

# NAR Statement of Policy

## Insurance Committee

### National Disaster Policy

The National Association of REALTORS® supports a national disaster public policy that:

- Includes post-disaster emergency assistance but emphasizes pre-disaster planning, preparedness, prevention, and the proactive reduction of risk;
- Promotes the private insurance market to assume more disaster risk but does not crowd out private capital or preempt state insurance regulations or programs;
- Ensures that property insurance rates align with the true, specific risk of each individual building;
- Does not impose more than a nominal assessment, surcharge or cross subsidy from some insurance policyholders to others;
- Encourages communities to adopt higher building codes and ordinances that avoid costly retrofits and damage in high-risk areas;
- Provides federal assistance for existing high-risk development to mitigate or relocate; and
- Provides for full transparency, state disclosure requirements

### National Flood Insurance Reform

The National Association of REALTORS® supports national flood insurance reforms in addition to a robust private market.

The National Flood Insurance Program (NFIP) plays a critical role in ensuring that flood insurance remains available in all markets at all times and should continue to exist as an option for residential and commercial property owners.

NAR will continue to work to reauthorize, build on and improve the NFIP, not phase out or replace it.

- Long-term Reauthorization. NFIP's authority to provide flood insurance should be extended for multiples of years rather than months to bring certainty to real estate markets.
- Incremental Fiscal Reform. Congress is considering ways to pay down or avoid future borrowing from the U.S. Treasury. Improving the enforcement of mandatory purchase of flood insurance requirements; temporarily establishing nominal surcharges; and allowing the NFIP to buy reinsurance are all options that could help the program to remain financially solvent in the long run. However, any major reforms should be incremental, gradual over a long period of time and provide sufficient advanced notice to avoid severely disrupting communities, neighborhoods and households.
- Affordable Insurance. As “full risk” premium rates phase in particularly for the pre-Flood Insurance Rate Map properties, many property owners will no longer be able to afford national flood insurance or sell their properties without a loss. Congress should provide reasonable alternatives to help ease the transition and make these families whole again, including:
  - Providing federally backed mitigation loans or grants directly to property owners to build higher or stronger; such assistance should be made available before floods as well as after.
  - Offering a one-time buy-out of high-risk properties at fair market values for communities to convert to open space, parks or other flood-compatible uses that enhance neighborhood property values.

- Streamlining and making consumer friendly the process for property owners to obtain mitigation loans, grants or buyouts with a minimum of paperwork, burden and red tape.
- Providing a gradual glide path for flood insurance rates to reach full-risk levels so no one will see sudden or unreasonable premium jumps overnight or through no fault of their own.
- Ensuring the accuracy of flood maps/insurance rates by providing for performance-based incentives as well as adequate training, quality assurance/control and oversight of Write-Your-Own insurance companies and other NFIP contractors.
- Grandfathering property owners who build/built higher or stronger so they won't build to one set of standards only to have them raised in the next flood map update only a few short years later.
- Enabling communities to purchase flood insurance as most insurance pricing and coverage decisions are best kept at the state or local level.
- Streamlining and encouraging the use of the Community Rating System, which offers insurance discounts in exchange for additional floodplain management investments by communities.
- Fair Premium Rates. According to independent actuaries, NFIP's rate setting methods are outdated and result in many property owners being overcharged. The federal program should modernize in order to better align insurance rates to the specific flood risk of properties, for instance by:
  - Dividing flood zones into coastal and inland subzones and creating a new rate table for each.
  - Moving toward site-specific hazard assessments rather than averaging across 30 national flood hazard scenarios.
  - Incorporating more precise risk factors (e.g., distance to river) in addition to the elevation and the general location of a structure.
  - Investigating the adoption of modern technologies such as catastrophe modeling or light detection and ranging (LiDAR).
  - Obtaining more granular and reliable property data, e.g., through commercial sources or incentivizing property owners to obtain elevation certificates.
- Accurate Flood Maps. The NFIP should:
  - Move toward higher resolution and property specific flood maps to improve the accuracy of the flood risk determinations;
  - Take advantage of recent technological advances including the availability of LiDAR and web-based mapping, as well as catastrophe modeling alternatives;
  - Provide a simpler, quicker and inexpensive appeals process in order to remove low-risk properties from high-risk maps; and
  - Reimburse all property owners who successfully appeal the accuracy of their flood map.
- Homeowner's Advocate. Even in its rudimentary current form, understanding the NFIP and the process of properly determining a property's risk is complex. As such, a fully funded and robust office of the homeowner's advocate is a key part of the solution to problems that property owners have in finding answers and/or assistance.
- NFIP Depopulation. If NFIP rates continue to rise, more policyholders may be able to find better coverage at lower cost from private insurance companies where available. FEMA should encourage a private primary flood insurance market to assume-NFIP policies, while preserving the federal program for those who need it.

