

# NAR Update

## Legislative and Regulatory Policy

### July 2011

**FLOOD INSURANCE** – With the National Flood Insurance Program (NFIP) set to expire September 30, NAR conducted an FPC fly-in for the week of July 11<sup>th</sup>. FPCs met with their Members of Congress to urge them to reauthorize promptly the flood insurance program and avoid the market disruptions that have occurred when the program was allowed to lapse. NAR-supported legislation has been approved by the House Financial Services Committee that would reauthorize the NFIP for 5 years. A House vote is expected before the end of July. While the Senate has held hearings, no companion bill has been introduced. NAR is urging the Senate to adopt the House bill once it has been approved. Besides the fly-in and NAR advocacy activities, an all-member NAR Call for Action (CFA) is in place asking Realtors to contact their Members of Congress and urge prompt action in support of flood insurance reauthorization. The CFA was launched June 28 and has generated a response rate of 3.2% to date.

**FHA/GSE LOAN LIMITS** – Similar to flood insurance, the FHA/GSE loan limits will also expire September 30. The July 11<sup>th</sup> FPC fly-in also included extending the FHA/GSE loan limits as a key message point. NAR has been working to educate House and Senate members and their staffs on the need to make the current FHA/GSE loan limits permanent and avoid restricting market conditions further. NAR-supported legislation has been introduced in the House, but a companion bill has yet to be introduced in the Senate. Similar to flood insurance, NAR launched an all-member Call for Action on June 21 that has generated an NAR response rate of 5.2% to date.

**RISK RETENTION/QUALIFIED RESIDENTIAL MORTGAGE & QUALIFIED MORTGAGE** -- Based on our Coalition work NAR garnered 349 Congressional supporters (296 House Members and 53 Senators) in support of the position that Regulators should go back to the drawing board on the proposed QRM rule. As written, it violates Congressional intent, makes homeownership more expensive for millions of responsible consumers and jeopardizes the fragile housing recovery. Regulators should focus on good underwriting features, as outlined in the Dodd-Frank Act, which are proven to reduce defaults. At NAR's urging the comment deadline was extended from June 10 to August 1. NAR is also doing outreach to State and Local REALTOR associations and providing a model letter for them to send to the financial regulators. Regarding the QM regulation, this was proposed by the Fed and the comment period expires July 22, 2010. QRM is designed to provide for safe securitization. QM is aimed as providing safe mortgages for consumers. Staff is working with a sub coalition on that regulation and NAR will be submitting comments.

**COALITION FOR SENSIBLE HOUSING POLICY** -- NAR spearhead a broad based coalition to deal with the Qualified Residential Mortgage definition of the Dodd Frank Risk retention provision. The coalition consists of 45 consumer organizations, civil rights groups, lenders, real estate professionals and private mortgage insurers. The Coalition rolled out a policy white paper at a Congressional Press Conference on June 22 with NAR President Ron Phipps and Senators Isakson, Hagan, (Landrieu) and House Members John Campbell and Brad Sherman.

**FTC MORTGAGE ASSISTANCE RELIEF SERVICES (MARS) REGULATION** -- A concrete proposal to respond to our concerns on the MARS rule is working its way through the process at the Federal Trade Commission. We hope that there will be action on the proposal sometime in July, but the timing may not be as quick as we'd like. We are gathering further intelligence on the proposal that was submitted by FTC staff. The bottom line is that when all is said and done, Realtor members should not be held to the FTC disclosure requirement doing short sales.

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**TAX REFORM** -- Both the House and Senate tax-writing committees continue to hold hearings on tax reform. The hearings have focused on corporate tax reform, complexity and the taxation of multinational corporations. Neither committee has yet turned to specific industries. NAR is monitoring the discussions closely.

**MORTGAGE INTEREST DEDUCTION** – NAR’S MID Call For Action wrapped up in mid-June with a final participation rate of 14.72% and a total of 120,749 members responding. Ranking House Ways and Means Democrat Sandy Levin (D-MI) made a major address on tax policy to the Center for American Progress. His theme was that all the housing incentives support the middle class. He criticized the push for a 25% tax rate at the expense of eroding housing incentives, retirement incentives, health insurance benefits and education incentives.

**DEBT CEILING** – Congress and the Administration continue to grapple with spending and revenue decisions to reduce the deficit and increase the debt limit. The upcoming debt ceiling vote has sucked all the air from any other discussions. The tax-writing committees have jurisdiction over a debt ceiling extension, even if there are no tax provisions in a debt ceiling bill.

**GSE REFORM** – NAR is working with Representatives Campbell (R-CA) and Gary Miller (R-CA) regarding their proposals for GSE Reform. NAR submitted a letter to the full House on June 7<sup>th</sup> thanking Congressman Campbell for introducing the first comprehensive GSE reform bill that maintains government participation in the conventional conforming secondary mortgage market. NAR plans to offer stronger support for a bipartisan approach to be offered by Representative Gary Miller (R-CA) and Carolyn McCarthy (D-NY) in July. NAR worked closely with Representative Miller and McCarthy’s Financial Services staff to help shape their proposed GSE reform legislation. Also, President Ron Phipps testified regarding Housing Finance Reform on May 26th. NAR used the hearing to highlight the need for a comprehensive approach to GSE reform, which was echoed by our housing industry partners. NAR continues to highlight the need for some level of government participation in the conventional conforming secondary mortgage market in order to ensure the flow of mortgage capital to all markets during all economic conditions. This view is beginning to resonate in Congress.

