

# Support Strong Net Neutrality Protections

## Congressional Action Needed

- Congress must enact common-sense “rules of the road” that will ensure the internet is an open, competitive place for consumers and for businesses.
- Legislation must ensure that internet service providers (ISPs) may not: (1) block, (2) throttle or (3) establish paid prioritization (internet fast lanes). It must further require ISPs to be transparent in their network management practices.
- Frequent regulatory fluctuations are not good for internet providers nor for those who rely on the internet for business or personal use. It is time for Congress to act!

## Congressional Actions To Date

- Rep. Blackburn (R-TN) introduced H.R. 4682, The Open Internet Preservation Act. NAR opposes this bill because it does not go far enough to protect consumers and businesses from paid prioritization.
- Sen. Kennedy (R-LA) introduced S. 2510, a companion to the House Bill also titled the Open Internet Preservation Act. NAR similarly opposes this bill.
- Rep. Coffman (R-CO) will be introducing The 21st Century Internet Act.

## What To Tell Your Representatives And Senators

- Support The 21st Century Internet Act when introduced by Representative Coffman.
- Net neutrality is important to small, main street businesses—like REALTORS®—that depend on open internet access every day to run their businesses and serve their customers.
- Removing net neutrality rules could make it impossible for small real estate firms to compete with larger entities on the internet.

## Issue Background

Net neutrality is shorthand for the concept that internet users should be in control of what content they view and what applications they use on the internet. More specifically, net neutrality requires that broadband networks be free of restrictions on content, sites or platforms. Networks should not restrict the equipment that may be attached to them nor the modes of communication allowed on them. Finally, networks should ensure that communication is not unreasonably degraded by other communication streams.

Some real estate professionals, realty website operators and real estate industry-affiliated content providers believe net neutrality provisions are necessary to prevent broadband providers (cable and telephone companies, primarily) from implementing possibly discriminatory practices that could negatively impact real estate professionals’ use of the internet to market their listings and services. Some possible examples include practices that could:

- Limit the public’s access to real estate websites.
- Limit a real estate firm’s access to customers of online service providers that may be in competition with network operators’ own services, e.g., internet phone services.
- Charging certain websites more for the broadband speeds necessary to properly transmit or display audio or video content such as online property tour, podcast or phone services.

## Opposing/Supporting Views

**Critics say** that internet service providers (ISPs) will be disincented from investing in their networks if they cannot create new revenue streams from practices like paid prioritization.

**Supporters argue** that, in fact, broadband investment increased during the time period that the FCC enacted net neutrality rules.

**Critics argue** that net neutrality rules are a solution in search of a problem—that there is no need to regulate internet service providers.

**Supporters say** that one example of ISP questionable behavior is in 2012, AT&T told its customers they could only use FaceTime on AT&T’s wireless networks if they also bought a new data plan that doled out data on a capped basis, and that also happened to include unlimited voice minutes. This behavior would be prohibited under net neutrality rules.

# National Flood Insurance Program

## Congressional Action Needed

- Thank the House of Representatives for passing H.R. 2874, The 21st Century Flood Reform Act, that would comprehensively reform and reauthorize the National Flood Insurance Program (NFIP) for five years.
- Urge the Senate to take up H.R. 2874 immediately to avoid a program lapse on July 31, 2018.

## Congressional Actions To Date

- Last November, the House approved The 21st Century Flood Reform Act (H.R. 2874) that includes a five-year reauthorization as well as key private market and NFIP rate-map reforms.
- Senators Heller (R-NV) and Tester (D-MT) have reintroduced The Flood Insurance Market Parity and Modernization Act (S. 563), which would reduce barriers to private flood insurance and is currently included in the House-passed Flood Reform Bill.

## What To Tell Your Representatives And Senators

### Long-Term Reauthorization Is Critical

- Don't let NFIP lapse. Each lapse costs 40,000 property sales per month.
- The House Flood Reform Bill (H.R. 2874) would fully reauthorize the program for five years.
- Without reauthorization, NFIP cannot issue or renew policies in 22,000 communities where flood insurance is required for a mortgage.
- The Senate should take up and amend the House bill to strengthen the flood mapping and mitigation but retain key provisions including the private-market and NFIP-rate reforms.

