**AGENDA**
**2014 BUSINESS ISSUES POLICY COMMITTEE**
**NATIONAL ASSOCIATION OF REALTORS®**
**2014 REALTORS® CONFERENCE**
**HILTON NEW ORLEANS RIVERSIDE**
**JEFFERSON BALLROOM, THIRD FLOOR**
**FRIDAY, NOVEMBER 7, 2014 & WEDNESDAY, OCTOBER 1, 2014**
**09:00 AM - 11:30 AM**

| | |
|---|---|
| **Chair:** | Michael Jewell, MA |
| **Vice Chair:** | Eric Stegmann, MO |
| **Committee Liaison:** | Cynthia Shelton, FL |
| **Committee Executive:** | Marcia Salkin, Melanie Wyne, William Gilmartin, Ken Trepeta, DC |

**I. Call to Order**

**II. Opening Remarks: Chair Michael Jewell**

**III. Conflict of Interest Statement**

**IV. RPAC Fundraising Challenge**

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

**VI. Guest Speaker: Penny Reed, Financial Reform Strategy Consultant, Wells Fargo, "RESPA/TILA Implementation"**

**VII. Report of the Federal Technology Policy Advisory Board**

a. Data Privacy/Security Member Education Update
  i. Enrollment Information

b. Legislative/Regulatory Technology Issue Updates
  i. Data Privacy, Security & Breach Legislation

  ii. Patent Litigation Reform
    o Coalition Activities & Outlook

  iii. Net Neutrality
    o FCC Notice of Rulemaking Status
    o Internet Freedom Business Alliance (IFBA)

  iv. Electronic Signature Summit II Update
    o Chase Broker/Agent Certification for E-Signatures Modified
    o Further E-Signature Plans

  v. Other Related Legislative/Regulatory Issues.
    o Internet Tax Issues – Federal Tax Committee
    o Drones – Land Use, Environment & Property Rights
    o Crowdfunding – Commercial Leg/Reg Advisory Group

**VIII. Other Legislative/Regulatory Updates**

a. RESPA Updates
- i. RESPA/TILA Harmonization
- ii. RESPA Enforcement
- iii. 3% Cap on Fees and Points

b. Interstate Land Sales Act Reform Legislation Signed by the President

c. Health Reform Implementation
- i. 2015 Individual Exchange Open Enrollment Dates
- ii. Employer Mandate Implementation

**IX. New Business**

a. Issue Priorities for 2015

**X. Announcements**

a. RESPA Educational Session - Phil Schulman, K&L Gates

**XI. Adjournment**

**EXHIBIT FOR THE AGENDA OF THE**
**2014 BUSINESS ISSUES POLICY COMMITTEE**
**NATIONAL ASSOCIATION OF REALTORS®**
**2014 REALTORS® CONFERENCE**
**OWNERSHIP DISCLOSURE AND CONFLICT OF INTEREST POLICY**

**Exhibit Title:**
OWNERSHIP DISCLOSURE AND CONFLICT OF INTEREST POLICY

**Exhibit Body:**
**OWNERSHIP DISCLOSURE AND CONFLICT OF INTEREST POLICY**

**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.

*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**
**2014 BUSINESS ISSUES POLICY COMMITTEE**
**NATIONAL ASSOCIATION OF REALTORS®**
**2014 REALTORS® CONFERENCE**
**Minutes of the May 2014 Business Issues Policy Committee**

**Exhibit Title:**
Minutes of the May 2014 Business Issues Policy Committee

**Exhibit Body:**

**I. Call to Order**
The meeting was called to order by Chairman Michael Jewell at 10:00 am.

**II. Opening Remarks**
Chairman Jewell welcomed the committee members to the committee and introduced Vice Chair Eric Stegmann and the NAR committee staff.

**III. 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.

**IV. RPAC Fundraising Challenge**
The Chair called the committee's attention to the 2014 President's RPAC Challenge and asked members to consider participating in the Challenge.

**V. Approval of Previous Meeting's Minutes**
The minutes of the Business Issues Policy Committee at the 2013 Annual Convention Meeting in San Francisco were approved as presented.

**VI. Legislative Outlook**
NAR legislative advocate, Kevin Donnelly, briefed the Committee on the legislative outlook for the remainder of 2014. With few legislative days remaining on the calendar and elections this fall, it is likely that a large part of any remaining legislative business could be held over for consideration following the elections. NAR continues its efforts to build support for NAR's housing legislative and regulatory agenda.

