

NAR INSURANCE TASK FORCE MEETING SUMMARY AND RECOMMENDATIONS

I. Overview

The first meeting of the 2007 NAR Insurance Task Force (“Task Force”) took place in Washington, DC on April 11 and 12. The Task Force heard from NAR staff and outside speakers about several issues including the availability and affordability of insurance for homeowners and commercial property owners, terrorism insurance, and proposed reforms to the National Flood Insurance Program (NFIP). The Task Force reviewed legislative proposals and concepts and made six recommendations. These recommendations and the corresponding rationales are set forth after the meeting summary.

II. Summary of Meeting

The newly-reconstituted Insurance Task Force met April 11-12 in Washington, DC. Task Force members present at the meeting included: Chair Sharon Millett (ME), Gail Duke (NY), Robert Fleck (PA), Nick French (NM), Jo Jenkins (IA), Frank Kowalski (FL), Bob Kulick (CA), Vincent Malta (CA), Michael McGrew (KS), Stan Sieron (IL), Jill Stone (ID), and Kenneth Warden (KY).

NAR staff briefed the Task Force on the Congressional agenda for the 110th Congress. The Task Force reviewed recommendations from the 2002 Insurance Task Force and existing NAR insurance-related policies. The Task force was briefed on current NAR-sponsored research activities, Congressional efforts on insurance regulatory reforms, and terrorism insurance reauthorization efforts.

Bill McInturff of Public Opinion Strategies and Faith Passy-Lewis of the Mellman Group, two nationally-renowned polling firms, briefed the Task Force on the results of an NAR-sponsored national survey of registered voters regarding property and casualty insurance issues. The survey gauged voters’ responses about insurance availability and affordability concerns and their opinions about potential solutions. [A similar nationwide survey of REALTORS® was nearly complete at the time of the meeting, but only preliminary results were available at the time of the meeting.]

Brett Palmer, Managing Director of Government Relations, for the National Association of Insurance Commissioners (NAIC), and Eric Nordman, the NAIC property and casualty insurance expert, briefed the Task Force on the role of the NAIC, provided NAIC perspectives on pending legislation in Congress addressing property and casualty insurance availability and affordability concerns, explained how risk retention groups function, and talked about legislation to reform the National Flood Insurance Program.

The Task Force spent considerable time reviewing and discussing more than a dozen concepts (many, but not all of which are included in existing legislation) that Congress may consider as part of a comprehensive solution to the problem of insurance availability and affordability in disaster-prone areas. Additional details about this discussion can be found in Section III below. Recommendations from this discussion appear at the end of this document.

The Task Force also reviewed, section-by-section, legislation introduced in the House of Representatives, H.R. 1682, that seeks to reform the National Flood Insurance Program. Additional details about this discussion can be found in Section IV below. Recommendations from this review and discussion can be found at the end of this document.

The Task Force decided that, in order to give proper attention to small business health insurance needs, a future meeting should be dedicated to the issue. The Task Force will meet again in June.

III. Natural Disaster Legislation

The Task Force discussed 12 concepts that could help improve the availability and affordability of property and casualty insurance, especially in disaster-prone areas of the country. Many, but not all of these concepts are embodied in legislation that has been introduced in the 110th Congress. There is no one bill that presents a sufficiently comprehensive approach that would have a significant impact on insurance availability and affordability.

Two members of the House Committee on Financial Services are developing legislation to address insurance availability and affordability. Rep. Barney Frank (D-MA), Chairman of the Committee, has expressed an interest in passing such legislation during the 110th Congress. He is relying on two first-term Representatives, Ron Klein (D-FL) and Tim Mahoney (D-FL), to develop a bill, which may be introduced this summer.

The Task Force discussed and offered opinions on concepts, not actual bills. The Task Force also discussed and debated NAR's Statement of Principles on the issue.

IV. National Flood Insurance Program Reform Legislation (H.R. 1682)

The Task Force reviewed a summary of provisions of H.R. 1682, the Flood Insurance Reform and Modernization Act of 2007, introduced by Rep. Barney Frank (D-MA), Chair of the House Committee on Financial Services, and Rep. Judy Biggert (R-IL), Ranking Republican on the Subcommittee on Housing and Community Opportunity. The committee is likely to consider the bill later this year. A number of provisions in the bill would have an impact on REALTORS®.

The Task Force supported the objectives of the bill, namely: to protect the integrity of the National Flood Insurance Program by fully funding existing legal obligations to existing NFIP policyholders who have paid policy premiums in return for flood insurance coverage and to pay debt service on funds borrowed by the NFIP; increase incentives for homeowners and communities to participate in the national flood insurance program and to improve oversight to ensure better accountability of the NFIP and FEMA; and increase awareness of homeowners of flood risks and improve the quality of information regarding such risks provided to homeowners.

