

**AGENDA**  
**2013 BUSINESS ISSUES POLICY COMMITTEE**  
**NATIONAL ASSOCIATION OF REALTORS®**  
**2013 MIDYEAR MEETINGS**  
**MARRIOTT WARDMAN PARK**  
**THURGOOD MARSHALL BLLRM SOUTH, MEZZANINE LEVEL**  
**WEDNESDAY, MAY 15, 2013**  
**10:00 AM - 12:00 PM**

**Chair:** Brian Sears, MA  
**Vice Chair:** Michael Jewell, MA  
**Committee Liaison:** Robert Kulick, CA  
**Committee Executive:** Marcia Salkin, Bill Gilmartin, Melanie Wyne, Ken Trepeta, DC

- I. Call to Order
- II. Opening Remarks, Chair: Brian Sears
- III. [Conflict of Interest Statement](#)
- IV. [RPAC Fundraising Challenge](#)
- V. [Approval of Previous Meeting's Minutes](#)
- VI. [Approval of 2013 Committee Goals](#)
- VII. Report of the Federal Technology Policy Advisory Board
  - a. Member Education & Self-Regulatory Discussions
  - b. Legislative/Regulatory Technology Issue Updates
    - 1. [Data Privacy, Security & Breach Legislation](#)
    - 2. [Patent Reform](#)
    - 3. [Copyright Infringement](#)
    - 4. [NAR E-Signature Summit Report](#)
- VIII. Other Legislative/Regulatory Updates
  - a. RESPA Updates
    - 1. [Home Warranty Issue](#)
    - 2. [RESPA/Truth-in-Lending Disclosure Reform](#)
    - 3. [H.R. 1077, 3% Cap on Fees and Points](#)
  - b. Immigration Reform Legislation Introduced
    - 1. [Immigration Reform Issue Summary](#)
    - 2. [NAR Policy - Real Estate Related Visa Proposals](#)
  - c. [Health Reform Rulemaking](#)
- IX. New Business
- X. Announcements
  - a. [2014 Committee Appointment Recommendations - Last Chance Flyer](#)
- XI. Adjournment

**EXHIBIT FOR THE AGENDA OF THE  
2013 BUSINESS ISSUES POLICY COMMITTEE  
NATIONAL ASSOCIATION OF REALTORS®  
2013 MIDYEAR MEETINGS  
NAR OWNERSHIP DISCLOSURE AND CONFLICT OF INTEREST POLICY**

**Exhibit Title:**

NAR OWNERSHIP DISCLOSURE AND CONFLICT OF INTEREST POLICY

**Exhibit Body:**

**Ownership Disclosure Policy**

1. When NAR has an ownership interest in an entity and a member has an ownership interest\* in that same entity, such member must disclose the existence of his or her ownership interest prior to speaking to a decision making body on any matter involving that entity.
2. If a member has personal knowledge that NAR is considering doing business with an entity in which a member has any financial interest\*\*, or with an entity in which the member serves in a decision-making capacity, then such member must disclose the existence of his or her financial interest or decision making role prior to speaking to a decision making body about the entity.
3. If a member has a financial interest in, or serves in a decision-making capacity for, any entity that the member knows is offering competing products and services as those offered by NAR, then such member must disclose the existence of his or her financial interest or decision-making role prior to speaking to a decision making body about an issue involving those competing products and services.

After making the necessary disclosure, a member may participate in the discussion and vote on the matter unless that member has a conflict of interest as defined below.

**Conflict of Interest Policy**

A member of any of NAR's decision making bodies will be considered to have a conflict of interest whenever that member:

1. Is a principal, partner or corporate officer of a business providing products or services to NAR or in a business being considered as a provider of products or services ("Business"); or
2. Holds a seat on the board of directors of the Business unless the person's only relationship to the Business is service on such board of directors as NAR's representative; or
3. Holds an ownership interest of more than 1 percent of the Business.

Members with a conflict of interest must immediately disclose their interest at the outset of any discussions by a decision making body pertaining to the Business or any of its products or services. Such members may not participate in the discussion relating to that Business other than to respond to questions asked of them by other members of the body. Furthermore, no member with a conflict of interest may vote on any matter in which the member has a conflict of interest, including votes to block or alter the actions of the body in order to benefit the Business in which they have an interest.

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\*Ownership interest is defined as the cumulative holdings of the member, the member's spouse, children, siblings and to any trust, corporation or partnership in which any of the foregoing individuals is an officer or

director, or owns, in the aggregate, at least 50% of the (a) beneficial interest (if a trust), (b) stock (if a corporation) or (c) partnership interests (if a partnership).

\*\*Financial interest means any interest involving money, investments, credit or contractual rights.

**EXHIBIT FOR THE AGENDA OF THE  
2013 BUSINESS ISSUES POLICY COMMITTEE  
NATIONAL ASSOCIATION OF REALTORS®  
2013 MIDYEAR MEETINGS  
RPAC Committee Challenge**

**Exhibit Title:**

RPAC Committee Challenge

**Exhibit Body:**

**On behalf of President Gary Thomas:**

**Important Message about your Role in the Future of our Industry**

As NAR's committee members, you play a very important leadership role in our association. Let me offer my deep appreciation for all you do. Please know how much your time, energy and ideas are greatly appreciated.

I am proud to continue the recent tradition of issuing a challenge to all NAR committee members to invest in RPAC. We are grateful for the support of committee members who have already contributed. For those of you who have yet to make an investment, please remember the 2013 RPAC fundraising year is more than halfway over. There is no better time to invest in RPAC than today while at the Midyear Meetings. Making an investment takes fewer than two minutes; all you have to do is visit the RPAC table or [realtoractioncenter.com/rpac](http://realtoractioncenter.com/rpac).

In 2012, most of our committees reached their goal. Moe and I thank those committees for their hard work and dedication to RPAC. This year, we want to get all committees to 100% investment by the end of the Midyear Meetings.