**VII. Report of the Federal Technology Policy Advisory Board**
Eric Stegmann, Chairman of the Federal Technology Policy Advisory Board of the Business Issues Policy Committee, reported on the Advisory Board's meeting earlier in the week. The advisory board was:

The Advisory Board's meeting agenda included:

> (a) a guest presentation by Dana Collarulli, Director of the Office of Government Affairs at the U.S. Patent Trademark Office (PTO) on executive actions taken by the PTO over the past two years and the prospects for patent litigation reform legislation this year;
> (b) a presentation by Todd Carpenter, NAR's Director of Data Analytics, on NAR's new "Big Data" initiative; (c) a staff briefing on the status of pending federal legislative/regulatory developments in the tech space, including data privacy and security legislation and NAR's first Twitter-based Call for Action in support of Senate patent reform legislation;

(d) a report on an anticipated May 15, 2014 Federal Communications Commission (FCC) Notice of Proposed Rulemaking (NPRM) to amend network neutrality rules overturned last year by the courts. Staff will review the NPRM in light of NAR policy principles supporting network neutrality and submit comments to the FCC; and
(e) the recent roll-out of an online data piracy and security course for Realtors® developed at the suggestion of the Federal Technology Policy Advisory Board.

**VIII. Other Legislative/Regulatory Updates**
In a follow-up to an earlier report on NAR's efforts to encourage the use of electronic signatures, staff provided an update on NAR's second Electronic Signatures Summit. This event brought together three dozen representatives of government, lenders, electronic signature vendors, and real estate and related industries to discuss ways to foster greater acceptance and usage of electronic signatures. Most notably, two days after the meeting, HUD announced that it would now accept e-signatures on most documents involved in FHA mortgage insurance, mortgage servicing, loss mitigation and FHA insurance claims. The members of the Committee then shared their experiences with the use of e-signatures in sales transactions.

The Committee was also briefed on the status of ongoing policy matters. These included updates on efforts to harmonize the Truth-in-Lending and Good Faith Estimate forms, the Consumer Financial Protection Bureau's (CFPB) approach to RESPA enforcement, and the status of legislation to resolve the Dodd-Frank 3% affiliate cap issue.

It was also announced that on March 11, 2014, S. 2101, (Schumer, D-NY; Heller, R-NV), a bill to amend the Interstate Land Sales Full Disclosure Act (ILSA), was introduced. The bill would treat unit sales in condominium projects still under development in the same manner as sales in completed condo projects for purposes of the ILSA. The Committee had recommended, and the Board of Directors approved, policy that would direct NAR to support legislation to do just this at the 2013 Annual meeting.

On the federal regulatory front, the Committee reviewed the following new developments:

(a) the CFPB's "Know Before You Owe" initiative, and electronic mortgage closing forum and pilot program;
(b) the U.S. Department of the Treasury's favorable final rule that responded to NAR's comment letter request that the final rule explicitly recognize "qualified real estate agents" as non-employees for purposes of the Affordable Care Act's employer mandate to provide employee health insurance coverage; and
(c) a February 2014 U.S. Department of Health and Human Services announcement delaying the Affordable Care Act's employer mandate for firms with 50 to 99 full time employees until 2016.

**IX. Adjournment**
The meeting was adjourned by Chairman Jewell at 11:48 am.

**EXHIBIT FOR THE AGENDA OF THE**
**2014 BUSINESS ISSUES POLICY COMMITTEE**
**NATIONAL ASSOCIATION OF REALTORS®**
**2014 REALTORS® CONFERENCE**
**Penny Reed Bio**

**Exhibit Title:**
Penny Reed Bio

**Exhibit Body:**
**Penny Reed**
**Vice President - Strategy and Financial Reform**
**Wells Fargo Home Mortgage**

Penny Reed is Vice President Strategy and Financial Reform at Wells Fargo Home Mortgage. A 30-year veteran of the mortgage industry, Reed has been with Wells Fargo for 25 years in various positions including underwriting, credit risk management, capital markets, strategic partner management and agency relations. Her current role is focused on the impacts of Financial Reform on industry partners.

**EXHIBIT FOR THE AGENDA OF THE**
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**NATIONAL ASSOCIATION OF REALTORS®**
**2014 REALTORS® CONFERENCE**
**Enrollment Information**