### Retain The House Bill's Private Market Reforms

- The House bill includes the text of The Flood Insurance Market Parity and Modernization Act, which unanimously passed the House (419-0) last Congress.
- Private market options must be included because NFIP premiums are based on national averages that overcharge the below-average-risk properties.
- Clarifying that consumers may meet federal requirements with private flood insurance offers an alternative to overpriced NFIP policies.
- The private market is offering better coverage at lower cost than the NFIP.

### Build On The Risk Mitigation Provisions To Keep Rates Affordable

- The best way to keep NFIP rates reasonable is to reduce risk.
- The House bill better aligns NFIP rates to inland vs. coastal risk, capped at no more than \$10,000 per year, and provides \$1 billion to strengthen properties against future flooding.
- Elevating a property by two feet can cut flood insurance premiums by two-thirds.
- U.S. government now spends more than \$1 billion a year on grants to homeowners to repair flood damage.
- Mitigating, elevating or relocating these homes would save taxpayers \$6 for every \$1 spent.
- Currently, property owners cannot access mitigation grant dollars until after the property floods despite it being more cost effective to elevate or relocate beforehand.

## Amend The House Bill To Ensure Accurate Flood Maps

- The House bill allows state and local governments to develop more granular flood maps.
- However, NFIP should also be required to use modern mapping technology to produce building-specific risk assessments.
- Currently, homeowners bear the burden of amending the maps to remove low-risk buildings from the floodplain.
- Map amendments require homeowners to buy 25,000 land surveys each year at \$500 each.
- The current method of flood mapping and amendment puts the burden on property owners when states can supply the data more efficiently using Light Detection and Ranging (LiDAR).

## Issue Background

The NFIP was created to provide incentives for communities to rebuild to higher standards and steer development away from flood zones. In exchange, communities gain access to flood maps, mitigation assistance and subsidized insurance to prepay for future damage and recover more quickly from flooding. However, the program was not designed to absorb catastrophic loss years including 2005 (Katrina), 2012 (Sandy), 2016 (Baton Rouge) and 2017 (Harvey, Irma and Maria). As a result, NFIP has borrowed \$36 billion from the Treasury since 2005 and is making interest-only payments of approximately \$400 million a year.

NFIP's last full reauthorization expired on September 30, 2017. So far, there have been six stopgap extensions since then and one shutdown lasting three days. Last time the program was up for reauthorization in 2008, it took 17 extensions and a two-month shutdown—scuttling an estimated 40,000 real estate closings per month—before Congress was able to reauthorize NFIP in 2012.

## Opposing/Supporting Viewpoints

**House bill critics assert** that The 21st Century Flood Reform Act cannot pass the Senate.

**House bill supporters note** that the Senate can take up and amend the House bill, but there is no reason not to act while NFIP rates continue to climb 10–25 percent per year without end.

**Private market critics believe** that private insurers will “cherry pick” the low risks from NFIP.

**NFIP supporters counter** that the private market is targeting high-risk, subsidized properties that are net revenue losers for the NFIP.

**Flood mapping critics say** that it costs too much to produce property-specific flood maps using more granular Light Detection and Ranging (LiDAR) technology.

**Mapping advocates say** that without accurate data, communities, lenders and property owners will not know their risk and continue to build in harm's way.

**Mitigation critics argue** that taxpayer dollars should not be invested in flood-prone properties.

**Advocates note** that U.S. taxpayers are already spending billions on repairing flooded homes and that buying out, elevating or relocating those homes would be more cost effective.

# Tax Policy

## Congressional Action Needed

- The Tax Cuts and Jobs Act, enacted in December 2017, made significant changes to the treatment of residential real estate. Some of the potentially harmful provisions were not enacted.
- As we move toward implementation of the law, it is clear that Congress has more work to do to address significant tax law problems that unfairly inhibit current and prospective homeowners.
- REALTORS® need to remind Members of Congress and their staffs that healthy real estate markets are key to sustained economic growth. Additionally, many benefits come to society, communities and families from sound tax policies that encourage homeownership and real estate investment.

## Congressional Actions To Date

- Congress has not yet extended the mortgage debt forgiveness exclusion; this leaves homeowners with short sales in 2018 and beyond vulnerable to paying tax on forgiven mortgage debt.
- The deduction for energy-efficient commercial buildings (179D) also has not been extended to cover 2018.