Once you have made your investment I ask each of you to promote the REALTORS® Political Action Committee among your fellow committee members and the membership at-large. All committees that reach the 100% goal will be recognized in November at the 2013 REALTORS® Conference & Expo in San Francisco, California.

Please let me know if there is anything I can do to help you achieve this important milestone. We are on course to make this one of the most successful fundraising years yet! We hope you take the time to invest in RPAC and encourage your colleagues to do the same. If you have any questions or concerns, please feel free to call Desta Wallace at (202) 383-7509, or me directly at (714) 450-7990.

On behalf of the entire 2013 NAR Leadership Team, thank you again for your leadership and your dedication to the real estate industry and to the consumers we serve.

Best wishes,  
Gary Thomas  
2013 NAR President

Contributions are not deductible for income tax purposes. Contributions to RPAC are voluntary and are used

for political purposes. You may contribute more or less than the suggested amount. You may refuse to contribute without reprisal and the National Association of REALTORS® or any of its state associations or local boards will not favor or disfavor any member because of the amount contributed. 70% of each contribution is used by your state PAC to support state and local political candidates. Until your state PAC reaches its RPAC goal 30% is sent to National RPAC to support federal candidates and is charged against your limits under 2 U.S.C. 441a; after the state PAC reaches its RPAC goal it may elect to retain your entire contribution for use in supporting state and local candidates.

**EXHIBIT FOR THE AGENDA OF THE  
2013 BUSINESS ISSUES POLICY COMMITTEE  
NATIONAL ASSOCIATION OF REALTORS®  
2013 MIDYEAR MEETINGS  
Business Issues Committee Minutes  
2012 Annual Meeting**

**Exhibit Title:**

Business Issues Committee Minutes  
2012 Annual Meeting

**Exhibit Body:**

**Business Issues Committee Minutes - 2012 Annual Meeting**

**I. Call to Order**

The meeting was called to order by Chair Iona Harrison at 9:00 AM.

**II. Opening Remarks**

Chairman Harrison welcomed the committee members to the committee and introduced Vice Chair Brian Sears and the NAR committee staff.

**III. RPAC Fundraising Challenge**

The Chair thanked those who had contributed to RPAC for doing so. The goal for this year was to meet President Moe Veissi's 100% RPAC donation; the Business Issues Committee achieved an 89% participation rate.

**IV. Conflict of Interest Statement**

The Committee's attention was directed to the NAR Ownership and Conflict of Interest Statement. Members were asked to please honor the statement's terms during the meeting.

**V. Approval of Previous Meeting's Minutes**

The minutes of the Business Issues Committee at the 2012 Midyear Meeting in Washington, DC were approved as presented.

**VI. Report of the Federal Technology Subcommittee**

Brian Sears who chairs the Federal Technology Subcommittee of the Business Issues Committee's reported on the Subcommittee's meeting earlier in the week. The subcommittee meeting included:

a. a review of "REach," a technology-accelerator initiative which is part of NAR's Second Century Ventures. The accelerator program began accepting applications on 11/8/2012 from early-stage start-up companies of interest to real estate professionals. REach will provide education, mentorship and exposure for these companies;

b. issue updates on the status of federal tech legislation and/or regulations, including cybersecurity, data privacy/security, network neutrality, copyright reform and patent reform. The growing problem of data “scraping” of MLS listings and what could be done to prevent the practice was also raised; and

c. a lengthy discussion of the ongoing data privacy/security self-regulatory program development efforts of the subcommittee, including NAR’s Data Best Practices, education and outreach, and the possibility of federal legislation on the issue in the 113<sup>th</sup> Congress. The subcommittee was briefed by NAR Legal staff on the institutional challenges inherent in creating educational requirements as a means of raising awareness of data privacy/security issues among NAR membership, and options to implement and enforce the best practices. NAR staff was directed to continue its efforts to develop data privacy/security educational coursework that could be incorporated into the curriculums of the Realtor® University and the appropriate real estate designations.

## **VII. Other Legislative/Regulatory Updates**

Members of the Committee were briefed by staff on U.S. Treasury Anti-Money Laundering activities and NAR’s desire to provide education on the issue to its membership; RESPA issues (including H.R. 2446, home warranty legislation, Truth-in-Lending/Good Faith Estimate form reforms; Dodd-Frank 3% cap on fees and points issues; updates to the gift rules and limits on federal employee attendance at meetings; and visa legislation updates (including reauthorization of the EB-5 Regional Center pilot program, and the VISIT-US and JOLT Acts). Finally, the Supreme Court’s Affordable Care Act decision was discussed, as was the successful outcome of the Court’s Freeman v. Quicken Loans RESPA case.

## **VIII. New Business**

No new business issues were brought up to the Committee at the meeting.

## **IX. Announcements**

No announcements were made.

## **X. Adjournment**

The meeting was adjourned by Chair Iona Harrison at 10:30 AM.

**EXHIBIT FOR THE AGENDA OF THE  
2013 BUSINESS ISSUES POLICY COMMITTEE  
NATIONAL ASSOCIATION OF REALTORS®  
2013 MIDYEAR MEETINGS  
2013 PROPOSED BUSINESS ISSUES POLICY COMMITTEE GOALS**

**Exhibit Title:**

2013 PROPOSED BUSINESS ISSUES POLICY COMMITTEE GOALS

**Exhibit Body:**

**2013 PROPOSED BUSINESS ISSUES POLICY COMMITTEE GOALS**

**Chair:** Brian Sears (MA)

**Vice Chair:** Michael Jewell (MA)

**Purpose:**

To identify, monitor and recommend positions on legislative, regulatory, and judicial issues that affect the operations of REALTOR® businesses and the ability of NAR to meet REALTOR® needs and to recommend judicial, legislative, or regulatory strategies in furtherance of those positions.