**Exhibit Title:**
Enrollment Information

**Exhibit Body:**

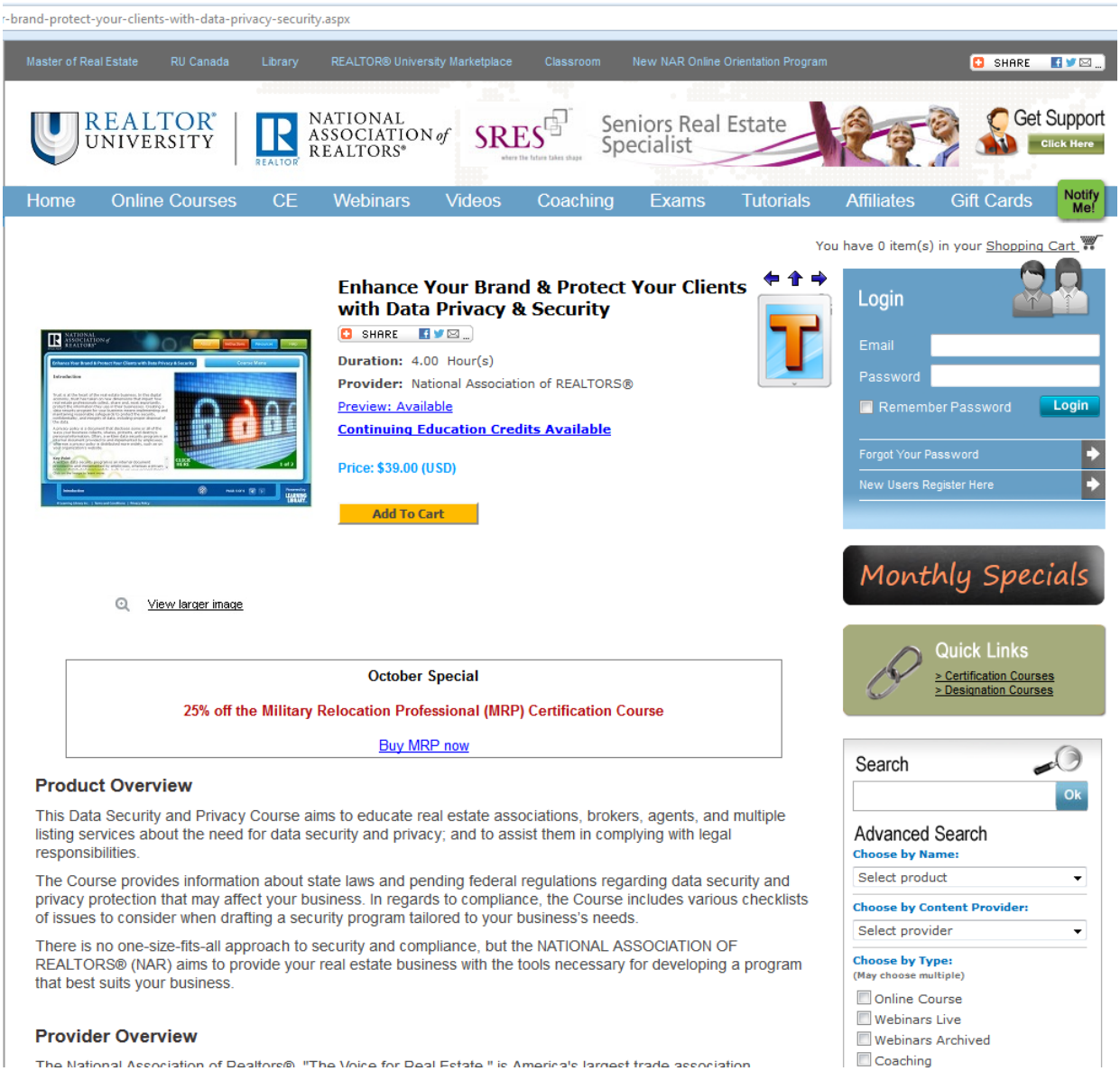

**EXHIBIT FOR THE AGENDA OF THE**
**2014 BUSINESS ISSUES POLICY COMMITTEE**
**NATIONAL ASSOCIATION OF REALTORS®**
**2014 REALTORS® CONFERENCE**
**Data Privacy and Security Issue Summary**

**Exhibit Title:**
Data Privacy and Security Issue Summary

**Exhibit Body:**

**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. With the recent data breaches of Target, Home Depot and other large retailers, we can expect a number of privacy and data security bills to be introduced in 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 (FTC), 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 recognizes the importance of protecting client data entrusted to them and supports common sense data privacy and security safeguards that are effective but do not unduly burden our members' ability to efficiently run their businesses. Proposed regulations must be narrowly tailored to avoid burdening businesses, especially small businesses that lack the resources available to larger entities.

**NAR Data Privacy & Security Principles**
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.)

**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

**Opposition Arguments:**
Opponents to legislative and regulatory efforts generally oppose the scope of limitations on various business practices that may significantly curtail certain business models or create what is viewed to be excessive costs for business. Others believe that proposed legislation/regulations do too little to protect consumers.

**Legislative/Regulatory Status/Outlook**
The Senate has introduced S. 1193, "The Data Security & Breach Notification Act" (Toomey R-PA) that would establish a national data security breach notification standard and preempt a patchwork of state regulations. No companion House bill has yet been introduced.

This legislation is not expected to pass in the 113th Congress. Privacy and data security legislation will undoubtedly be introduced in the 114th Congress and we will work to ensure that it reflects the needs of the real estate industry.

Privacy and data security will remain a hot topic in Congress and on the regulatory front. Several bills were introduced in this Congress and many hearings held. 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 multi-stakeholder process to recommend industry self-regulatory practices.

On May 1, 2014, the White House issued a report on Big Data & Privacy. In the report it recommended that legislation be passed to give consumers a Privacy Bill of Rights as well as data breach notification legislation.

