

# 2014 NAR Legislative & Regulatory Year in Review

## (October 27, 2014)

During the 113th Congress, NAR's legislative and regulatory agenda continued to focus on creating a fundamentally sound and robust U.S. real estate market while protecting the business interests of members, as well as consumers. In spite of Congress' lack of actions, NAR achieved several accomplishments and set the foundation for many important issues moving forward.

### **New QRM Rule Equals QM**

After three years of strong opposition from NAR, congressional leaders, and consumer and industry groups, the six financial regulators released the final version of the long-awaited qualified residential mortgage (QRM) rule. The six regulators listened to NAR when finalizing the rule which now equates QRM with the "Qualified Mortgage (QM)" standard. As originally proposed, the QRM rule would have narrowly defined QRMs to require a 20 percent down payment. REALTORS® were among the most vocal opponents of the originally proposed QRM rule and forged the broad-based Coalition for Sensible Housing Policy, which includes nearly 50 organizations, to draw attention to the regulation's onerous 20 percent down payment requirement and other credit limiting features such as strict debt-to-income limits. The coalition asked for and received an extension of the proposed regulation comment period in 2013. During that time, NAR and its coalition partners gathered the support of 44 U.S. Senators and 282 House members, who wrote to regulators expressing their intent on QRM and opposing the sizable down payment requirement.

*For more information visit [www.realtors.org/qrm](http://www.realtors.org/qrm)*

### **"Homeowner Flood Insurance Affordability Act" Becomes Law**

Following months of intense outreach by NAR, the "Homeowner Flood Insurance Affordability Act" was signed into law which curbs flood insurance rate hikes for homes and commercial properties. This bi-partisan legislation is a responsible and balanced solution to the skyrocketing flood insurance premiums affecting residential and commercial properties that were unintentionally triggered by the Biggert-Waters reforms to the National Flood Insurance Program. NAR advocated for this legislation which brings relief to property owners by ensuring a slow and steady phase in of risk-based increases.

*For more information visit [www.realtor.org/floodinsurance](http://www.realtor.org/floodinsurance)*

### **FEMA Issues New Rules and Procedures for Flood Insurance**

Upon the enactment of "The Homeowner Flood Insurance Affordability Act", NAR strongly urged the Federal Emergency Management Agency (FEMA) to act quickly to issue new rules and procedures for flood insurance which had been hampered by the Biggert-Waters Act. At NAR's insistence, FEMA announced in May that it was halting the time-of-property-sale increases, rolling back the rates of all older properties to their 2013 level, and stated it will hold these rates constant through 2015, and in some cases, reduce them. In June, FEMA provided guidelines for issuing refunds to property owners who were overcharged for flood insurance above their 2013 rate. Refunds began October 1 and are to be completed by December 31, 2014. NAR will continue pressing FEMA to quickly issue these refunds and implement the rest of the law, consistent with the statutory deadlines and congressional intent.

*For more information visit [www.realtor.org/floodinsurance](http://www.realtor.org/floodinsurance)*

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## **FHA Allows More Electronic Signatures**

After ongoing outreach by NAR, the U.S. Department of Housing and Urban Development (HUD) announced that it will accept electronic signatures on most documents involved in FHA mortgage insurance, mortgage servicing, loss mitigation and FHA insurance claims. The HUD Announcement came two days after NAR convened a second Electronic Signatures Summit meeting, bringing together three dozen representatives of government, lenders, real estate and related industries and electronic signature vendors to discuss ways to foster greater acceptance and usage of electronic signatures, which were first authorized by federal law in 2000. The FHA announcement gives a major boost to that ongoing effort and will serve as a model for other actors in the mortgage arena.

For more information visit [www.realtor.org/fba](http://www.realtor.org/fba)

## **Rural Communities Protected Through 2020**

NAR's work with Congress over the last three years has helped more than 900 communities that were at risk of losing access to federal rural housing programs be protected through 2020 by extending the eligibility of communities under a 40-year old definition of "rural". While this legislative language did not expand any program or authorize any additional funding, it does retain the current pool of eligible communities (including those that have populations up to 35,000). NAR continues to work to revise the outdated definition to conform to current demographic data and needs.

For more information visit [www.realtor.org/rural-housing](http://www.realtor.org/rural-housing)

## **HUD Allows Dual Agency Agreements in FHA Pre-foreclosure Transactions**

NAR achieved a significant victory when the U.S. Department of Housing and Urban Development (HUD) announced it would allow dual agency agreements in FHA pre-foreclosure transactions. Last summer, HUD had issued a policy which would exclude dual agency agreements in FHA short sale transactions starting October 1, 2013. NAR Leadership and legal counsel met with HUD staff to express NAR's concerns about the policy and the disruptive effect its implementation would have on communities across the nation. As a result, HUD agreed to work with NAR to arrive at a policy that better addresses concerns that pre-foreclosure sales are not meeting HUD's minimum net sales proceeds requirements.