## What To Tell Your Representatives And Senators

### The SALT Deduction Limits And Marriage Penalty Harm Current And Prospective Homeowners

- The new \$10,000 cap on the deduction for state and local taxes (SALT) harms current and future homeowners in practically every state and congressional district.
- The SALT cap currently provides the same \$10,000 limit for both single and joint filers. This can discourage both homeownership and marriage. Urge your Member of Congress to support legislation to eliminate the egregious marriage penalty by doubling the SALT deduction cap to \$20,000 for joint returns.
- Even though partisan differences exist on whether SALT payments should be deductible, few Members of Congress can or will defend the marriage penalty.

### Support Legislation To Index Tax Limits To Inflation

- Members of Congress should be encouraged to support legislation to adjust homeownership tax incentives (SALT cap, MID loan limit and capital gain exclusions) to future inflation.
- Unindexed limits and thresholds in the tax law slowly but surely steal tax benefits from Americans by failing to keep them even with the effects of inflation. Over time, the effect is dramatic, completely unfair and will reduce the future rate of homeownership.
- Good tax policy demands that tax caps and limits be adjusted to account for inflation.

### Make Exclusion For Forgiven Mortgage Debt Permanent

- Co-sponsor H.R. 110 Mortgage Debt Forgiveness Act introduced by Representatives Julia Brownley (D-CA) and Walter Jones (R-NC).
- Since 2007, the tax law has included a temporary provision that excludes from tax the amount of mortgage debt forgiven in a short sale, a mortgage debt restructuring, or when a deed is given in lieu of foreclosure.
- This provision has given vital financial relief to many millions of distraught homeowners who found themselves devastated by not just a reduction in their home equity but another crisis such as a job loss or family illness that

caused them to have to sell their home short, default on their loan, or go through a restructuring with their lender. This temporary provision has once again expired, as of December 31, 2017.

- While the housing markets have largely recovered in most parts of the nation, there are still areas with many homes that are under water with respect to their mortgages, and 2.5 million homeowners are currently vulnerable to having tax due on phantom income at a time when they have been financially ravaged.
- Tell your Member of Congress to be proactive by supporting legislation to make this vital relief a permanent part of our tax law.

### The Deduction For Energy-Efficient Commercial Buildings Must Be Extended

- The Section 179D deduction for energy-efficient commercial buildings encourages the construction and rehabilitation of new and existing commercial buildings to state-of-the-art efficiency levels. Incentivizing these features improves the environment, optimizes value and encourages economic growth at low revenue costs. The deduction has been a temporary part of the tax law since 2005 but has expired and been reinstated five times, most recently expiring on December 31, 2017.

## Issue Background

Since its inception, our income tax system has recognized the favorable effects of homeownership for families, communities and society by incentivizing homebuyers with tax benefits. The result is a home-owning society that is the envy of the world. However, certain features of our tax system partially nullify not only the tax incentives of homeownership, but also insidiously and unfairly harm both current and future taxpayers by eroding present benefits.

## Opposing/Supporting Viewpoints

**Critics will argue** that the state and local tax (SALT) deduction is a subsidy and the \$10,000 cap was only included in the new law to make the bill palatable enough to high-tax state Republicans to pass it, and marriage penalties and unindexed limits are fine for an unwarranted tax deduction.

**NAR responds** that tax filers in 19 states claimed more on average than the \$10,000 cap, so this is not an issue affecting a few high-tax or “blue” states. Moreover, both marriage tax penalties and unindexed limits represent poor tax and public policy and are indefensible. Further, any limits on state tax deductions unfairly cause double taxation of the same income.

**Some critics may state** that unindexed tax limits are minor inconveniences and not worthy of legislative efforts to correct.

**NAR replies** that without indexing, over just two decades of projected inflation, the thresholds of today’s tax incentives for homeownership would be 45 percent lower.

**Critics argue** that a permanent provision for tax relief on mortgage debt forgiveness will encourage irresponsible behavior by bailing out taxpayers when they have made poor decisions, such as purchasing a more expensive home than they can afford.

**NAR counters** that studies show 80 percent of homeowners who entered delinquency did so due to negative life events, such as a family illness or a job loss, combined with negative equity in their home.

# Equal Access To Housing Opportunities

2018 is the 50th anniversary of the Fair Housing Act. Fair housing is critical to our ability, as REALTORS®, to serve our clients, consumers and communities. We are committed to action and policies that support sustainable, inclusive communities without discrimination based on race, color, religion, sex, disability, familial status, sexual orientation, gender identity or national origin.