NAR has developed an educational toolkit for members and has developed an online training course available through REALTOR® University. To view the toolkit visit:

www.realtor.org/law-and-ethics/nars-data-security-and-privacy-toolkit

**Current Legislation/Regulation (bill number or regulation)**
S. 1193 Data Security & Breach Notification Act (Toomey R-PA)
S. 1897 Personal Data Privacy and Security Act (Leahy D-VT)
S. 1927 Data Security Act (Carper D-DE, Blount R-MO)
S. 1976 Data Security and Breach Notification Act (Rockefeller D-WV)
S. 1995 Personal Data Protection and Breach Accountability Act (Blumenthal D-CT)

**Legislative Contact(s):**
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**Regulatory Contact(s):**
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**EXHIBIT FOR THE AGENDA OF THE**
**2014 BUSINESS ISSUES POLICY COMMITTEE**
**NATIONAL ASSOCIATION OF REALTORS®**
**2014 REALTORS® CONFERENCE**
**Patent Litigation Reform**

**Exhibit Title:**
Patent Litigation Reform

**Exhibit Body:**

**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 the 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 learned that several large brokers have been sued for alleged infringement of a patent dealing with property valuation. New "trolls" pop up all the time and increasingly REALTORS® and MLSs are the subject of their demands to license bogus patents. The problem is only growing worse over time.

**NAR Policy:**
NAR believes that curbing questionable patent litigation is a needed reform. However, improving patent system transparency and patent quality are equally important. While the Patent Trademark Office (PTO) has taken important steps to improve the system, more work is needed.

Without needed reforms that assure that asserted patent rights are legitimate, the ability of businesses owned by REALTORS®, many of which are small businesses, to grow, innovate and better serve modern consumers will be put at risk.

**Opposition Arguments:**
Opponents argue that proposed reform could sweep in legitimate business practices, reduce the value of patent assets and chill innovation.

**Legislative/Regulatory Status/Outlook**
The House overwhelmingly passed H.R. 3309, "The Innovation Act" (Goodlatte, R-VA) on December 5, 2013. The Senate failed to pass S. 1720, the Patent Transparency and Improvements Act, so new legislation will be taken up in the new Congress in January 2015. The White House has signaled that it supports patent litigation reform.

NAR has been lobbying on our own behalf and as part of the Main Street Patent Coalition to support common sense patent litigation reforms. NAR launched its first ever Twitter Call for Action in 2014 to urge Senators to pass patent litigation reform.

There is no expectation that reform legislation will pass in the 113th Congress. NAR is working with our coalition partners to tee up legislation early in the 114th Congress in January 2015.

**Current Legislation/Regulation (bill number or regulation)**
H.R. 845, the SHIELD Act
S. 866, the Patent Quality Improvement Act (Schumer D-NY)
S. 1013, the Patent Abuse Reduction Act (Cornyn R-TX)
S. 1612 "The Patent Litigation Integrity Act" (Hatch R-UT)
S. 1720 "The Patent Transparency & Improvement Act" (Leahy D-VT, Lee R-UT)
HR 3309, "The Innovation Act" (Goodlatte R-VA)

**Legislative Contact(s):**
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**Regulatory Contact(s):**
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**EXHIBIT FOR THE AGENDA OF THE**
**2014 BUSINESS ISSUES POLICY COMMITTEE**
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**Net Neutrality**

**Exhibit Title:**
Net Neutrality

**Exhibit Body:**

**What is the fundamental issue?**
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.

**I am a real estate professional. What does this mean for my business?**
The business of real estate is increasingly conducted on-line. Streaming video, virtual tours and voice-over-internet-protocol are just some of the technologies that are commonly used by real estate professionals today. In the future, new technologies will be adopted which will no doubt require unencumbered network access.

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 would (1) limit the public's access to real estate websites, (2) limit a real estate firm access to online service providers who may be in competition with network operators' own services, e.g. Internet phone services, or (3) 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.

**NAR Policy:**
NAR supports legislative and regulatory efforts to ensure that broadband providers adhere to net neutral practices. NAR is concerned about the FCC's "fast lanes" proposal and has commented in opposition to the current proposed rule.

The business of real estate is increasingly conducted on-line. Streaming video, virtual tours and voice-over-internet-protocol are just some of the technologies that are commonly used by real estate professionals today. Net neutral practices will be essential to ensure that real estate content may be freely and efficiently distributed online.

NAR supports seven principles to guide lobbying efforts on any legislation to require broadband providers to adhere to net neutral practices:

1. Consumers are entitled to access the lawful Internet content of their choice;
2. Consumers are entitled to run applications and services of their choice, subject to the needs of law enforcement;
3. Consumers are entitled to connect their choice of legal devices that do not harm the network;
4. Consumers are entitled to competition among network providers, application and service providers, and content providers;

5. Network providers should not discriminate among internet data transmissions on the basis of the source of the transmission as they regulate the flow of network content;
6. Broadband providers must be transparent about the service they provide and how they run their network and;
7. These principles should apply to both wireless and wireline networks.

