



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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June 9, 2009

The Honorable Russell Feingold
United States Senate
506 Hart Senate Office Building
Washington, DC 20510-4904

Dear Senator Feingold:

On behalf of the 1.2 million members of the NATIONAL ASSOCIATION OF REALTORS®, we wish to share our concerns with S. 931, the Arbitration Fairness Act of 2009. REALTORS® oppose S. 931 because it would not only fundamentally change the way disputes in a real estate transaction are handled, it would invalidate arbitration clauses contained in real estate sales contracts that have already been ratified -nullifying millions of existing agreements and causing widespread legal uncertainty.

The underlying assumption of this bill is that parties to arbitration necessarily possess unequal bargaining power. However in the real estate context, the parties to a sales agreement are generally transacting on a level playing field. Both buyer and seller have agreed to arbitrate a dispute that may arise from their transaction in an effort to resolve their differences quickly and without resort to costly litigation. This is precisely the outcome Congress intended when it enacted the Federal Arbitration Act in 1925. Congress should carefully consider the consequences of significantly altering an alternative dispute resolution system which has served the American public well for more than eighty years.

A recent report released by the Northwestern University School of Law Searle Civil Justice Institute shows that arbitration provides access to justice in an inexpensive and expeditious manner and that outcomes are not biased in favor of parties, like businesses, that arbitrate on a repeated basis.

The NATIONAL ASSOCIATION OF REALTORS® opposes any legislation which would revoke the longstanding recognition of arbitration as a fair and cost effective alternative to the court system and would alter the consumer's choice to agree to alternative dispute resolution.

NAR would be happy to further discuss the ramifications of S. 931, as written, to the real estate industry. We hope Congress will consider the impact this legislation could have on millions of American homeowners.

Sincerely,

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