**Staff Contacts:**

Melanie Wyne, 202-383-1234; Bill Gilmartin, 202-383-1102; Ken Trepeta, 202-383-1294; Marcia Salkin, 202-383-1092; Erin Stackley, 202-383-1150

**Goal #1: Protect the ability of real estate practitioners to engage in the business of real estate, enhance opportunities for real property ownership, and minimize the regulatory burden on real estate professionals and real estate-related businesses.**

**Rationale:** Federal legislation and regulations of business practices continue to impact and, in some cases, limit the ability of real estate practitioners to conduct their businesses in an efficient and effective manner. While the business of real estate has traditionally been regulated at the state level, NAR represents the interest of its members to ensure that federal legislation and regulations support or do not needlessly hinder the ability of REALTORS®, realty firms and REALTOR® associations to conduct business.

**Expected Outcome:** Enactment or prevention of legislative and regulatory measures impacting real estate business activities and increased visibility for NAR as one of the leading voices on small business issues.

· **Foreign Investment:** Protect the best interests of current and prospective property owners, as well as real estate professionals, as immigration and visa reform proposals are considered.

· **Anti-money Laundering:** Forestall the application of possible future onerous anti-money laundering regulations to the real estate industry.

· **Anti-Solicitation Regulations:** Oppose expansion of existing anti-solicitation restrictions and fees which impose significant and costly compliance burdens on realty businesses or unduly hinder business marketing efforts.

**Goal #2: Represent REALTOR® interests in federal technology policy formation.**

**Rationale:** The business of real estate is increasingly reliant on technology. As a result, REALTORS® have a significant interest in public policies that affect how consumers interact with technology.



**Expected Outcome:** Greater appreciation by policymakers of how technology policy affects large segments of technology users, i.e. REALTORS®, resulting in policy outcomes that help the business of real estate function more efficiently.

- **Privacy & Data Security:** Ensure that any federal legislation enacted does not unduly burden NAR members, particularly small businesses and independent practitioners.

- **Copyright:** Support balanced legislation that protects real estate professionals' valuable intellectual property while, at the same time, does not unnecessarily chill future technological innovation.

- **Broadband Access:** Support federal efforts to increase access to and adoption of affordable broadband Internet connections in the U.S.

- **Network Neutrality:** Monitor court challenges to network neutrality regulation to ensure that consumers, including REALTORS® have unencumbered and fair access to internet services and content.

**E-signature Acceptance:** Persuade federal agencies to encourage wider acceptance of e-signatures in real estate transactions to ensure that consumers and REALTORS® benefit from the cost savings and convenience of e-signature technology.

**Goal #3: Monitor and provide further input into the implementation of the 2010 Federal Technology Policy Working Group recommendations, as approved by the Board of Directors.**

**Rationale:** The business of real estate is increasingly reliant on technology. As a result, REALTORS® have a significant interest in public policies that affect how consumers interact with technology.

**Expected Outcome:** The committee will continue to oversee the implementation of the recommendations of the 2010 Federal Technology Policy Working Group, including the development of a REALTORS® data privacy and security self-regulatory program.

**Goal #4: Work to clarify issues surrounding the Real Estate Settlement Procedures Act (RESPA) and improve NAR guidance and outreach on RESPA.**

**Rationale:** NAR members continue to need guidance on RESPA requirements, as well as additional clearer interpretations from the Consumer Financial Protection Bureau (CFPB) on some provisions in the most recent rule and in forthcoming proposals.

**Expected Outcome:** Continue to work to clarify RESPA issues related to administrative, home warranties fees, as well as working to ensure that RESPA/TILA harmonization benefits consumers and does not create undue hardship for the industry.

**Goal #5: Ensure that federal regulatory health insurance reform efforts address the needs of the REALTOR® community.**

**Rationale:** The lack of access to affordable health insurance continues to be a significant problem for REALTORS® and those affiliated with other small businesses. In 2013, further rulemaking and the start-up of the health Exchanges will need to be monitored to ensure the needs of REALTORS® are met.

**Expected Outcome:** Ensure the careful consideration of the health insurance needs and special interests of the self-employed and small businesses in the implementation phase of the 2010 health care reform law.

# NAR Issue Summary

## Business / Data Privacy & Security

### **What is the fundamental issue?**

Public concern about the confidentiality of personal medical, financial and consumer data has put pressure on policy makers to increase regulation on the uses of this information. The recent popularity of marketers to use online advertising targeted to individual consumers has also concerned members of Congress. We can expect a number of privacy and data security bills to be introduced in this Congress. Many of these measures will likely: apply privacy regulations to both online and offline data collection, storage and flow; require privacy notices and impose other information safeguards. Some bills may also permit industry to develop their own self-regulatory privacy programs that, if endorsed by the Federal Trade Commission, would create a safe harbor from regulation.

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

REALTORS® collect, store and share a great deal of consumer information. Often, the collected data is of a sensitive financial nature. The current proposals for comprehensive privacy legislation would require nearly all REALTORS® and REALTOR® Associations to comply with the new rules. NAR is working to ensure that any future privacy law takes into account the burden on small businesses and is narrowly tailored to reduce its impact on members.

### **NAR Policy:**

NAR adopted the following data privacy and security principles in 2010:

REALTORS® recognize that as data collection continues to become a valuable asset for building relationships with their clients, so does their responsibility to be trusted custodians of that data. Consumers are demanding increased transparency and control of how their data is used. For this reason, REALTORS® endorse the following Data Privacy and Security principles:

#### **Collection of Personal Information Should be Transparent**

REALTORS® should recognize and respect the privacy expectations of their clients. They are encouraged to develop and implement privacy and data security policies and to communicate those policies clearly to their clients.