## Fair Housing

- For more than 100 years, REALTORS® have subscribed to a strict Code of Ethics. This Code includes a commitment to provide equal professional services regardless of race, color, religion, sex, disability, familial status, national origin and as of 2009, sexual orientation and in 2014, gender identity.
- REALTORS® are proud to lead the way toward greater equality in housing opportunities and urges Congress to adopt fair housing protections based on sexual orientation and gender identity.

### Congressional Action Needed

- Ask your House Member to support H.R. 1447, sponsored by Reps. Taylor (R-VA) and Schneider (D-IL), that will protect Americans from housing discrimination based on sexual orientation and gender identity.
- Ask your Senator to support S. 1328, sponsored by Sen. Tim Kaine (D-VA).

## What To Tell Your Representatives And Senators

- The LGBTQ Community continues to face discrimination in housing.
- NAR's Code of Ethics was amended in 2009 to include sexual orientation as a fair housing protection.
- The Code was amended to include gender identity as a fair housing protection in 2014.

## Implement Condominium Rules

REALTORS® secured a significant victory in Congress in 2016 with legislation to ease Federal Housing Administration's (FHA) condominium rules. However, the Department of Housing and Urban Development (HUD) has yet to implement these changes.

### Congressional Action Needed

- Congress must urge HUD to implement changes to FHA's condominium restrictions as mandated by the Housing Opportunity Through Modernization Act of 2016, Public Law No: 114-201.

### Congressional Actions To Date

- In July of 2016, Congress unanimously passed the Housing Opportunity Through Modernization Act Public Law No: 114-201.
- In October 2016, HUD published a proposed rule to implement the provisions of the Housing Opportunity Through Modernization Act Public Law No: 114-201, but the rules remain unfinished.

## What To Tell Your Representatives And Senators

### Congressional Intent Has Been Thwarted

- HUD has finalized only one condominium provision in Public Law No: 114-201 in the more than two years since Congress passed the law.

## Condominiums Are Often The Most Affordable Option For First-Time Buyers And Seniors

- Congress passed Public Law No: 114-201 to ensure first-time buyers are able to consider all their housing choices because FHA prohibits the purchase of most condominiums.
- Condominiums are often the first step on the housing ladder for first-time homebuyers.
- They also can be the most affordable and desirable option for single people, young families, urban dwellers and older people looking to downsize.
- Currently, less than 10 percent of all condominiums have FHA approval (according to the Community Associations Institute).

## Occupancy Ratios Remain Unchanged

- Public Law No: 114-201 requires HUD to lower the occupancy ratio to 35 percent. HUD retains 50 percent today.

## Recertification Streamlining

- Public Law No: 114-201 directed FHA to streamline the condominium recertification process, but today a recertification remains the same process as the original certification.

## Mixed-Use Buildings

- Public Law No: 114-201 required more flexibility for mixed-use buildings. HUD denies FHA mortgage insurance to popular mixed-use developments.

## FHA's Condo Rules Are Too Restrictive

Current FHA rules require that no less than 50 percent of condominium units are owner occupied. Freddie Mac and Fannie Mae have no such restriction when the home is being purchased as a principal residence, which all FHA borrowers are required to be. Since FHA reviews the financial health and reserves of the property to ensure they meet FHA requirements, owner occupancy ratios should be irrelevant. FHA also limits commercial space to 25 percent of the property. The popularity of "town center" developments and multi-use properties make many newer buildings ineligible for FHA. Under the current rules, parking garages count as commercial space and can greatly skew the ratio. FHA does allow waivers, but they are rarely granted. The current certification process is very time-consuming and expensive. Approval lasts two years and takes approximately six months to achieve. The current recertification process is NO different from the initial certification—requiring condominium associations to go through the laborious and expensive certification process every 18 months. This discourages many properties from applying for approval.

## Issue Background

Many first-time homebuyers and older Americans wishing to downsize turn to condominiums as a more affordable option for homeownership. Ninety percent of all condominiums are not eligible for FHA mortgage insurance. Congress unanimously passed legislation to ensure that FHA does not limit the often most affordable, appropriate choice for many families. However, HUD has yet to make those changes.

## Opposing/Supporting Views

**HUD has said** that they cannot finalize the FHA condominium rules until FHA Commissioner Nominee, Brian Montgomery, is confirmed by the Senate. **NAR strongly supports** the nomination of Brian Montgomery for FHA Commissioner.