For more information visit [www.realtor.org/fba](http://www.realtor.org/fba)

## **Elimination of FHA "Prepayment Penalty"**

For several years NAR has led the effort urging the Federal Housing Administration (FHA) to eliminate post-payment interest charges on FHA-insured single family mortgages. NAR urged FHA and Ginnie Mae to remove this prepayment penalty as the policy placed an unreasonable burden on consumers who already face high housing and closing costs. In August, FHA published its final rule eliminating this charge which goes into effect on January 21, 2015.

For more information visit [www.realtor.org/fba](http://www.realtor.org/fba)

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### **“The Mortgage Choice Act” Passes the House**

NAR was instrumental in securing passage of H.R. 3211, “The Mortgage Choice Act”, which redefines a provision in the Dodd-Frank Ability-to-Repay rules that limits mortgage fees and points to three percent in order for home loans to be considered Qualified Mortgages (QM). This provision unfairly prevents brokers and affiliated lenders from making QM loans because their affiliate services are collectively counted against the three percent cap, while individual services from large retail financial institutions are not. “The Mortgage Choice Act” treats affiliated and non-affiliated service providers the same way under the rule while still protecting borrowers from risky loan products.

NAR was also actively involved in getting this legislation included in H.R. 5461, a compendium of legislation that had already passed the House, which is designed to present the Senate with a package of widely, agreed upon reforms that it can vote on before the end of the 113<sup>th</sup> Congress. NAR continue to press for passage in the Senate to ensure that consumers have the full range of choices in settlement service providers and other services related to real estate.

### **Maintaining Fannie Mae and Freddie Mac Loan Limits**

NAR aggressively fought to prevent the Federal Housing Finance Agency (FHFA) from reducing conforming loan limits for Fannie Mae and Freddie Mac. Through letters, meetings and by rallying industry partners to take similar actions, NAR was successful in getting the FHFA to announce in May it would step back from the proposed reduction. NAR continues to inform the FHFA on this issue to ensure it understands how lowering these limits would reduce financing opportunities for homebuyers.

*For more information visit [www.realtors.org/gses](http://www.realtors.org/gses)*

### **Educating Members on How “The PATH Act” Impacts the Housing Market**

NAR continues to strongly advocate that H.R. 2767, "The Protecting American Taxpayers and Homeowners (PATH) Act", not come to the House floor for consideration. Through meetings, letters and industry outreach, NAR has been the driving force letting Congress know how this bill would hinder American families' access to quality homeownership and rental options, and hurt job growth. H.R. 2767 would end the federal guarantee for a secondary mortgage market and dramatically restructures and narrowly targets the FHA loan program.

*For more information visit [www.realtors.org/gses](http://www.realtors.org/gses)*

### **Expired Tax Provisions**

NAR continues to follow up with Members of both the House and Senate on NAR's priorities among the expired tax provisions. This has included a letter to the full House urging Members to cosponsor H.R. 2994, the mortgage debt forgiveness tax relief bill. Staff also met with the Ways and Means Republican staff to discuss the extender and mortgage cancellation bills. Mortgage cancellation was also one of two talking points for the FPC's August recess meeting. Other mortgage cancellation related activities included an ad in the DC papers, and a press release urging Congress to act on the measure. Together these efforts have substantially increased the number of cosponsors to 155, thus raising the support for and the visibility of the measure.

*For more information [www.realtor.org/mortgage-debt-relief](http://www.realtor.org/mortgage-debt-relief)*

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## Section 1031 Like-Kind Exchanges

Tax reform proposals have listed the repeal of Section 1031 like-kind exchanges as a way to reduce the tax rates. In an effort to head off this possibility, NAR became a founding member of The Real Estate Like-Kind Exchange Coalition established to defend the current tax status of Section 1031 like-kind exchanges. The Coalition has issued a Request for Proposal (RFP) for a study of the importance of 1031 like-kind exchanges to the economy at large and the real estate sector in particular. Interviews with the top candidates are underway. NAR is also continuing to participate in a broader 1031 like-kind exchange coalition. This coalition has contracted with EY to conduct a study of the effect of like-kind exchanges on the economy and various industry segments. NAR led a successful effort to change the parameters of the study to make it more focused on the real estate industry. At NAR's request, Senator Roberts (R-Kansas) has also asked the Joint Committee on Taxation for a breakdown of the recently-released tax expenditure score for section 1031 like-kind exchanges between real property and personal property.

For more information visit [www.realtor.org/like-kind-exchange](http://www.realtor.org/like-kind-exchange)

## TRIA Reauthorization Bills Move Forward in Congress

NAR has actively been working for passage of terrorism insurance legislation to ensure that the program's authority does not lapse at year's end. Thanks to letters, meetings and a "Call for Action" among NAR's members, the Senate approved S. 2244, the "Terrorism Risk Insurance Program Reauthorization Act of 2014." S. 2244 reauthorizes the federal program created by the Terrorism Risk Insurance Act (TRIA) of 2002 for seven years. Additionally, the House Financial Services Committee approved its version of a TRIA reauthorization bill, H.R. 4187. NAR continues to monitor this issue and advocates for a quick and smooth reauthorization of this program, which provides such important protections to commercial real estate, in the House.

