

Business Issues Policy Committee
2019 Briefing Book

Jeffrey Levine, Chair

Dominic Pallini, Vice Chair

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Purpose and Make-up of Committee

Purpose:

To identify, monitor and recommend positions on federal, legislative and regulatory issues that affect the operations of REALTOR® businesses and the ability of NAR to meet REALTOR® needs and to recommend legislative or regulatory strategies in furtherance of those positions.

Composition:

58 members as follows:

- Chair, Vice Chair and Immediate Past Chair;
- 1 representative from each of the affiliates;
- 1 AEC Representative;
- 44 at-large members (one of which must be a Local Board or State Association Executive and two of which must be Local Board or State Association Government Affairs Directors (GADs)), who have a strong interest in issues which affect member business operations.

Qualifications for Consideration:

- 5 years' experience on an NAR committee
- 7 years' experience as a broker owner
- Understanding of business operations of real estate firms
- Experience on a Business Issues Policy Committee at the local or state level
- Knowledge of telecommunications and/or information systems
- Involvement in other business-related trade associations (National Federation of Independent Business, Chamber of Commerce, etc.)
- Experience as a real estate firm manager

Term of Service: One-year term

Meeting Dates and Times:

- Legislative Meetings and Trade Expo: **Tuesday, May 14, 2019**, 10:00 AM – 12:00 PM (Washington D.C.)
- Annual Conference and Expo: **Friday, November 8, 2019**, 9:00 AM – 11:30 AM (San Francisco, CA)
- *Additional conference calls and webinars, as scheduled.*

Staff Executives:

- Christie DeSanctis, Director, Business and Conventional Finance Policy , 202.383.1102, cdesanctis@realtors.org
- Nia Duggins, Business Issues Policy Representative, 202.383.1085, nduggins@realtors.org

Roster of 2019 Committee

JEFFREY J. LEVINE, CIPS, CRS, SRES, SFR (FL)
Chair

DOMINIC L. PALLINI, CRS, GRI, AHWD, EPRO, RSPS, SFR, SRS (FL)
Vice Chair

MELANIE A. BARKER (CA)
Committee Liaison

JOHN C. KMIECIK CRB, SFR (IL)
Immediate Past Chair

ADRIAN ABEL ARRIAGA CCIM CPM
SIOR (TX)
Member: Affiliate Representative [SIOR]

BARBARA ASBURY ABR, GRI, EPRO, SFR,
PSAT (CO)
Member: At-Large

ROBERT S. BAX (MO)
Member: At-Large

MICHAEL A.J. BINDMAN
ABR CRB GRI SRS RENE
(FL)
Member: At-Large

BRADLEY J. BOLAND (VA)
Member: At-Large

JOANNE T. BREEN
GRI (CT)
Member: At-Large

JACOB R. CASHION (NC)
Member: At-Large

MEG J. CASPER ABR SFR SRS (OH)
Member: At-Large

DANIELLE CORLISS GRI EPRO (CA)
Member: At-Large

PAULA CONSENZA EPRO SFR (CA)
Member: At-Large

BRENDA COLE GRI AHWD EPRO (TX)
Member: At-Large

DIANE B. COOK GRI PMN (FL)
Member: At-Large

JOSEPH L. CWIKLINSKI CIPS (IL)
Member: At-Large

DAWNE DAVIS GRI (TN)
Member: At-Large

JULIE DOWNEY (IN)
Member: At-Large

JEFFREY M. FAGAN (FL)
Member: At-Large

TREASURE A. FAIRCLOTH
CRS GRI EPRO (NC)
Member: At-Large

NICK FRENCH CRB CRS GRI SRS PSA
(TN)
Member: Affiliate Representative [REBI]

RICHARD T. FRYER ABR GREEN SRES
AHWD RSPS SFR MRP (FL)
Member: At-Large

TIM L. GARRETT CRB CRS GRI
(TX)
Member: At-Large

BERTON K. HAMAMOTO ABR CRB CRS
(HI)
Member: At-Large

RENEE HARVEY ALC (TX)
Member: Affiliate Representative [RLI]

HUBERT H. HILL CRS GRI (NM)
Member: At-Large

STEVE GLENN JOLLY (TN)
Member: At-Large

MILAGROS S. KANYAR CIPS PMN (FL)
Member: At-Large

SARI KINGSLEY CIPS CRS GREEN GRI
SRES AHWD (NY)
Member: At-Large

THOMAS D. LARSON RCE
(WI)
Member: Government Affairs
Director

ALAN LOVITT CRS GRI SFR
PSAT (CO)
Member: At-Large

ALDO M. MARTINEZ ABRM GRI
(NV)
Member: At-Large

JO ANN MAZZEO CIPS GRI (FL)
Member: At-Large

JUDITH A. MORIARTY (NJ)
Member: At-Large

JEFF S. MURRAY GRI (AZ)
Member: At-Large

JULIA R. PARENTEAU AHWD (TX)
Member: AEC Representative

LISA C. PARENTEAU ABR CRS GREEN
MRP (MA)
Member: Affiliate Representative [RRC]