## **Private Flood Insurance Market**

The National Association of REALTORS® supports the development of a robust private market for flood insurance:

- Private Flood Insurance Options -- The development of private market flood insurance options should be encouraged when property owners lack access to affordable coverage under the National Flood Insurance Program (NFIP).
- NFIP – An Essential Component -- While private flood insurance options are a vital complement, a reformed NFIP is essential to ensuring that flood insurance coverage is available to all property owners in all markets at all times, and especially those not served by the private flood insurance marketplace.
- Continuous Coverage -- Private flood insurance coverage should be taken into consideration when FEMA assesses whether a property owner has maintained “continuous coverage” for purposes of rate setting under the NFIP.
- Dispute Resolution -- Private flood insurance customers should have access to alternative conflict resolution methods (e.g., arbitration, mediation, etc.) that provide a less costly alternative to litigation to resolve disputes over coverage terms or claims payments.
- Flood Insurance Disclosure -- Consumers have a right to know the terms and full costs of coverage purchased, including any caps on claims, limitations and exclusions, as well as whether the flood insurance rates and coverage terms are regulated by the state. Standard consumer disclosures should be developed and implemented to serve this purpose.
- Federal Over-Regulation -- Duplicative, overlapping or unnecessary federal requirements should be removed for private flood insurance companies that are already licensed and regulated by the state.
- Federal Mortgage Programs and Regulatory Oversight -- Federal flood insurance laws should not limit or supersede the authority of federal mortgage programs (e.g. Fannie, Freddie, FHA, VA, etc.) or federal financial regulators (e.g. FDIC, Federal Reserve, OCC, etc.) to set requirements on the financial solvency and claims-paying ability of private insurers underwriting flood insurance coverage for federally related mortgages.

## **Seller Disclosure of Property Conditions**

We encourage state associations to develop and support legislation or regulation requiring mandatory property condition disclosure by sellers of real property which includes some or all of the following key components:

- Provision that specific written disclosure is required for real property with improved 1 to 4 family dwelling units in a sales transaction, lease with an option to purchase, or ground lease coupled with improvements.
- Provision that the obligation to disclose to the buyer is the responsibility of the seller. Also note that sellers without agents have the same obligation to provide prospective buyers with a fully-executed property condition disclosure form.
- Requirement that written disclosure should be delivered to the buyer as soon as practicable, but no later than before an offer is made.
- Provision that the buyer should acknowledge receipt of property condition disclosure statement upon actual receipt of the statement.
- Provision that written disclosure should include, but not be limited to, the following areas: water (e.g. source of household water, irrigation, water treatment system, sprinkler system), sewer

system, insulation, structure (e.g. roof, foundation, water intrusion, fixtures), hazardous materials (e.g. asbestos, lead based paint, radon, underground storage tanks), known existing or past mold presence (other than that which is known not to adversely affect the property or its occupants) and other material defects known to the seller.

- Provision that the written disclosure statement is not a warranty of any kind by the seller or any agent, and is not a substitute for any inspections or warranties the principals may wish to obtain.
- Requirement for disclosure statement to contain notice to prospective buyers in substantially the following language: "The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and to provide for appropriate provisions in a contract between them with respect to any advice, inspections, defects or warranties."
- Requirement for disclosure form to contain notice to prospective purchasers in substantially the following language: "The following are representations made by the seller and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and the seller."
- Provision that neither the seller nor the seller's agent shall be liable for any error, inaccuracy or omission if the seller or the seller's agent had no personal knowledge of that error, inaccuracy or omission, or if the disclosure was based on information provided by public agencies, or by other persons providing information dealing with matters within the scope of their professional license or expertise (e.g. report or opinion delivered by a land surveyor, structural pest control operator, licensed engineer or contractor).
- Provision to amend disclosure statement, in writing, if necessary with acceptance and approval of the prospective buyer.
- Provision that if information disclosed in accordance with the law is subsequently rendered inaccurate as a result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracies resulting therefrom do not invalidate the statement.
- Provision that no transfer of an interest in real property shall be invalidated solely because of the failure of any person to comply with any provisions of the mandated disclosure requirement.
- Provision that in no event shall the time for commencement of legal action for breach of duty imposed by the disclosure law exceed (a specific number of years determined by individual state) from the date of possession (date of recordation, date of close of escrow, date of occupancy, whichever occurs first).