**Opposition Arguments**
Opponents of network neutrality fear that excessive regulation of Internet Service Providers will create a disincentive to invest in new or additional Internet infrastructure ultimately leading to poor service for consumers.

**Legislative/Regulatory Status/Outlook**
On December 21, 2010, the Federal Communications Commission (FCC) issued new rules on net neutrality. Under these rules, wired broadband providers were "prohibited from blocking lawful content, applications, services and the connection of non-harmful devices to the network." Wireless broadband providers, however, were allowed more flexibility, reflecting the technical limitations on the amount of traffic a wireless network can handle. Both wired and wireless broadband providers were subject to transparency requirements, which require them to let consumers know how they manage network activity. The new rules also allowed internet service providers to charge usage-based fees for broadband, so customers using more bandwidth may be charged more for service than customers using less bandwidth.

On January 14, 2014, the U.S. Court of Appeals for the District of Columbia ruled that key elements of the FCC's 2010 Open Internet Order are invalid. By tossing out these rules, Internet Service Providers (ISPs) are now free to charge content companies higher fees to deliver Internet traffic faster or otherwise more efficiently.

On May 15, 2014, the FCC issued a proposed rule for comment. This rule would allow large content providers like Netflix, Facebook and others to negotiate separate, exclusive deals with Internet Service Providers to carry their content on faster connections. This has been termed "Internet fast lanes." The proposed rule is now subject to a public comment period through September 10.The FCC will issue a final rule sometime before the end of the year.

NAR has filed comments opposing the Commission's "fast lanes" proposal. In addition we organized a broad real estate coalition including over 100 MLSs, large firms and industry associations opposing the FCC's proposal. NAR will continue to let members of Congress know about our concerns and urge them to weigh in with the FCC.

The FCC is expected to issue its final rule before the end of 2014.

**Current Legislation/Regulation (bill number or regulation)**
FCC Notice of Proposed Rulemaking entitled "Preserving the Open Internet" and "Broadband Industry Practices, GN Docket No.09-191, WC Docket No. 07

**Legislative Contact(s):**
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**Regulatory Contact(s):**
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**EXHIBIT FOR THE AGENDA OF THE**
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**2014 REALTORS® CONFERENCE**
**Internet Tax Bills Updates**

**Exhibit Title:**
Internet Tax Bills Updates

**Exhibit Body:**
On February 14, 2013, S. 743, "The Marketplace Fairness Act", a bipartisan bill, was introduced by Senators Enzi (R-WY), Alexander (R-TN), Heitkamp (D-ND) and Durbin (D-IL). That same day in the House of Representatives, Rep. Womack (R-AR) introduced H.R. 684, a companion bill to the Senate's. This legislation would assist states in collecting state sales and use taxes due on Internet and other remote purchases. It will also level the playing field for traditional "brick-and-mortar" businesses which have faced an unfair price disadvantage against online sellers due to sales taxes.

On May 6, 2013, the Senate passed S. 743 by a vote of 69-27. The legislation was referred to the House Judiciary Committee, where it has faced a far less certain future. The Judiciary Committee held a hearing on the bill in March 2014, but it appears that the chairman of the committee is not enthusiastic about moving it forward.

In the meantime, however, the House did pass H.R. 3086, the Permanent Internet Tax Freedom Act, a measure that would permanently extend an existing moratorium on state and local Internet access taxes. This measure enjoys support from a wide range of Members of Congress. While some in the Senate would like to combine the Marketplace Fairness Act with H.R. 3086, it is unclear whether such an attempt would be successful in the Senate or House. NAR continues to advocate for both measures.

**EXHIBIT FOR THE AGENDA OF THE**
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**Engaging with the FAA on Unmanned Aerial Vehicles**

**Exhibit Title:**
Engaging with the FAA on Unmanned Aerial Vehicles

**Exhibit Body:**
NAR continues to educate the Federal Aviation Administration(FAA) on how real estate professionals can use unmanned aerial vehicles (UAVs) safely to photograph properties to market for sale. Currently, the FAA prohibits the use of UAVs for any commercial purpose, but is developing draft regulations to allow the use of small UAVs for commercial purposes. The FAA's primary concerns about the use of UAVs are safety and privacy; NAR has made the argument that real estate professionals have an economic incentive to use these devices safely and responsibly. Draft regulations are to be published in November, 2014, with final promulgation due in September, 2015.
*For more information visit www.realtor.org/uavs*

**EXHIBIT FOR THE AGENDA OF THE**
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**2014 REALTORS® CONFERENCE**
**Crowdfunding**

**Exhibit Title:**
Crowdfunding

**Exhibit Body:**
**Crowdfunding and the Jumpstart Our Business Startups (JOBS) Act of 2012**

Approved in April 2012, the Jumpstart Our Business Startups (JOBS) Act of 2012 made changes to security regulations governing solicitation of investors, including an allowance for "non-accredited" investors to engage in "crowd funding" activities. "Non-accredited investors" are defined as an investor whose net worth is less than $1 million and who earned less than $200,000 annually for the last two years. As would be expected, crowdfunding has attracted significant interest from real estate developers as a means of funding new real estate projects.