#### **Use, Collection and Retention of Personally Identifiable Information**

REALTORS® should collect and use information about individuals only where the REALTOR® reasonably believes it would be useful (and allowed by law) to administering their business and to provide products, services and other opportunities to consumers. REALTORS® should maintain appropriate policies for the, reasonable retention and proper destruction of collected personally identifiable information.

#### **Data Security**

REALTORS® should maintain reasonable security standards and procedures regarding access to client information.

#### **Disclosure of Personally Identifiable Information to Third Parties**

REALTORS® should not reveal personally identifiable data to unaffiliated third parties unless 1) the information is provided to help complete a consumer initiated transaction 2) the consumer requests it; 3) the disclosure is required by/or allowed by law (i.e. investigation of fraudulent activity); or 4) the consumer has been informed about the possibility of such disclosure through a prior communication and is given the opportunity to decline (i.e. opt-out.)

# NAR Issue Summary

## Business / Data Privacy & Security

### **Maintaining Consumer Privacy in Business Relationships with Third Parties**

If a REALTOR® provides personally identifiable information to a third party on behalf of a consumer, the third party should adhere to privacy principles similar to the REALTOR® that provide for keeping such information confidential.

### **Single Federal Standard**

NAR supports a single federal standard for data privacy and security laws in order to streamline and minimize the compliance burden.

[View NAR's page on Data Privacy and Security](#)

### **Legislative/Regulatory Status/Outlook**

Privacy and data security will remain a hot topic in this Congress and on the regulatory front. We can expect new legislation to be introduced shortly--in addition the FTC and the Commerce Department continue to focus on the issue as a top priority.

Both the Commerce Department and the FTC recently released reports on consumer privacy. The Commerce report recommends legislation to implement a consumer privacy bill of rights and a multistakeholder process to recommend industry self-regulatory practices.

NAR has developed an educational toolkit for members and is exploring the possibility of developing a real estate industry self-regulatory program.

### **Current Legislation/Regulation (bill number or regulation)**

House Judiciary Draft Cybersecurity Bill

### **Legislative Contact(s):**

Melanie Wyne, [mwyne@realtors.org](mailto:mwyne@realtors.org), 202-383-1234

Kevin Donnelly, [kdonnelly@realtors.org](mailto:kdonnelly@realtors.org), 202-383-1226

### **Regulatory Contact(s):**

Melanie Wyne, [mwyne@realtors.org](mailto:mwyne@realtors.org), 202-383-1234

# NAR Issue Summary

## Business / Patent Reform

### What is the fundamental issue?

In 2011, Congress passed legislative reforms to patent law in response to growing concerns that the patent system was unable to deal with challenges presented by the ever growing number of patent applications being submitted and increasing complexity of the technology for which a patent is being requested. In addition, the growing number of cases of licensing demands being made by holders of obscure software patents as well as number of patent lawsuits being filed pointed to the need for reform. Many in the tech industry believe that 2011's reforms did not adequately address the issue of "patent trolls" and that additional legislation is necessary to reduce the costs of litigation caused by "non-practicing patent entities."

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

The real estate industry is more and more dependent on the use of information technology and software products to market properties and manage their businesses. An increase in patent-infringement claims can drag unsuspecting real estate professionals into expensive and time-consuming litigation putting all REALTORS® at risk. The recent CIVIX lawsuit is a good example. CIVIX owns a very broad patent on any online service that provides "systems and methods for remotely accessing a select group of items from a database." As a result of this patent infringement lawsuit a number of MLSs have been required to pay licensing fees to this patent holder. Patent reform could help to more narrowly tailor patents and reduced the scope of future infringement lawsuits.

NAR has recently learned that several members have been sent draft complaints in a patent litigation suit involving their use of scanner copiers. News reports indicate the holder of these patents believe that 99% of businesses are violating their patent.

### NAR Policy:

NAR supports greater transparency in the patent application process including (1) a mechanism to allow practitioners with the expertise and knowledge to review and comment on the appropriateness of a patent application prior to the issuance of the patent and (2) create a streamlined and more effective process for challenging a patent outside of the judicial system.

### Legislative/Regulatory Status/Outlook

Rep. Peter DeFazio (D-OR) and Rep. Jason Chaffetz (R-UT) have introduced H.R. 845 the SHIELD Act, legislation that would require a losing plaintiff in a patent infringement lawsuit to pay the defendant's legal fees. NAR [issued a letter](#) supporting this bill.

### Current Legislation/Regulation (bill number or regulation)

H.R. 845, the SHIELD Act

### Legislative Contact(s):

Melanie Wyne, [mwyne@realtors.org](mailto:mwyne@realtors.org), 202-383-1234  
Kevin Donnelly, [kdonnelly@realtors.org](mailto:kdonnelly@realtors.org), 202-383-1226

### Regulatory Contact(s):

Melanie Wyne, [mwyne@realtors.org](mailto:mwyne@realtors.org), 202-383-1234

# NAR Issue Summary

## Business / Copyright/Trademark

### **What is the fundamental issue?**

On April 24, 2013, House Judiciary Chairman Bob Goodlatte (R-Va.) announced that his committee will launch a sweeping review of the country's copyright law and hold a series of hearings on the matter "in the months ahead."

In remarks at the Library of Congress, Goodlatte argued that existing copyright law lags behind the rapid pace of technology, forcing policymakers to make challenging decisions based on these outdated rules.

While House Judiciary Chairman did not explicitly say what topics he hopes to cover during the upcoming hearings, his remarks may provide potential clues on copyright issues the committee will tackle. During his comments, Goodlatte touched on a range of copyright challenges that policymakers are currently grappling with, including online piracy, orphan works and music licensing.

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

Real estate professionals create valuable content/intellectual property that is increasingly distributed on the internet. That content must be carefully protected from theft in a manner that does not create serious unintended consequences for members doing business using all manner of marketing and communication methods, including the internet.