JAMES A. PILON (FL)
Member: At-Large

MAX POND (ID)
Member: Government Affairs Director

FRED W. PRASSAS CPM GRI
(WI)
Member: Affiliate Representative [IREM]

STEVE REESE CRS GRI AHWD EPRO
(OK)
Member: At-Large

MARY R. ROBERTS CIPS CRS GRI AHWD
EPRO SFR(AZ)
Member: Affiliate Representative [WCR]

RANDY R. SCHEIDT CCIM GREEN GRI
(IN)
Member: Affiliate Representative [CCIM]

PAUL L. SIGURDSON CRB CRS GRI AHWD
EPRO (MN)
Member: At-Large

NEILY SOTO SFR
(MA)
Member: At-Large

DENISE STAAB CRS (CO)
Member: At-Large

TOM V. STECK GRI RENE (FL)
Member: At-Large

TERENCE A. SULLIVAN (WA)
Member: At-Large

ROBERT E. TAYLOR (MI)
Member: At-Large

TERESA K. TRIGAS-PFEFFERLE SFR
(NJ)
Member: At-Large

VICKY S. TURNER CRS SRS (IL)
Member: At-Large

CHARLOTTE M. VANDERWAAG (NY)
Member: At-Large

GIUSEPPE VENEZIANO BPOR GREEN
(CA)

Member: At-Large

DAVID WELCH CRS GRI (OH)

Member: At-Large

RONALD L. WOODS ABR GRI SFR (NJ)

Member: At-Large

2019 Committee Goals

The following goals were adopted at the start of the 2019 Committee year, at the Annual meeting in Boston.

- 1) To monitor the change in leadership at the Consumer Financial Protection Bureau (CFPB) and look for opportunities to seek regulatory transparency and reform.*
- 2) To continue to ensure that money laundering regulations are focused on where the risk is the highest (i.e. financial institutions) and that real estate professionals do not endure additional or unnecessary regulatory burdens.*
- 3) To identify current and future real estate business models to protect against unreasonable federal involvement (i.e. threats to independent contractor status).*

Rationale: Federal legislation and regulations of business practices continue to impact and, in some cases, limit the ability of real estate practitioners to conduct their businesses in an efficient and effective manner. While the business of real estate has traditionally been regulated at the state level, NAR represents the interest of its members to ensure that federal legislation and regulations support or do not needlessly hinder the ability of REALTORS[®], realty firms and REALTOR[®] associations to conduct business.

NAR Policy Process - Creation of Formal Policy by Committees

The start of the process begins with a policy committee of NAR making a motion to create a new policy or change existing policy. The motion then moves through a series of venues before being approved as official NAR policy. The venues for approval include:

- 1.) Public Policy Coordinating Committee (PPCC),
- 2.) Executive Committee (Exec), and
- 3.) Board of Directors (BOD).

At each level, several things can happen:

- The Motion can be approved and moves onto the next level without change.
- The Motion can be amended. If the amendment is accepted as a friendly amendment, the amended motion will move on. If the amendment is not accepted as a friendly amendment, both motions will be referred on to the next level.
- The Motion can be opposed by the reviewing committee. Both the originating Committee motion and the motion of disapproval move on to the next level.
- The Motion can be referred back to the original Committee for further review, or be referred to an additional Committee for consideration.

NAR policy is then final if approved by the Board of Directors.

Example: The Committee passed a motion “that NAR support Closing Disclosures being issued on purple paper.” The motion would go to the PPCC Committee. However, PPCC felt that pink paper was also acceptable. This results in two motions moving forward to Exec.

Exec would first hear the Business Issues Policy Committee (BIPC) motion for purple paper, and then it would hear the PPCC motion for purple OR pink paper. Exec could approve either of these motions, edit either, or oppose or refer either or both. Let’s say Exec approved the purple and pink motion. BIPC’s motion would still move forward to BOD; along with the PPCC motion, which would be reported as the “approved motion” from Exec. BOD could pass either of these motions, or develop a new motion from the floor.

Minutes from the 2018 Committee Meetings

NATIONAL ASSOCIATION OF REALTORS®
2018 REALTORS® LEGISLATIVE MEETINGS
BUSINESS ISSUES POLICY COMMITTEE
Wednesday, May 16, 2018, 10:00 AM – 12:00 PM
Omni Shoreham • Diplomat Room, Main Floor

MINUTES

CHAIR	John C. Kmiecik (IL)
VICE CHAIR	Jeffrey Levine (FL)
COMMITTEE LIAISON	Kevin Brown (CA)
STAFF EXECUTIVE	Marcia Salkin, Christie DeSanctis (DC)

CALL TO ORDER:

Chair John C. Kmiecik called the meeting to order at 10:00 am.