The Task Force supported many of the provisions of the bill and took no position on several other provisions. The Task Force opposed no provisions of the bill, but did offer comments and suggestions relating to a few provisions, one of which would require a change in

the NAR Policy on Disaster Prevention, Relief and Insurance. Specifically, the Task Force supported the bill's provision (Section 4) to phase out subsidies for non-residential properties and non-primary residences beginning in January 2011.

V. Issues for Future Meetings

- A. Small Business Health Coverage policy review
- B. Insurance Reform Issues – Optional Federal Charter for Insurance
- C. Antitrust Issues (McCarran-Ferguson Act)
- D. Mitigation incentives; proposals re: homeowners' insurance premium deductibility

VI. Next Steps

The recommendations from the April meeting of the Task Force will be presented to President Combs and the Leadership Team for review and consideration.

The Task Force is planning to meet again in June. The primary focus of that meeting will be to discuss health insurance issues. With the change in the leadership of the Congress and the opposition of the new chairs of the committees with jurisdiction over health issues make it unlikely that last year's small business health plan (SBHP) legislation supported by NAR and the small business community will advance this session. Health insurance reform will be a major focus of both the 2008 Presidential campaign and future Congressional action. If NAR is to continue its involvement in the health insurance issue, additional policy will be required.

Insurance Task Force Recommendations from the April 2007 Meeting

I. Recommendations Regarding a Comprehensive Natural Disaster Policy

A. Recommendation: That NAR amend its Statement of Principles to include support for first responders as a necessary component of any federal disaster policy.

Rationale: NAR's disaster advocacy efforts have been guided by six core principles that express the need for a comprehensive approach to address the availability and affordability of property and casualty insurance. After hearing the results from the nationwide survey of registered voters, a proposal was made that NAR add a seventh principle that would acknowledge the importance of first responders to natural catastrophes.

Current NAR Statement of Principles

NAR supports the creation of a federal policy to address catastrophic natural disasters that:

- 1) Protects property owners by ensuring that transparent and comprehensive insurance coverage is available and affordable, with premiums being reflective of the risk involved;
- 2) Acknowledges the importance of personal responsibility of those living in high-risk areas to undertake mitigation measures, including the purchase of adequate insurance;
- 3) Provides property owners adequate incentives to undertake mitigation measures where and when appropriate;
- 4) Acknowledges the importance of building codes and smart land use decisions while also emphasizing that proper enforcement of both is best left in the hands of state and local governments;
- 5) Recognizes the role of States as the appropriate regulators of property insurance markets while identifying the proper role of federal government intervention in cases of mega-catastrophes; and
- 6) Reinforces the proper role of all levels of government for investing in and maintaining critical infrastructure including levees, dams, and bridges.

B. Recommendation: That NAR, as part of a comprehensive natural disaster policy solution to address concerns about property and casualty insurance availability and affordability, support legislative proposals to: 1) establish a federal commission of insurance experts to study the issue and report to Congress its findings, 2) streamline the existing system of regulation for "surplus lines" of insurance, 3) extend the Liability Risk Retention Act to include insurance for commercial properties, and 4) create of incentives for mitigation activities including a federal mitigation loan program and mitigation tax credits.

Rationale: The Task Force reviewed, discussed and debated thirteen policy concepts designed to improve the availability and affordability of property and casualty insurance in disaster-prone

areas. These four concepts received the unqualified support of the Task Force. New policy would be required in order to support legislation advocating the surplus lines and mitigation proposals.

C. Recommendation: That NAR staff be directed to work with Congressional staff to further develop and refine the following concepts: 1) creation of a federal “backstop” for insurance companies to prevent market failure, 2) creation of personal catastrophe savings accounts, 3) increased funding for critical infrastructure (e.g., levees, dams), and 4) tax deductions for taxpayers whose insurance premiums have increased significantly in recent years.

Rationale: The Task Force was in general agreement that the policy concepts listed above, properly structured, could be helpful in improving the availability and affordability of property and casualty insurance in disaster-prone areas.

D. Recommendation: That NAR not support legislative proposals to allow policyholders who have been denied coverage to buy insurance through the National Flood Insurance Program.

Rationale: The Task Force reasoned that such a proposal would inappropriately expand the scope of the NFIP at a time when the program is financially fragile. Moreover, such an expansion could significantly interfere with the functioning of the existing private property casualty insurance market.