Crowdfunding refers to the financing of an activity through the collective cooperation of people who pool their money or other resources, sometimes through a networking site on the internet. Crowdfunding has been in practice for some time before the JOBS Act was written, but the Act created guidelines for many aspects of crowdfunding, including individual investment limits and management of funds solicited via third-party platforms.

The Securities Exchange Commission (SEC) issued draft regulations in October 2013; a public comment period closed in February 2014. The proposed rules generated an extremely large number of comments. Many commenters were united in their opinion that the rules were not right, but were split between whether the regulations were too relaxed or too restrictive in either protecting the individual investor or creating a positive regulatory environment for crowdfunding to occur. The SEC is reviewing comments received; there is no known date of publication for any revised crowdfunding rules.

**EXHIBIT FOR THE AGENDA OF THE**
**2014 BUSINESS ISSUES POLICY COMMITTEE**
**NATIONAL ASSOCIATION OF REALTORS®**
**2014 REALTORS® CONFERENCE**
**RESPA/TILA Harmonization Update**

**Exhibit Title:**
RESPA/TILA Harmonization Update

**Exhibit Body:**

**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. The Final rule is an improvement over the 2012 proposed rule but there are still questions, complications, and costs related to implementation on August 1, 2015.

**I am a real estate professional. What does this mean for my business?**
This will make the closing process more rigid and uniform but it also could lengthen it. The requirement that the settlement disclosure be issued three days before closing may lead to delays even though things other than major loan terms can be adjusted during that period.

**NAR Policy:**
NAR supports a RESPA/TILA harmonization that adds transparency, simplifies disclosures, and reduces burdens to settlement service providers including real estate professionals. RESPA and TILA are confusing statutes with sometimes conflicting disclosures and procedures. A single reformed set of rules and initial disclosures could benefit settlement service providers and consumers and improve the settlement process.

**Regulatory Status**
The final rule was issued November 20, 2013.

The CFPB largely addressed NAR's major concerns regarding the proposed 3 day waiting period to close transactions nevertheless concerns about delays and how the mortgage transaction interacts with the real estate transaction remain. CFPB also dropped many provisions including the "all in" APR would have been problematic at best. The rule takes effect in August of 2015, giving industry and CFPB significant time to fine tune the rule and implement the changes.

NAR submitted comments on the proposed rule's harmonization provisions on November 5, 2012.

**Current Legislation/Regulation (bill number or regulation)**
Public Law 111-203 (HR 4173, The Dodd Frank Wall Street Reform and Consumer Protection Act)

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**EXHIBIT FOR THE AGENDA OF THE**
**2014 BUSINESS ISSUES POLICY COMMITTEE**
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**CFPB RESPA Enforcement is for Real**

**Exhibit Title:**
CFPB RESPA Enforcement is for Real

**Exhibit Body:**
By Ken Trepeta – Director of Real Estate Services, National Association of REALTORS®

In the April column we warned that the Consumer Financial Protection Bureau (CFPB) was going to be aggressive on RESPA as it has more resources and power than HUD ever had. Three cases were worthy of CFPB press releases but numerous others cases are waiting in the wings. Of the three major cases, one called into question the disclosure and marketing practices of affiliates including required use, another the payment arrangements in a title affiliated business, and the third marketing agreements between title companies and other settlement service providers.

The takeaway from the first case is firms must follow to the "capital N-O-T" the HUD 1996 sample affiliated business disclosure. They also must not use the disclosure to push in house services or leave the impression that one might have to use the services in their other agreements. Not only must the firm change its materials and practices (and always avoid required or implied required use of a provider), but it will have to pay a $500,000 fine. Of course that is a lot of money but the CFPB has the power to fine up to $5,000 a day for mistakes, $25,000 a day for reckless violations and $1 million a day for intentional violations so it could have been worse. For the record, a year's worth of mistakes could cost $1.825 million, recklessness $9.125 million, and $365 million for flouting the law directly.

The second case is murkier but makes a violation of the practice of paying commissions to title agents who were not employees of the title insurer they were making referrals to. It would be OK if the agents were employees according to the CFPB but since they are not the commissions are illegal referral fees. The fine in this case was $30,000.

A third case emerged in September where a title company was fined $200,000 for using marketing agreements to hide referral fees. The firm based its marketing agreement values on the number of referrals which has long been something regulators viewed as a RESPA violation. Also, there was little evidence of actual marketing being done.