### **NAR Policy:**

NAR will carefully weigh both the need to protect our members' intellectual property through copyright and trademark law while avoiding harmful unintended consequences for our members who increasingly do their business on the internet as proposals for reform are introduced.

We will work through our policy committee process to determine our position on these copyright issues as they arise.

### **Legislative/Regulatory Status/Outlook**

Legislation is likely to be introduced once the series of hearing announced by House Judiciary Chair Goodlatte are completed.

### **Current Legislation/Regulation (bill number or regulation)**

N/A

### **Legislative Contact(s):**

Melanie Wyne, [mwyne@realtors.org](mailto:mwyne@realtors.org), 202-383-1234

Kevin Donnelly, [kdonnelly@realtors.org](mailto:kdonnelly@realtors.org), 202-383-1226

### **Regulatory Contact(s):**

Melanie Wyne, [mwyne@realtors.org](mailto:mwyne@realtors.org), 202-383-1234

**EXHIBIT FOR THE AGENDA OF THE  
2013 BUSINESS ISSUES POLICY COMMITTEE  
NATIONAL ASSOCIATION OF REALTORS®  
2013 MIDYEAR MEETINGS  
NAR Hosted Summit on the Implementation of the E-SIGN Act of 2000**

**Exhibit Title:**

NAR Hosted Summit on the Implementation of the E-SIGN Act of 2000

**Exhibit Body:**

**NAR Hosted Summit on the Implementation of the E-SIGN Act of 2000**

The Summit on the Implementation of the E-SIGN Act of 2000 convened at the Realtor® Building in Washington on March 21, 2013. Attended by a broad representation of government, business and banking organizations, including Realtors® and e-signature providers, the Summit initiated what participants hope to be an ongoing collaborative process to promote the acceptance of e-signatures in real estate transactions. (See attached List of Summit Participants.)

Following a warm and generous greeting from NAR Vice President for Regulatory Affairs and Industry Relations Joe Ventrone, NAR 2013 Vice President Leslie Rouda Smith introduced two luncheon speakers: Jerry Buckley of Buckley Sandler, a Washington based law firm, and Ken Moyle of DocuSign. Attorney Buckley suggested a five point framework for the talks that included arriving at a shared goal, promoting the acceptance of e-signatures; identifying the key actors in gaining approval: servicers, investors, bondholders; identifying the common objections to e-signatures; prescribing the appropriate answers to those objections; and identifying the “levers” to make decision-makers make the right decision.

Mr. Moyle addressed the rapidity with which technology is being adapted in the modern electronic and internet era and the fact that the adoption of new technologies has always been an economic driver, but especially in the current era. While there have been significant gains in promoting e-signatures, FHA in 2010, Fannie/Freddie updates, IRS e-signatures, Bank of America roadmap, he pointed out that real estate agents remain the “key to the engine” of real estate transactions. Their fears of objections “down the line” are often what keep e-signatures from even being attempted.

Summit participants then introduced themselves and many made brief statements about their personal involvement in the development of e-signature legislation, government policy, and business procedures. During this opening hour of the Summit several themes emerged:

- Perceived unanimity of participants that e-signatures are a good thing, with one participant suggesting a barrier to acceptance may be the need for a more compelling business reason to adopt.
- Fraud can occur equally with “wet” or electronic signatures; e-signatures, with the right procedures, can be more secure than “wet.” IRS example of speed AND assurance.
- Some business leaders would like to adopt, front to back, but seek universal acceptance to maintain consistent business practices.
- Most seemed to urge more effort in standards and processes, while education of customers cited by several.
- Concerns about liability are major concern; but what’s different here between “wet” and electronic?
- There are divergent sectors involved and concerned: customers, servicers, investors, bond holders, real estate agents, e-signature providers, lenders, government officials, each with different perspectives, concerns and needs.
- Acknowledgement that even with remaining obstacles we may be on the verge of greater demand for e-signature acceptance.

Parting thoughts included:

1. Agreement that the Summit should be considered the start of a process.
2. Suggestion made that we aim for general acceptance in all real estate transactions and all parts of those transactions, but that the stars may be best aligned to press for GSE and servicer agreement on acceptance for REO and short sale transactions as a discrete and achievable cohort and as a means of increasing comfort level among divergent sectors for general acceptance across the board.
3. Participants may want to identify three most significant obstacles to e-signature acceptance for future discussions.
4. Fannie and Freddie, rather than just accepting e-signatures in some transactions should encourage the use of e-signatures in those transactions.
5. Optimism that timing for universal acceptance of e-signatures could coincide with or even be driven by resumption of healthy private label securities activity.

# NAR Issue Summary

## Business / RESPA – Home Warranty

### **What is the fundamental issue?**

Does the Real Estate Settlement Procedures Act (RESPA) govern the sale of home warranty contracts?

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

Guidance issued by the U.S. Department of Housing and Urban Development (HUD) in 2010 called into question whether and under what circumstances real estate professionals can be compensated for the sale of home warranty contracts. This has led to much confusion in the industry and numerous class action lawsuits.

### **NAR Policy:**

NAR does not believe the sale of home warranty contracts should be covered by RESPA unless a lender requires a home warranty to close the mortgage transaction. NAR supports better guidance from the Consumer Financial Protection Bureau (CFPB) and specifically rejects the contention that the marketing of home warranties is covered under RESPA or is a mere referral.

### **Legislative/Regulatory Status/Outlook:**

In February 2008, HUD issued an informal letter (the Ceja Letter) that said that the sale of home warranty contracts by real estate agents for compensation was essentially a per se violation of RESPA. For the next two years, NAR and its industry partners disputed this letter and tried to convince HUD of its error. In the summer of 2010, HUD issued new guidance which made the situation worse and led to even more lawsuits. NAR commented on HUD's guidance but the guidance remained in force.

