

NAR Issue Summary

Business / Visa - Tourism and Retirement

What is the fundamental issue?

The current visa system does not allow foreign citizens who own a home in the United States to use that home on a full-time basis and/or to enter and exit the U.S. without restriction.

I am a real estate professional. What does this mean for my business?

Proponents of a residency visa for those who purchase residences in the US argue since the current visa system does not allow citizens of foreign countries to come and go freely, foreign citizens are less likely to purchase a retirement home in the U.S., thus lessening the demand for housing.

NAR Policy:

NAR believes that any visa program designed to encourage the purchase of real property in the United States should:

- a. Be available to citizens of as many countries as possible while recognizing the national security issues which must be addressed. The determination of how countries are included should be left to Congress;
- b. Provide reciprocity to foreign nationals whose home countries provide favorable treatment to U.S. citizens who own or purchase real estate in those countries;
- c. Acknowledge the potential for additional demands to be placed on local, state and federal services by new international residents and account for additional revenues needed to provide those services. In addition, the financial and economic benefits that may accrue to the nation as the result of allowing more foreign nationals to purchase real property in the U.S should also be taken into account;
- d. Ensure that the length of time for which a visa is issued is long enough to create the certainty needed for foreign nationals to be confident that they will be able to enjoy property purchased for a time period that justifies the sizeable expenditure made. From a practical perspective, a 5 year timeframe should be the minimum amount of time for which a real-estate related visa should be issued;
- e. Allow visa holders to determine the number of days per year of their stay(s) in the United States up to any legislatively prescribed limit and not mandate a required minimum stay;
- f. Include appropriate thresholds for the value of property purchases to ensure that new visa holders have the financial resources needed to maintain properties purchased and not become a burden on local, state or federal government services;
- g. Use property valuation measures that are appropriate for the purpose intended, which in most cases will be the market-determined sales price;
- h. Avoid imposing arbitrary requirements that would discourage the use of the visa, including the loss of benefits available to foreign nationals from their home countries (e.g. eligibility for home country national health coverage, favorable home country tax treatment, etc.), in order to encourage property

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purchases; and

i. Focus on stimulating long term market demand, as opposed to short term market conditions.

In addition, NAR policy:

a. opposes unduly burdensome visa rules that create unnecessary barriers to tourism, ownership of US real estate by foreign nationals, and the use of those properties; and

b. states that all resident owners of U.S. real estate should be subject to the same set of rules under the U.S. tax system. In addition, any unique reporting and disclosure requirements regarding foreign buyers and/or their agents should be kept to a minimum.

Legislative/Regulatory Status/Outlook

Summary & Status: Beginning in late 2011, two related proposals to create new visa categories for foreign nationals who purchase residential real estate were introduced in the Senate. These proposals garnered press coverage throughout 2012. Since their introduction, there has been one hearing held on one of the bills; however, no further efforts by the cosponsors to pursue either bill has occurred. With the current session of Congress coming to an end in December 2012, the bill's cosponsors will have to decide whether to reintroduce either bill next year in the new Congress.

Background: On October 20, 2011 Senators Charles Schumer (D-NY) and Michael Lee (R-UT) introduced a comprehensive visa reform bill. S. 1746, the "Visa Improvements to Stimulate International Tourism to the United States of America" Act, aka the VISIT-USA Act, amends the Immigration and Nationality Act and the U.S. visa process.

S.1742 included a number of very broad visa reforms, as well as two specific real estate-related visa provisions of interest to the real estate community. Specifically, the bill proposed (1) a Canadian retiree visa that would allow Canadians older than 50 years of age who own a U. S. home or have a signed lease for the time of their proposed stay to obtain a non-immigrant resident visa and spend up to 240 days living in the U. S., and (2) a non-immigrant resident visa for foreign nationals who make a cash purchase of a principal residence or a principal residence plus residential rental properties that total at least \$500,000 in the U. S. and agree to live in the U.S. for at least 180 days a year. It should be noted that, in order to avoid opposition, the bill's sponsors chose not to include provisions to change current US tax treatment for foreign residents who obtain the new visa. As a result, any foreign national who stays in the US for the additional time allowed by the bill would find themselves subject to US tax laws including estate taxes and, and income taxes on some percentage of their world-wide income.

Following introduction of the bill in October 2011, attracting a bipartisan group of cosponsors to the bill proved difficult. As a result, in late March 2012, Senators Schumer and Lee decided to take an alternative approach and introduced S. 2233, the "Jobs Originated through Launching Travel Act" (JOLT). This new bill contained some, but not all, of the components included in the VISIT USA bill. In some cases, these provisions of S. 1745 have been modified significantly or dropped thus indicating that the original provisions of the VISIT-USA Act may have been unpopular with some of the Senators who subsequently signed on to the new bill as cosponsors. Of particular interest to NAR, changes were also made to the real estate-related provisions of the earlier bill. The new bill includes provisions to allow Canadians over

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50 years of age to stay in the US for 60 days longer than is now the case. However, the new bill does not include the other bill's provision that would create a new non-immigrant visa for foreign nationals who make a cash purchase of a principal residence or a principal residence plus residential rental properties that total at least \$500,000 in the U. S. and agree to live in the U.S. for at least 180 days a year.

The JOLT bill was the subject of a Senate Judiciary Subcommittee hearing which indicated that key members of the Judiciary Committee have concerns with even the more modest JOLT bill. (The Subcommittee must approve the bill before it can move forward.) Senators Feinstein (D-CA) and Sessions (R-AL) both shared concerns that any visa expansions need to be tied to/preceded by a more robust exit system that would allow for better enforcement of current laws. Senator Feinstein comes at the issue from her role on the Select Intelligence Committee, and as such will be a key vote in order for the bill to move. Mr. Sessions is also be a key member since his concerns will be shared by many Republicans both on and off the Committee. Both Ms. Feinstein and Mr. Sessions are expected to be reelected and maintain their seats on the Judiciary Committee in the next Congress.

Since that hearing, there have been no further efforts by the cosponsors to pursue the bill or address the tax components of the bill that create significant problems for the measure. With the current session of Congress coming to an end this year, the bill's cosponsors will have to decide whether to reintroduce either bill next year in the new Congress. As the publication Congressional Quarterly noted about the original bill, "Even if it gets through the [Senate], the measure - which is backed by the Obama administration - is likely to meet resistance from the Republican-led House." Looking forward, it is unlikely that the elections will improve the outlook for the proposal without significant changes.

Current Legislation/Regulation (bill number or regulation)

S. 1746, VISIT-USA Act

S. 2233, JOLT Act

H.R. 3341

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