What is noteworthy is that all three cases were settled via consent decrees. What this means is that the defendant chose to concede rather than contest the prosecution through the administrative law process or the courts. It is perfectly reasonable for a firm to decide to cut their losses and agree to change their practices and pay a fine rather than spend millions litigating a point they might ultimately lose. The problem industry has with consent decrees is that it changes the rules of the road for everyone based on essentially one case or fact pattern without judicial scrutiny for the most part. So a firm would be putting itself at serious risk if it continued to use an affiliated business disclosure that did not conform to the consent decree mentioned above. Likewise, a firm that continued to pay commissions to non-employee title agents would also be risking prosecution. And finally, paying for referrals via a marketing agreement has long been inadvisable and the current case does little to illuminate where the line is for an acceptable marketing agreement and an unacceptable one.

This is just the beginning of enforcement actions. For example, all forms of marketing agreements will receive scrutiny, whether they are done by large firms or individual agents or teams. The less these agreements look like genuine marketing and the more they look like compensation for a referral arrangement, the more likely CFPB will prosecute.

Of course anyone already violating RESPA by taking things of value from referrers or giving things of value for referrals is at greater risk. It is not just the CFPB one has to worry about. It is very easy for competitors to make these complaints and CFPB to act on them. So when one competitor sees another competitor's real estate agent friend in their seats at the stadium, it is much easier to submit the RESPA complaint and much easier for CFPB to investigate and act. And that is what they intend to do. For tools and products to prevent RESPA violations visit www.realtor.org/respa.

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**3% Cap Update**

**Exhibit Title:**
3% Cap Update

**Exhibit Body:**
In June, the House of Representatives passed H.R. 3211, The Mortgage Choice Act, and it was passed again as part of a broader package (H.R. 5461) in September- that addresses discrimination against affiliate businesses in the calculation of fees and points under the Qualified Mortgage (QM) safe harbor. H.R. 3211, and its Senate companion, S. 1577, is a bipartisan compromise that reduces discrimination against mortgage firms with affiliates in the calculation of fees and points in the Dodd-Frank Ability to Repay/Qualified Mortgage (QM) rule.

The QM rule sets the standard for mortgages by providing significant compliance certainty to QM loans that do not have risky features and meet certain requirements. A key requirement is that points and fees for a QM may not exceed 3 percent of the loan amount. The problem arises from the fact that under current law and rules, what constitutes a "fee" or a "point" varies greatly depending upon who is making the loan and what arrangements are made by consumers to obtain closing services. As a result of these definitions, many loan originators affiliated with other settlement service providers are not be able to make QM loans to a significant segment of otherwise qualified borrowers.

For those of you with an interest, please take the time to thank the House sponsors who did a spectacular job navigating the gridlock in Washington - Representatives Bill Huizenga (R-MI), Gregory Meeks (D-NY), Spencer Bachus (R-AL), David Scott (D-GA), Ed Royce (R-CA), Mike Doyle (D-PA), Steve Stivers (R-OH), Gary Peters (D-MI), Patrick Murphy (D-FL), and Betty McCollum (D-MN).

Now it is time for the final push in the Senate. The lead sponsors of S. 1577 are Senators Manchin (D-WV), Johanns (R-NE), Levin (D-MI), Kirk (R-IL), Stabenow (D-MI), Toomey (R-PA), Klobuchar (D-MN), Portman (R-OH) and Isakson (R-GA). Senator Manchin attempted to attach the bill to GSE reform in the Senate Banking Committee but was rebuffed at the last minute. As we head into the fall, we'll be working to find other avenues to enact this important legislation.

The discrimination in the calculation of fees and points is being felt by consumers who are seeing reduced choices and added hassles in their transactions. A spring NAR survey of affiliated mortgage lenders revealed almost half experienced problems due to the 3% cap and in almost half those instances, consumer either were not able to complete the transaction or not able to complete the transaction with their preferred settlement services provider. Where services were outsourced and charges known to the lender, nearly half of loans (43.8) reported higher fees as compared to the same (12.5) or unknown (43.8).

Worse than the data are the stories being told by REALTORS®. In one case a buyer wound up paying $600 more a year for their homeowner's insurance because they could not use the real estate affiliate. One real estate company is reporting that on deals where outside services are used, the additional costs are up to $500 more per transaction. Another company reports that borrowers were forced to use outside title simply because state law fixed the rates of title and it was impossible to adjust the rate to comply with the 3% cap.

Needless to say, these situations limiting choice are not benefitting consumers. That is why S. 1577 is called the Mortgage Choice Act, because it restores consumer options in choosing a mortgage provider. Now that the House has passed the legislation, it is critical for Senate to act during the lame duck session. So call or write your Senators and ask them to pass S. 1577 - the bipartisan Mortgage Choice Act by bringing up and voting for H.R. 5461 or whatever manner ensures enactment before the end of the 113th Congress in December.