RESPA is now under the purview of the new Consumer Financial Protection Bureau (CFPB). With regards to home warranty marketing agreements, NAR believes that agents and brokers provide bona fide and separate services for the reasonable compensation they receive. NAR believes HUD erroneously limited the ability of real estate professionals to market home warranty products to the detriment of consumers who benefit the most from such products.

NAR continues to work with CFPB and our industry partners to ensure that appropriate guidance is provided to industry. NAR will also work with Congress to ensure that any future legislative changes improve RESPA without imposing undue burdens on NAR members.

### **Current Legislation/Regulation (bill number or regulation)**

No new legislation introduced in the 113th Congress

### **Legislative Contact(s):**

Marcia Salkin, [msalkin@realtors.org](mailto:msalkin@realtors.org), 202-383-1092

Kevin Donnelly, [kdonnelly@realtors.org](mailto:kdonnelly@realtors.org), 202-383-1226

### **Regulatory Contact(s):**

Kenneth Trepeta, [ktrepeta@realtors.org](mailto:ktrepeta@realtors.org), 202-383-1294



# NAR Issue Summary

## Business / RESPA/TILA Harmonization

### **What is the fundamental issue?**

The Consumer Financial Protection Bureau (CFPB) is undertaking an effort to harmonize Real Estate Settlement Procedures Act (RESPA) and Truth in Lending Act (TILA) disclosures and regulations.

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

The outcome of this process could simplify the disclosure and settlement process if done properly. However, if not done properly, it could add time, costs, and confusion to the settlement process with little, no, or negative consumer benefit.

### **NAR Policy:**

NAR supports a RESPA/TILA harmonization that adds transparency, simplifies disclosures, and reduces burdens to settlement service providers including real estate professionals.

### **Legislative/Regulatory Status/Outlook**

A proposed rule was issued by CFPB on July 9, 2012.

While CFPB has been open in its process of debuting draft combined disclosure forms, it has not been as forthcoming with the substance of the critical underlying regulations. There are concerns that without public input the regulations' implementation could rival the implementation issues that surrounded the 2009 RESPA reform. The 2009 reform resulted in serious implementation costs, as well as problems at the closing table. The rule, which was supposed to reduce costs to consumers, by some estimates, has increased costs by as much as 20%.

NAR submitted comments on the proposed rule's harmonization provisions on November 5, 2012. Click [here](#) to read the [November 2012 letter](#).

### **Current Legislation/Regulation (bill number or regulation)**

Public Law 111-203 (HR 4173, The Dodd Frank Wall Street Reform and Consumer Protection Act)

### **Legislative Contact(s):**

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**EXHIBIT FOR THE AGENDA OF THE  
2013 BUSINESS ISSUES POLICY COMMITTEE  
NATIONAL ASSOCIATION OF REALTORS®  
2013 MIDYEAR MEETINGS  
3% Cap on Fees and Points**

**Exhibit Title:**

3% Cap on Fees and Points

**Exhibit Body:**

**Beware the 3% Cap on Fees and Points**

Ken Trepeta- Director – Real Estate Services – National Association of REALTORS®

The Consumer Financial Protection Bureau (the Bureau) issued a somewhat final Ability to Repay (ATR) Qualified Mortgage (QM) rule in January. The pleasant surprise was the inclusion of a safe harbor for many QM loans. NAR and its industry partners fought for several months to ensure that the less safe “rebuttable presumption” was not adopted as the primary standard. The Bureau did not yield a pleasant surprise with another key part of the QM-- the 3% cap on fees and points and its impact on affiliates. In fact, it made the situation marginally worse by including other items in fees and points that will make it more difficult for a mortgage firm with affiliates involved in the transaction to meet the test.

The Bureau essentially used the same excuse as the Federal Reserve did for why they decided not to exclude affiliate title fees. Both relied on the last minute withdrawal of language fixing the problem as evidence Congress did not intend to address discrimination against affiliates. We all know this was less Congressional intent and more the perils of merging two massive pieces of legislation in a couple of days. So when calculating fees and points to determine if a loan is QM, companies with affiliates in the transaction must include title charges, as well as escrows for insurance, along with a number of other charges unaffiliated companies do not have to include.

What makes the situation worse than before is that the Bureau has chosen to include loan officer compensation and GSE loan level price adjustments (LLPAs) in the calculations as well. While this would apply to both affiliated and unaffiliated companies, it only serves to exacerbate the affiliate calculation and likely push more loans over the threshold.

The Bureau is still trying to decide whether the loan officer compensation portion should be offset by other charges paid by the consumer. In other words, if the consumer pays an origination charge of \$2000 and the loan officer is paid \$1000, should the \$1000 be counted as part as the \$2000 origination or counted separately? One proposal issued by the Bureau is to count the two together for \$3000 in fees counted toward the cap. Another assumes the \$2000 covers both, thus avoiding “double counting” as it has been referred to. NAR has proposed that loan officer compensation should not be counted in fees and points at all, but if the Bureau does this, it should at least not adopt a double-counting model.

NAR also opposes counting the LLPAs towards fees and point. These LLPAs are simply risk based charges imposed by the secondary market. They are not compensation going to a lender or originator. It could be devastating to some borrowers as these charges could exceed the 3% cap in and of themselves.

We do not expect many changes on the Bureau’s end of this regulation, so NAR and its industry partners are pursuing legislation once again to fix this discrimination against affiliates and those measures that would further reduce access to affordable credit for otherwise qualified borrowers. If you care about these issues and you should, tell your Representatives to cosponsor and support HR 1077 “The Consumer Mortgage Choice Act.”

# NAR Issue Summary

## Business / Immigration Reform

### What is the fundamental issue?

With nearly 12 million undocumented immigrants in the United States, a porous border that raises national security concerns, and substantial economic implications, immigration and visa reform has been discussed for many years. The last major overhaul of immigration laws took place in 1986.