**COVERED BONDS** -- NAR provided a letter of support for H.R. 940, the “United States Covered Bond Act of 2011,” introduced by Reps. Garrett (R-NJ) and Maloney (D-NY). The U.S. House Financial Services Committee held a markup and passed the bill by a vote of 44-7. This bill would provide for the development of a covered bond market in the United States. This can offer increased liquidity and safety in commercial and multifamily markets.

**FHA REFORM** – NAR continues to work to educate House and Senate committee majority and minority leadership staffs on proposals to reform the FHA loan program. Our efforts included the development of an FHA Primer outlining the key role that FHA has played throughout the years and debunking the common myth of FHA as a program designed to serve only first-time and/or low-income households. Our Primer also included tables/graphs illustrating the impact of proposals to raise the downpayment requirements on the funds needed, time required to accumulate the necessary downpayments, delinquency rates, numbers impacted, etc. Also, President

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Ron testified before the House Financial Services' Subcommittee on Insurance, Housing and Community Opportunity on the ongoing role and need for the FHA loan program. And we submitted letters to the House Budget Committee on the important roles of FHA and the GSEs and to Senators Cardin and Isakson and then the full Senate supporting elimination of FHA prepayment requirement.

**CREDIT UNION LENDING** – In a letter to the U.S. Senate Committee on Banking, Housing, and Urban Affairs hearing on credit union lending, NAR urged lawmakers to pass S. 509, the “Small Business Lending Enhancement Act of 2011,” introduced by Sen. Udall (D-CO). This bill would increase the cap on member business lending from 12.25% of total assets to 27.5% of total assets for well-capitalized credit unions. This will increase access to credit for NAR’s commercial membership.

**PATENT REFORM** -- NAR submitted a letter to the full House supporting H.R. 1249 The America Invents Act. The bill was approved by the House on June 23, 2011. The bill reforms the US patent system and will help to reduce the impact of “patent trolls” who hold patents for the express purpose of extracting licensing fees from patent litigation defendants. Such lawsuits have targeted Realtors and Realtor associations and resulted in sizeable costs for members and NAR.

**PRIVACY & DATA SECURITY** -- Numerous data security bills have been introduced this year with hearings beginning to be scheduled. NAR has identified the lead bills and is in the midst of analyzing the impact of each bill on the Realtor community. NAR also continued to work with the former head of the Federal Trade Commission’s Consumer Protection Division on the development of possible components of a self-regulatory structure for the real estate sales industry. Once the components have been identified, staff will then circulate to the appropriate policy-making committees for review/recommendation.

**HEALTH REFORM IMPLEMENTATION** -- NAR has continued its participation in small business coalition discussions re: implementation regulations on the exchange, grandfathered plans and essential minimum benefit provisions of the ACA.

**SAFE ACT FINAL RULE** -- On June 30, 2011, the Department of Housing and Urban Development (HUD) published a final rule under the Secure and Fair Enforcement Mortgage Licensing Act of 2008 (SAFE Act) (the rule takes effect August 29, 2011). The SAFE Act requires states to establish loan originator licensing requirements that meet minimum federal standards. HUD has overall responsibility for interpretation, implementation, and compliance until July 21 when the Consumer Financial Protection Bureau (CFPB) takes over. In its February 12, 2010, comment letter, NAR urged HUD to exempt all seller financing from the licensing requirements or at least exempt some categories of seller financing. NAR also asked HUD to clarify that payment of a real estate commission by a lender for the sale of a lender-owned property (REO) does not require the real estate agent to be licensed.

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In the preamble to the rule, HUD states that it lacks statutory authority to grant exemptions to licensing under the SAFE Act. The final rule requires licensing of individuals who engage in the business of a loan originator. An individual engages in the business of a loan originator if the individual, in a commercial context and habitually or repeatedly, takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan for compensation or gain. HUD chose not to decide how frequently an individual may provide financing before reaching the requisite degree of habitualness. NAR expects CFPB to defer to reasonable state laws on the number of seller financing transactions that would trigger licensing. Sellers financing the sale of their own property would completely avoid the issue of licensing by retaining the services of a licensed loan originator.

The Safe Act exempts those who only perform real estate brokerage activities unless compensated by a lender, mortgage broker, or other loan originator (or their agent). In cases where a real estate broker/agent receives a commission from the lender for the sale of a REO, individuals must only be licensed if they meet the definition of “engaging in the business of a loan originator.” Brokers/agents rarely, if ever, take an application or offer to negotiate terms of a residential mortgage loan for REO transactions and typically would not have to be licensed as loan originators.