E. The Task Force chose to take no position on proposals to 1) allow insurance companies to set aside tax-deferred reserves for future catastrophic events and 2) amend the NFIP to include multiple-peril coverages. Concerns included the potential “fungibility” of tax-deferred reserves and inappropriate expansion of the scope of the already challenged NFIP.

II. Recommendations Regarding NAR Policy on the National Flood Insurance Program

A. Recommendation: That the existing NAR Policy on Disaster Prevention, Relief and Insurance be amended by removing language that supports subsidies for second homes, vacation homes, and rental properties.

Rationale: The Task Force believed that the National Flood Insurance Program (NFIP) must be reformed to insure the long-term viability of the program and access to the program for those who are required to carry flood insurance. NFIP currently subsidizes flood insurance premiums for properties located in special flood hazard zones and built prior to the establishment of the flood insurance program (i.e. so-called pre-FIRM¹ properties). While these subsidies are appropriate for pre-FIRM principal residences, they create an un-level playing field for rental, income and commercial properties based solely on the age of the property. While a subsidy may have been prudent for all properties when the NFIP was first created to minimize the burden placed on owners and allow for a smooth transition into the program, the Task Force felt this rationale is no longer a valid reason to support subsidies for these properties, especially in a time when the long-term viability of the NFIP is in jeopardy.

¹ Pre-FIRM is a shorthand means of referring to properties that were built before before the Flood Insurance Rate Maps (FIRM) were drawn.

Current NAR Policy on Disaster Prevention, Relief and Insurance

The primary emphasis of federal disaster programs should be the development of a highly coordinated system for prevention and for remedial assistance.

The goal of any federal natural disaster program should be the promotion of available and affordable insurance for residential and commercial properties in disaster-prone areas.

A uniform policy for administering the flood insurance program should be adopted, eliminating the existing double standard which denies insurance coverage for certain flood prone areas, such as coastal barriers, wetlands, and other environmentally sensitive areas, yet retains coverage for the remainder of the United States subject to flooding. Administrative and legislative actions to alter the federal flood insurance program or disaster prevention regulations must ensure legitimate property rights and reasonable development opportunities are not abridged.

The federal flood insurance program should continue to include subsidies for second homes, vacation homes and rental properties. Non-primary residences should be given the same consideration as primary residences.

The federal flood insurance program should impose "full risk" premiums for flood insurance on repetitive loss structures that have repeatedly (i.e., more than two occurrences) suffered insured flood losses and have declined a reasonable offer of mitigation funding from FEMA, except in states which have been granted a federal exemption.

Funding should be appropriated to FEMA's flood hazard mapping program that is sufficient to provide for the updating and modernization of FEMA's flood hazard mapping system. NAR will work in conjunction with FEMA to develop a funding plan.

B. Recommendation: That NAR advocate for the completion of the Federal Emergency Management Agency (FEMA) map modernization program before any additional measures imposing additional mapping requirements on FEMA that may delay updating the current 100 year flood plain maps

Rationale: Section 21 of H.R. 1682 requires FEMA to begin mapping the 500 year floodplain as part of its ongoing map modernization program. The Task Force recommends that the 100 year flood maps be updated before requiring mapping of the 500 year floodplain. The keystone of the National Flood Insurance Program is having accurate flood maps. FEMA is in the middle of a five-year project to update and digitize maps depicting the 100 year floodplain. The Task Force is concerned that imposing additional mapping requirements on FEMA at this time could delay updating the existing 100 year floodplain maps. The Task Force agrees that mapping the 500 year floodplain would be a good idea – but only after the 100 year floodplain maps are updated.

C. Recommendation: That NAR advocate for the establishment of a public education campaign to make all potential tenants and homebuyers aware of the following facts: 1) some residential properties may be located in high-risk flood areas, 2) flood insurance is available under the National Flood Insurance Program (NFIP), 3) the maximum amount of coverage available through the NFIP, and 4) where to obtain NFIP coverage. Such a program would be more

effective at educating a greater number of people (i.e. both tenants and potential homebuyers) of the risks involved in living in high-risk flood areas, as well as the availability of the NFIP coverage, than a proposed FEMA informational brochure that rental property owners would be required to distribute to tenants.

Rationale: Section 9 of H.R. 1682 requires owners of property in Special Flood Hazard Areas (SFHAs) to provide notice to tenants that the property is located in a SFHA; that flood insurance is available for contents of the unit, maximum amount of coverage available; and where to obtain information regarding insurance coverage. The Task Force supported notification of tenants, but expressed concerns about limited effectiveness of such a disclosure requirement and possible record keeping requirements.

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