

Talking Points

IMPROVE ACCESS TO HOMEOWNERSHIP

Address America's Affordable Housing Shortage:

REALTORS® strive to make sure that all Americans have the ability to reach the goal of homeownership, which is the centerpiece of the American Dream and the pathway to economic well-being and intergenerational wealth-building. Throughout the pandemic, the residential real estate market has had a positive economic impact on homeowners, communities and the economy. However, access to the residential real estate market has been severely limited by a historic 50-year record shortage of affordable homes available for purchase. If more residential housing is made available as part of our effort to improve the nation's infrastructure, opportunities to access the wealth-building benefits of homeownership will increase alongside employment levels and economic activity. Indeed, a recent study estimates that the U.S. has developed an "underbuilding gap" of 5.5 million housing units over the last 20 years. This translates into a \$4.4 trillion underinvestment in housing. Even relatively modest steps taken now to reduce this gap will unleash tremendous economic activity and create millions of new jobs.

REALTOR® Asks:

- **Cosponsor the bipartisan *Housing Supply and Affordability Act***, which creates a Local Housing Policy Grant program for cities, states, tribes, and regional associations to enact pro-housing policies at the local level.
 - In the Senate, **S. 902**; sponsored by Senators Amy Klobuchar (D-MN), Rob Portman (R-OH) and Tim Kaine (D-VA).
 - In the House, **H.R. 2126**; sponsored by Representatives Lisa Blunt Rochester (D-DE), Jaime Herrera Beutler (R-WA) and Joyce Beatty (D-OH).
- **Cosponsor the *Neighborhood Homes Investment Act* (NHIA)** that would offer tax credits to attract private investment for building and rehabilitating owner-occupied homes, creating a pathway to neighborhood stability through sustainable homeownership. The NHIA would expand home ownership opportunities and provide a powerful incentive to build and rehabilitate 500,000 homes for low and moderate-income homeowners over the next decade. The NHIA is intended to fill the gap in areas where it may be more expensive to develop or rehabilitate than sales prices will support.
 - **S.98**; sponsored by Senators Ben Cardin (D-MD), Rob Portman (R-OH), Chris Coons (D-DE), Todd Young (R-IN), Sherrod Brown (D-OH) and Tim Scott (R-SC).
 - **H.R. 2143**; sponsored by Rep. Brian Higgins (D-NY)
- **Support tax incentives to convert underutilized commercial property into residential units.** Finding new uses for unused commercial real estate offers significant benefits for families struggling to find affordable housing, the distressed commercial sector, the nation's broader economy, and for governments at all levels, which will reap new revenues.
- **Defend 1031 like-kind exchanges.** Preserving this vital tool promotes liquidity, encourages additional investment, and helps small and minority-owned businesses expand and grow. Moreover, like-kind exchanges fill gaps in the housing supply not covered by other incentives for the development of affordable housing. Multifamily housing transactions represent 40 percent of real estate like-kind exchanges, while single-family houses make up another



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significant portion. Limiting like-kind exchanges would increase the cost of rental housing and raise rents.

Q&A:

I thought 1031 is only used only by the super-wealthy?

- Recent data shows that only 5 percent of exchanged properties are held by regular corporations.
- The vast majority are actually held by mom-and-pop investors—sole proprietors and pass-through businesses (such as partnerships and S corporations).

Cutting 1031 seems like an easy way for the government to raise new tax revenue?

- Taxes paid are 19-percent higher when a property is exchanged then sold versus never having been exchanged.
- The great majority of properties now swapped under the like-kind exchange would not be sold if tax was due. Rather, their owners would continue to sit on the property, and the growth opportunity for putting the investment to better use would be wasted with the government collecting little in extra revenue.

Can't people use indefinite exchanges to avoid paying taxes?

- A 2015 study revealed that 88 percent of exchanged properties were later disposed of through a taxable sale.
- Allowing investors a free flow of capital allows them to buy into higher-priced and more productive properties, which creates more tax revenue—and job opportunities and growth.



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BUILD STRONG AND RESILIENT COMMUNITIES AND SUPPORT INVESTMENT IN COMMERCIAL REAL ESTATE

Support Independent Contractor Status for Real Estate Salespeople

Small businesses owners, the self-employed, and independent contractors—including real estate agents—play a key role in our nation's economy. More than 87 percent of NAR's 1.4 million members are classified as independent contractors, most of whom *choose to be classified as such* to benefit from the greater freedom, flexibility, and autonomy to work as entrepreneurs.

