



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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June 1, 2009

The Honorable Barney Frank
United States House of Representatives
2252 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Frank:

The National Association of REALTORS® opposes section 204 of H.R. 2454 (Waxman, D-CA), the “American Clean Energy and Security Act” that establishes a building energy performance labeling program. The legislation has been jointly referred to the Financial Services Committee, and we urge you to oppose the labeling provisions.

H.R. 2454 directs the EPA to develop energy performance labels for residential and commercial buildings based on existing programs that rate real estate on a numerical scale (section 204(f)). The existing program uses utility bill data to determine the rating for building types. However, a property’s energy performance will depend on many variables including climate, construction and occupant behavior. Reducing building performance to a number based on utility bill data will not reliably predict energy performance or help the owner to identify property specific improvements that will actually save money.

Proponents have asserted that labels merely provide information and changes have been made so the legislation will not disrupt real estate transactions. However, section 204(h)(3) (“Means of Implementation”) still includes provisions for state governments to disclose labels at the point of sale. A new paragraph 8 (“Prevention of Disruption of Sales Transactions”) has been added to subsection (h) but it will not take effect until a contract is “executed” – far too late in the process to avoid disrupting a sale. NAR believes that this process will create an additional obstacle that will negatively impact an already struggling real estate market.

Labeling is not voluntary for state governments seeking use of section 132 funding. Section 204(h)(4) conditions use of the funds on state adoption of a law or plan to implement a labeling program. Faced with a weak economy and declining revenue base, few state governments are likely to pass up any new funding source that helps ease their budgetary shortfall.

NAR does support provisions in H.R. 2454 that will result in energy improvements to property. Matching grants and contractor verification provisions in section 202 will do more to incentivize energy efficiency than mislabeling of property during an economic downturn. We urge you to delete section 204 labeling provisions and retain section 202 retrofit incentives when the bill is considered in committee.

Sincerely,

Charles McMillan, CIPS, GRI
2009 President
National Association of REALTORS®