For more information visit [www.realtor.org/tria](http://www.realtor.org/tria)

## IASB & FASB Maintain Current Lease Accounting Standards

NAR strongly and successfully opposed the Financial Accounting Standards Board's (FASB) and the International Accounting Standards Board's (IASB) proposed lease accounting standards that would reduce the overall borrowing capacity of commercial real estate lessees and lessors. As part of its efforts, NAR worked in coalition with other industry groups to craft a strategy and solicit key Congressional offices to express their concerns with the proposal, while also working with FASB on ways to improve it. NAR's efforts proved successful in August when the IASB and FASB announced that they had been unable to come to an agreement on the proposed lease standards, with the IASB opting for a single model and FASB opting to stay with the dual model favored by NAR. The rule will likely be finalized in late 2014 or early 2015, and go into effect in 2018.

For more information visit [www.realtor.org/lease-accounting](http://www.realtor.org/lease-accounting)

## Creating Common Sense Patent Litigation Reforms

NAR continues to educate Congress on the importance of patent litigation reforms. After helping to secure passage of H.R. 3309, "The Innovation Act" in December 2013, NAR has focused its efforts on raising the visibility of this issue in the U.S. Senate. Through letters and visits with Senators and NAR's first ever Twitter Call for Action, legislation was introduced in the Senate but action was not taken prior to the Congressional recess. NAR will continue to pursue this important issue when the new Congress returns in January 2015.

For more information visit [www.realtor.org/patent-litigation-reform](http://www.realtor.org/patent-litigation-reform)

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### **Adhering to Open Internet Practices**

NAR is working with Congress and regulators to ensure that broadband providers adhere to open internet practices. NAR has voiced its concerns through letters, op-eds and in-person visits, about the Federal Communications Commission's "fast lanes" proposal which would allow large content providers like Netflix and Facebook and others to negotiate separate, exclusive deals with Internet Service Providers to carry their content on faster connections. In addition, NAR organized a broad real estate coalition including over 100 MLSs, large firms and industry associations opposing the FCC's proposal. NAR will continue to let members of Congress know about our concerns and urge them to weigh in with the FCC.

For more information visit [www.realtor.org/net-neutrality](http://www.realtor.org/net-neutrality)

### **Educating Members about Importance of Data Security**

Given the recent data security breaches, NAR took the initiative to develop and launch an [online training course](#) through REALTOR® University on real estate best practices for privacy and data security. Additionally, NAR has participated in Tech Edge events across the country to raise REALTOR® awareness of the importance of data security.

For more information visit [www.realtor.org/data-privacy-security](http://www.realtor.org/data-privacy-security)

### **Opposing EPA's "Waters of the U.S." Rule**

NAR is working vigilantly with Congress and other regulated stakeholders to oppose a proposed rule by the Environmental Protection Agency (EPA) which would vastly expand EPA authority over more water bodies and increase EPA regulation of land uses on private property. Through NAR testimony, letters and in-person meetings, the House of Representatives passed HR 5078, "The Waters of the U.S. Regulatory Overreach Protection Act", which would prevent the EPA from moving forward with the proposed rule. NAR continues to advocate for action in the Senate and looks for every opportunity to ensure EPA understands the impact this proposed rule would have on real estate.

For more information visit [www.realtor.org/cwa](http://www.realtor.org/cwa)

### **Engaging with the FAA on Unmanned Aerial Vehicles**

NAR continues to educate the Federal Aviation Administration (FAA) on how real estate professionals can use unmanned aerial vehicles (UAVs) safely to photograph properties to market for sale. Currently, the FAA prohibits the use of UAVs for any commercial purpose, but is developing draft regulations to allow the use of small UAVs for commercial purposes. The FAA's primary concerns about the use of UAVs are safety and privacy. NAR has made the argument that real estate professionals have an economic incentive to use these devices safely and responsibly. Draft regulations are to be published in November, 2014, with final promulgation due in September, 2015.

For more information visit [www.realtor.org/uavs](http://www.realtor.org/uavs)

### **Affordable Care Act Regulations Recognize Agents as Non-Employees**

NAR successfully worked with the U.S. Treasury Department and Internal Revenue Services to recognize "qualified real estate agents" as non-employees for purposes of the "Shared Responsibility for Employers" provisions under the Affordable Care Act (ACA). Earlier proposed regulations were silent on their status, leaving some doubt as to whether brokerages might have to count independent contractor agents as employees for purposes of the ACA. NAR's efforts secured this change to the regulations. With the clarifications included in the final regulations, brokerage firms that contract the services of qualified real estate agents will not have to be concerned whether such agents might be construed as employees under a common law test.

For more information visit [www.realtor.org/healthreform](http://www.realtor.org/healthreform)

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## Securing Amendments to ILSA

NAR worked with Congress to secure amendments to H.R. 2600, “The Interstate Land Sales Full Disclosure Act (ILSA),” which clarifies how the Act applies to condominiums. As amended, the ILSA will now treat the sales of condominiums in projects still under development in the same manner as condo sales in completed projects. By doing so, the bill closes the loophole that allowed buyers to use a technicality to rescind otherwise valid real estate contracts due to personal financial reason or “buyer’s remorse.” President Obama signed the bill into law on September 26, 2014. It will go into effect on March 25, 2015.