The ability of real estate agents to work as independent contractors is recognized and protected under many state and some federal laws (see [26. U.S.C. §3508](#) and [state laws](#)). As both legislation and litigation challenge the status of independent contractors in other industries, REALTORS® must preserve the existing statutory classifications at every level. Specifically, NAR has expressed concerns with adoption of the “ABC test” used for classifying workers. Should new federal standards adopt this test, states could mirror the action and spur more legal challenges that threaten REALTORS® critical independent contractor status.

REALTOR® Asks:

- **Support the right of real estate salespeople to choose to continue to work as independent contractors** and for brokers to be allowed the choice to classify real estate salespeople as independent contractors.
- **Support the longstanding federal recognition of the real estate industry to operate as independent contractors.** For decades, real estate professionals have been classified as statutory non-employees for federal tax purposes and operate their businesses in a way that is very different than “gig economy” workers. Policymakers must preserve protections that recognize the uniqueness of the real estate industry.
- **Oppose federal adoption of an ABC-test.** Should any federal legislation or regulation including the ABC test be considered, it must be clear that real estate professionals would be exempt.
 - Under an ABC test, state statutory, supervisory, and control requirements may impose requirements on brokers that could make it challenging for brokers to classify real estate professionals as independent contractors.
 - Passage of an ABC test in any federal legislation or regulation could potentially lead to unintended consequences, such as increased litigation and misinterpretation of existing federal and state laws; as well as other states adopting similar problematic tests that could impact the classification of real estate professionals.
- **Support the Common Law Test**, which looks comprehensively at the totality of the working relationship and is more likely to classify a real estate professional as an independent contractor.



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Q&A:

Your industry already has a statutory definition that classifies REALTORS® as independent contractors, why are you worried?

- REALTORS® are concerned that federal adoption of an ABC test in any legislation or regulation could impact the industry and how real estate professionals are currently classified, along with the potential for this test to influence other labor law changes.

Don't you want the protections and benefits that employees have that you miss out on as an independent contractor?

- As independent contractors, we are empowered to be entrepreneurs, with maximum flexibility to thrive in a dynamic and flourishing field. We benefit from this freedom and are able to protect our health and financial futures in a way that best fits our unique needs.
- *Please provide your personal stories of what being an independent contractor means to your business, your family, etc.*



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ENSURE FAIR HOUSING FOR ALL

As stewards of the right to own, use, and transfer private property, our livelihoods and businesses as REALTORS® depend upon an open housing market free from discrimination. Our economy, communities, and the American people suffer when discrimination and segregation artificially constrain homeownership and limit the intergenerational wealth it builds. Yet, more than fifty years after passage of the Fair Housing Act, the homeownership rates for African Americans, Hispanics, and Asian Americans continues to lag behind that of White Americans. NAR is firmly committed to the enforcement of fair housing laws and to policies that remove historic and systemic barriers to homeownership for all qualified buyers.

REALTOR® Asks:

- **Cosponsor the *Housing Fairness Act***, legislation that would reauthorize and increase funding for HUD fair housing testing and enforcement programs
 - **S. 769** – Sen. Catherine Cortez Masto (D-Nevada)
 - **H.R. 68** – Rep. Al Green (D-Texas)
- **Increase HUD's Fair Housing Initiatives Program (FHIP) by \$18 million for FY2022**, with the bulk of funds directed to increased discrimination testing under the Private Enforcement Initiative (PEI).
- **Increase funding for HUD's Office of Fair Housing and Equal Opportunity by \$20 million for FY2022**, with new resources directed to proactive, agency-initiated investigations.

Q&A:

Why is the federal government paying private non-profits (possibly with their own agendas) to investigate housing discrimination?

- Federal funding of private fair housing enforcement is not new. For more than 40 years, the government has funded private fair housing groups to investigate and resolve complaints.
- These groups have deep expertise in fair housing investigations and extensive local ties in our communities.

These are significant percentage increases from prior year funding, why the big jump?

- Because housing discrimination is often hidden, few people report it. An enforcement system that relies solely on complaints will miss the vast majority of fair housing violations.
- It's evident from recent testing investigations that there is still widespread discrimination in the housing market.
- We must be much more proactive in uncovering and investigating fair housing violations. Government is best-positioned to initiate investigations of systemic problems.

The Housing Fairness Act includes a provision supporting the Affirmatively Furthering Fair Housing rule that some see as federal overreach into local zoning policies.

- NAR supports the Fair Housing Act's directive that the federal government and its funding recipients affirmatively further fair housing (AFFH).
- While we believe a new AFFH rule should be less cumbersome for communities to implement, we strongly support the 2015 rule's focus on examining and addressing segregation in our communities.