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

The real estate industry benefits from a number of current visa programs that allow for tourism and foreign investment in U.S. residential and commercial real estate markets. Stable, prosperous, and secure communities enhance the nation and make it a destination of choice for those seeking to own, transact, lease and use real property.

### NAR Policy:

NAR's 'Principles for Immigration Reform' were the work of a 2012 Presidential Advisory Group (PAG). Approved by the NAR Board of Directors at the May 2012 NAR meeting, NAR's immigration policy principles support:

1. The rights of foreign citizens to acquire, own and sell U.S. real property and the right of U.S. citizens to acquire property outside of the U.S.;
2. The free flow of international capital for real estate and opposes laws and regulations that impede that flow;
3. Application of the same set of rules under the U.S. tax system to all resident owners of U.S. real estate;
4. Organized real estate's involvement in the immigration reform debate to the extent necessary to support the creation of thriving communities and enhance the U.S. as a destination of choice for those seeking to own transact, lease and use real property; and
5. Timely federal resolution of undocumented immigration that includes (i) securing U.S. borders to prevent illegal entry, (ii) allowing for the flow of legal immigration to accommodate the labor needs of the US economy, and (iii) settling the status of undocumented immigrants in a way that acknowledges their presence in the U.S., their role in the economy, and their historic contribution to U.S. society.

### Legislative/Regulatory Status/Outlook

Immigration reform remains a top priority of the Administration and many in Congress. On April 16, 2013, a bipartisan group of 8 Senators introduced a comprehensive immigration reform bill, S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act. The so-called "Gang of Eight" includes Senators Charles Schumer (D-NY), John McCain (R-AZ), Richard Durbin (D-IL), Lindsey Graham (R-SC), Robert Menendez (D-NJ), Marco Rubio (R-FL), Michael Bennet (D-CO), and Jeff Flake (R-AZ). Although not certain, passage of a comprehensive reform package looks more promising than it has in many years.

While the bill is truly a comprehensive reform measure encompassing a broad array of issues, including border security issues, a number of provisions are of particular interest to NAR. These include language that makes improvements to the visa application/approval process, permanently reauthorizes the EB-5 immigrant investor regional center pilot program; makes changes to the H-2B visa program which is important to the economies of many second home and resort communities; and creates two new non-immigrant retiree visas.

The retiree/real estate related visa provisions contained in S. 744 were first proposed in 2011/2012 in a slightly different format [See footnote 1 below], by Senators Schumer (D-NY) and Lee (R-UT) as a part of S. 1746, the Visa Improvements to Stimulate International Tourism to the United States of America Act (VISIT-USA Act), and S. 3199, the Jobs Originated through Launching Travel Act of 2012 (JOLT Act).

# NAR Issue Summary

## Business / Immigration Reform

These provisions of S. 744 create (1) a non-immigrant Canadian retiree visa that would allow Canadians 55 years and older who have a rental agreement for lodging or own a US home in the US to stay as long as 240 days each year, and (2) a non-immigrant retiree visa for foreign nationals 55 years of age or older who purchase a principal residence (or a personal residence plus other residential properties) valued at \$500,000 or more and who agree to stay in the US for a period of not less than 180 days per year.

The Senate Judiciary Committee has already held a series of hearings on the measure. In the House, a similar bipartisan group of representatives are discussing the development of a House measure.

NAR's 'Principles for Immigration Reform' outlined in the NAR Policy section of this issue summary provide NAR with the policy basis for supporting the new bill's visa reform, immigrant investor, and retiree visa provisions. In addition, NAR has longstanding policy in support of the bill's increased quota for H-2B visas and permanent authorization of the EB-5 regional center program. H-2-B provisions that would impose additional costs on H2-B employers are a concern, however. NAR staff will work to address these concerns and drafting issues with respect to the retiree visa provisions which need to be addressed.

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<sup>1</sup>In the earlier bill, the threshold for the Canadian retiree visa was 50 years of age, as opposed to the current bill's threshold of 55 years of age. Also, the earlier bill did not contain an age threshold for those eligible to obtain a visa with the purchase of \$500,000 in residential property. The current bill limits this new visa to those 55 years of age, i.e. creates a second category of retiree visa.

### **Current Legislation/Regulation (bill number or regulation)**

S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act

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**EXHIBIT FOR THE AGENDA OF THE  
2013 BUSINESS ISSUES POLICY COMMITTEE  
NATIONAL ASSOCIATION OF REALTORS®  
2013 MIDYEAR MEETINGS  
NAR Real Estate Visa Policy Overview**

**Exhibit Title:**

NAR Real Estate Visa Policy Overview

**Exhibit Body:**

**NAR Real Estate Related Visa Policy Overview**

An NAR Visa Working Group was created in November 2011 to review S. 1746, the VISIT-USA Act (Schumer, D-NY; Lee, R-UT), develop necessary policy recommendations and bring those recommendations back for consideration by the relevant federal policy committees at the 2012 Midyear Meetings. While NAR had existing policy with respect to immigration reforms, that policy did not provide specific guidance on the real estate related visa proposals included in S. 1746, and which with some amendments to the original language are now a part of the Senate's comprehensive immigration reform bill, S. 744.

The Working Group was composed of members of each of the NAR policy committees with a stake in visa reforms – the Business Issues, Federal Taxation, Global Businesses & Alliances and Resort & Second Home Committees.

Given a desire to craft policy recommendations that would provide guidance for NAR advocacy efforts in response to the Schumer-Lee measure and any future visa reform advocacy efforts, the group determined that a set of policy principles was needed to serve as a basis for evaluating S. 1746 and any future real estate-related visa reform measures.

