pay tax only if their gain exceeded $250,000 ($500,000 on a joint return). Yet current law requires that people pay tax even when they do not even have sufficient assets to repay some portion of their mortgage at the time of sale. This is simply unfair.

Fundamental fairness requires that the truly unfortunate (those in foreclosure and those selling in declining markets) be relieved of a tax burden when they lose their equity and their homes.

The people most likely to benefit from this tax relief are those with low home equity and those who are required to sell in a declining market.

Those with low home equity tend to be younger and/or first-time homeowners. These individuals should not be left in harm's way with tax liabilities they are unable to pay.

The relief sought would apply only to the sale or disposition of a principal residence. NAR does not seek to make the relief available to those who have used their home as an ATM.

NAR Contact:

Linda Goold……………………………………………………………..202-383-1083

NATIONAL POLICY AGAINST MIXING BANKING AND COMMERCE

Action Needed:
HOUSE AND SENATE: Pass the Community Choice in Real Estate Act this year. The bills are H.R. 111 (Kanjorski [D-PA]), Calvert [R-CA], and S. 413 (Clinton [D-NY], Allard [R-CO]). Thank all cosponsors and urge them to contact their leadership to consider and pass the bill.

What is the Issue:
Congress established a national policy against mixing banking and commerce. Allowing banks to enter the real estate brokerage industry is inconsistent with this policy and would likely lead to concentration of market power, conflicts of interests, and unfair competitive advantages.

The U.S. economy depends in large part on the health of the banking and real estate industries.

Allowing banks in the real estate industry would put our economy and the well-being of American consumers at risk. These ill-considered moves would upend one our nation's most fundamental economic policies – the separation of banking and commerce. In return, we're likely only to get bigger banks, higher costs, and less consumer choice and service.

Federal banking regulators, the same ones who neglected protecting consumers from unscrupulous subprime lenders, want to allow big banking conglomerates into the local business of buying and selling homes. The Community Choice in Real Estate Act, H.R. 111 and S. 413, would preserve competition and protect consumers by preventing large national banking conglomerates from engaging in real estate brokerage and property management.

The Federal Reserve Board and Treasury Department have proposed regulations authorizing banks to engage in the real estate brokerage businesses. These rules would give banks too much power, allowing them to monopolize the real estate brokerage business just as they have monopolized the banking industry in many markets. There is already concern that banks are becoming too powerful and the largest virtually impossible to regulate. If banks are given the green light to become real estate brokerages, they will have an awesome amount of unfettered control over our nation's financial health.

The American people and a majority of Members of Congress agree: keep banking and commerce separate – keep banks out of real estate brokerage and management. Congress needs to pass the Community Choice in Real Estate Act, H.R. 111 and S. 413.

According to a recent bipartisan national survey conducted by Public Opinion Strategies and Hart Research, a majority of registered voters oppose allowing banks to engage in real estate brokerage. Americans believe that bank-owned real estate brokerages would control local real estate markets and only act in their own self interest.

Congress is now considering bolstering support for our national policy against mixing banking and commerce by closing a loophole that allows commercial companies, such as Home Depot, to own state-chartered, federally regulated banks.

Congress needs to recognize that the industrial loan company (ILC) loophole and the banks and real estate proposed rule raise the same issue – both undermine our nation's long-standing public policy against mixing banking and commerce. This policy is meant to keep banks focused on the business of banking which is essential to a health economy. When commercial activities and banking activities mix, it creates risks to the security and vitality of our financial system. Banks should be banks, not mega-retail chains or mega-real estate brokerages.

NAR Contact:

Lynn King……………………………………………………………………202-383-1156