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**ILSA Amendments Signed into Law**

**Exhibit Title:**
ILSA Amendments Signed into Law

**Exhibit Body:**
NAR worked with Congress to secure amendments to H.R. 2600, "The Interstate Land Sales Full Disclosure Act (ILSA)," which clarifies how the Act applies to condominiums. As amended, the ILSA will now treat the sales of condominiums in projects still under development in the same manner as condo sales in completed projects. By doing so, the bill closes the loophole that allowed buyers to use a technicality to rescind otherwise valid real estate contracts due to personal financial reason or "buyer's remorse." President Obama signed the bill into law on September 26, 2014. It will go into effect on March 25, 2015.

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**ACA 2015 Open Enrollment Period for Individual Health Exchanges**

**Exhibit Title:**
ACA 2015 Open Enrollment Period for Individual Health Exchanges

**Exhibit Body:**
**ACA Open Enrollment Dates for 2015 Individual Health Exchanges**

Open enrollment for 2015 health insurance plans through the individual health insurance exchanges begins Nov. 15, 2014, and ends Feb. 15, 2015.

**November 15, 2014:** The first day you can log in to review your plan choices and change plans for 2015 if you want to.

**December 15, 2014:** If you won't be automatically enrolled, you must choose a plan and complete all enrollment steps to be covered starting January 1, 2015.

**December 31, 2014:** All 2014 Marketplace coverage ends, no matter when it started

**January 1, 2015:** First date 2015 coverage can begin

**February 15, 2015:** Deadline to sign up for 2015 coverage. If you miss this deadline, you can't enroll in coverage during 2015 unless you qualify for a Special Enrollment Period.

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**IRS Tax Tips - Employer Responsibilities Under the Affordable Care Act**

**Exhibit Title:**
IRS Tax Tips - Employer Responsibilities Under the Affordable Care Act

**Exhibit Body:**
**IRS Tax Tips October 16, 2014**
**Issue Number: HCTT-2014-21**
**Inside This Issue**

## Information for Employers about Their Responsibilities Under the Affordable Care Act

If you are an employer, the number of employees in your business will affect what you need to know about the Affordable Care Act (ACA).

Employers with 50 or more full-time and full-time-equivalent employees are generally considered to be "applicable large employers" (ALEs) under the employer shared responsibility provisions of the ACA. Applicable large employers are subject to the employer shared responsibility provisions. However, more than 95 percent of employers are not ALEs and are not subject to these provisions because they have fewer than 50 full-time and full-time-equivalent employees.

Whether an employer is an ALE is determined each calendar year based on employment and hours of service data from the prior calendar year. An employer can find information about determining the size of its workforce in the employer shared responsibility provision questions and answers section of the IRS.gov/aca website and in the related final regulations.

In general, beginning January 1, 2015, ALEs with at least 100 full-time and full-time equivalent employees must offer affordable health coverage that provides minimum value to their full-time employees and their dependents or they may be subject to an employer shared responsibility payment. This payment would apply only if at least one of its full-time employees receives a premium tax credit through enrollment in a state based Marketplace or a federally facilitated or Marketplace. Also, starting in 2016 ALEs must report to the IRS information about the health care coverage, if any, they offered to their full-time employees for calendar year 2015, and must also furnish related statements to their full-time employees.

For 2014, the IRS will not assess employer shared responsibility payments and the information reporting related to the employer shared responsibility provisions is voluntary. In addition, the employer shared responsibility provisions will be phased in for smaller ALEs from 2015 to 2016. Specifically, ALEs that meet certain conditions regarding maintenance of workforce size and coverage in 2014 are not subject to the employer shared responsibility provision for 2015. For these employers, no employer shared responsibility payment will apply for any calendar month during 2015 (including, for an employer with a non-calendar year plan, the months in 2016 that are part of the 2015 plan year). However these employers are required to meet the information reporting requirements for 2015. The employer shared responsibility provision questions and answers section of the IRS.gov/aca website and the preamble to the employer shared responsibility final regulations describe the requirements for this relief in more detail. Both resources also describe additional forms of transition relief that apply for 2015.

Small employers, specifically those with fewer than 25 full-time equivalent employees, may be eligible for the small business health care tax credit.

Regardless of the number of employees, if an employer sponsors a self-insured health plan, it must report to the IRS certain information about its health insurance coverage plan for each covered employee.

**More information**
Find out more about the small business health care tax credit, applicable large employers, the employer shared responsibility provision, information reporting requirements and the premium tax credit at IRS.gov/aca.

Find out more about the health care law at HealthCare.gov.

Subscribe to IRS Tax Tips to get easy-to-read tips via e-mail from the IRS.

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**Sunday RESPA Session Flyer**

**Exhibit Title:**
Sunday RESPA Session Flyer

**Exhibit Body:**