Based on these discussions, a set of three policy recommendations were developed, circulated, vetted and approved by the Working Group. Presented at the NAR May 2012 meetings, the recommendations were approved by the Board of Directors, as follows:

***I. The Visa Working Group recommends the following set of principles to serve as a guide for advocacy efforts with respect to any federal efforts to create a non-immigrant residency visa for foreign nationals who purchase real property in the United States.***

*NAR believes that a 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 purchases; and*
- i. Focus on stimulating long term market demand, as opposed to short term market conditions.*

**II. The Working Group also reaffirms existing NAR policy that:**

- 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.”*

**III. The Working Group acknowledges that the complexity of visa issues and the attendant liability that could accrue to a real estate professional who provides incorrect advice will create the need for member education should such a visa program be enacted.**

**Legislative History of S. 1746**

S.1746, introduced by Senators Schumer and Lee, was a comprehensive bill that amended the Immigration and Nationality Act and the U. S. visa process. The legislation included a number of visa reforms, including two specific real estate-related visa provisions of interest to the real estate community. Specifically, the bill created (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.

Following introduction of the bill in October 2011, attracting a bipartisan group of cosponsors to the bill proved difficult. As of December 2011, S. 1746 had only 4 additional cosponsors - all Democrats. No additional cosponsors signed on to the bill in the first three months of 2012.

As a result, in late March 2012, Senators Schumer and Lee introduced S. 2233, the “Jobs Originated through Launching Travel Act” (JOLTA). Cosponsored by Schumer, Lee, Blumenthal (D-CT), Blunt (R-MO), Coons (D-DE), Heller (R-NV), Kirk (R-IL), Klobuchar (D-MN), Kohn (D-WS), Manchin (D-WV), Mikulski (D-MD), and Rubio (R-FL), S. 2233 contained some, but not all, of the components intended to make travel to the US for business or tourism purposes easier than had been included in the VISIT-USA bill. In some cases, these provisions of S. 1746 were modified significantly or dropped, 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.

Changes included ones made to the real estate-related provisions of the earlier bill. The new bill included the VISIT-USA provisions to allow Canadians over 50 years of age to stay in the US for 60 days longer than is now the case. However, the new bill did not include the S. 1746 provision that would create a new non-immigrant visa for foreign nationals of any country 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 Act was the subject of a March hearing in the Judiciary Committee's Immigration, Refugees and Border Security Subcommittee chaired by Senator Schumer. The hearing indicated that some concerns with the more modest JOLT bill were shared by key members of the Judiciary Committee which must approve any immigration measure before it can move forward. Senators Feinstein (D-CA) and Sessions (R-AL) both spoke to a concern shared by many on the Committee 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. No further action was taken on the bill during the remainder of the 112<sup>th</sup> Congress; with the end of the 112th session, both bills died.

**EXHIBIT FOR THE AGENDA OF THE  
2013 BUSINESS ISSUES POLICY COMMITTEE  
NATIONAL ASSOCIATION OF REALTORS®  
2013 MIDYEAR MEETINGS  
NAR Urges IRS to Acknowledge Independent Contractor Non-Employee Status in ACA  
Rulemaking**

**Exhibit Title:**

NAR Urges IRS to Acknowledge Independent Contractor Non-Employee Status in ACA Rulemaking

**Exhibit Body:**

**NAR Urges IRS to Acknowledge Independent Contractor Non-Employee Status in ACA  
Rulemaking**

On Friday, March 15, 2013, NAR submitted comments to the Internal Revenue Service in connection with proposed regulations published on January 2, 2013, interpreting the Shared Responsibility for Employers Regarding Health Coverage requirements of the Patient Protection and Affordable Care Act. Among other things, the proposed regulations set out a definition of “employee” for purposes of determining when an employer is an “Applicable Large Employer” and is thus subject to certain requirements under the Act, including providing health insurance coverage to employees of the firm.

The proposed regulations set forth a common law standard for defining the term “employee” and did not recognize the fact that “qualified real estate agents” are considered non-employees (independent contractors) under the tax law (Section 3508 of the Internal Revenue Code). The comment letter urges the IRS to modify the regulations in their final form to recognize section 3508 and provide that statutory non-employees are not subject to the common law standard.

Click here to read [NAR’s Comment Letter](#)

Copies of NAR's other letters, testimony and statements, as well as NAR's health reform Q&A document and additional information on the health reform bills, are available on Realtor.org at [www.realtor.org/topics/health-care-reform](http://www.realtor.org/topics/health-care-reform).

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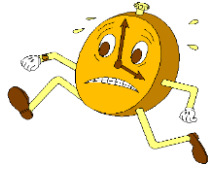
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# TIME IS RUNNING OUT...



## ...TO MAKE COMMITTEE RECOMMENDATIONS FOR 2014!

**Deadline: Friday, May 24, 2013**

### Don't know where or how to place a recommendation?

- ✦ Log onto REALTOR.org
- ✦ Hover over the "About NAR" tab at the top of the page, and click "Governance"
- ✦ Click "Committees" (upper left hand side)
- ✦ Click "Submit Online Committee Recommendation"
- ✦ On the committee recommendation landing page, Click "Enter a recommendation" either for someone you know or a self-recommendation

### Did you know?

- ✦ Members *can and should* make recommendations for themselves
- ✦ Members should seek quality recommendations from: NAR leadership figures (including Officers, Committee Liaisons, Regional Vice Presidents), current Chairs/Vice Chairs, NAR Directors, State and Local Associations, etc.

### Have You Completed/Updated Your Expertise Profile?

**Members interested in serving on NAR's committees are encouraged (but not required) to complete an Expertise Profile.**

- ✦ From the committee recommendation landing page, click "Enter Your Expertise Profile"
- ✦ Create a new profile or edit an existing one
- ✦ **You can add a photo to your profile!**
- ✦ **Expertise Profiles are independent of the recommendation process - they can be completed or updated at any time!**

If you have any questions, contact Adrienne Kather, Executive Offices:  
(312) 329-8434 or [akather@realtors.org](mailto:akather@realtors.org)