OPENING REMARKS:

The Chair welcomed the Committee members, introduced Vice Chair Jeffrey Levine of Florida and Committee staff executives, and reviewed the Committee's purpose and agenda for the day's meeting.

APPROVAL OF PREVIOUS MEETING MINUTES:

The minutes of the Business Issues Policy Committee meeting of Annual Conference and Trade Expo were approved.

SUMMARY OF ACTIONS TAKEN:

- 1) The Chair asked the members of the Committee to introduce themselves and talk about what it was that led them to apply for a position on the Committee. The members' attention was directed to the NAR Conflict of Interest statement.
- 2) The Business Issues Policy Committee then heard a presentation by Phil Schulman, Partner, Mayer Brown, on recent developments out of the Bureau of Consumer Financial Protection (CFPB) under the new leadership of Acting Director Mick Mulvaney. Mr. Schulman also explained efforts to enforce the *Real Estate Settlement Procedures Act* (RESPA) and provided compliance guidance on select activities related to affiliated business arrangements, online co-marketing agreements, and illegal kickbacks under RESPA.
- 3) The Committee also received an update from NAR Senior Policy Representative Russell Riggs on the current status of federal infrastructure discussions. Mr. Riggs provided an update on NAR's activities and how helpful federal policy would be given the intersection of infrastructure with local community development efforts and the health of real estate markets.
- 4) The Committee then discussed how to best utilize the HUB and make better use of this communication tool. Staff also called attention to the committee briefing book developed for the Committee and posted to the HUB that includes a wealth of information on issues and policy positions recommended by the Committee and adopted by the NAR Board of Directors.

5) Due to the shortened time frame of the meeting, the Committee postponed an update on NAR's ongoing business policy agenda that fall within the Committee's jurisdiction, such as anti-money laundering, *Americans with Disabilities Act* (ADA) website compliance issues, and Congressional interest in state oversight of professional licensing boards. A webinar following the meetings in June to provide for those updates and discussions on issues was scheduled.

6) The meeting was adjourned at 12:00pm.

MINUTES

CHAIR	John C. Kmiecik (IL)
VICE CHAIR	Jeffrey Levine (FL)
COMMITTEE LIAISON	Kevin Brown (CA)
STAFF EXECUTIVE	Christie DeSanctis (DC)

CALL TO ORDER: Chair John C. Kmiecik called the meeting to order at 1:30 PM

OPENING REMARKS: The Chair welcomed the Committee members, introduced Vice Chair Jeffrey Levine, Committee staff executives, and reviewed the Committee's purpose and agenda for the day's meeting.

APPROVAL OF PREVIOUS MEETING MINUTES: The minutes of the Business Issues Policy Committee meeting of the 2018 REALTORS® Legislative Meetings were approved.

SUMMARY OF ACTIONS TAKEN:

- 1.) After the opening remarks and approval of the minutes of the May meeting, Vice Chair Jeffrey Levine directed the members' attention to the NAR Conflict of Interest statement. Following this, the Chair provided an update on a new NAR initiative, the Commitment to Excellence program.
- 2.) The Committee then engaged in a policy presentation on issues within the Committee's jurisdiction including anti-money laundering and Department of Labor regulations. The Committee also discussed a few issues of interest to members, but outside the jurisdiction, including association health plans, wire fraud, and data privacy laws. In the policy discussion, the Committee utilized Poll Everywhere, a system that allowed for instant polling feedback on specific questions raised regarding the business concerns of REALTORS®.
- 3.) Next, the Committee heard a presentation by Loretta Salzano, Founding Partner of Franzen and Salzano, on predictions for the Bureau of Consumer Financial Protection (BCFP) under the new leadership of Director Nominee Kathleen Kraninger and current Acting Director Mick Mulvaney. Ms. Salzano also provided compliance advice on marketing practices under the *Real Estate Settlement Procedures Act* (RESPA), such as various activities related to affiliated business arrangements, online co-marketing agreements, and illegal kickbacks. The Committee engaged in another Poll Everywhere quiz on various business activity scenarios, testing the knowledge of RESPA compliance.
- 4.) The Committee closed out the meeting with a discussion on improving HUB engagement and policy issues to prioritize for 2019, including issues to anticipate out of the new permanent leadership changes at the BCFP.
- 5.) The meeting was adjourned early, around 3:40, to allow time for members to attend NAR 360 starting immediately after.

Minutes from the 2017 Business Policy Issues Committee

NATIONAL ASSOCIATION OF REALTORS®
2017 REALTORS® LEGISLATIVE MEETINGS
BUSINESS ISSUES POLICY COMMITTEE
May 17, 2017, 10:00AM – 12:00PM
Omni Shoreham Hotel, Diplomat Room

MINUTES

CHAIR	Chris Kutzkey (CA)
VICE CHAIR	John Kmiecik (IL)
COMMITTEE LIAISON	Brenda Small (DC)
STAFF EXECUTIVE	Marcia Salkin, Christie DeSanctis, Melanie Wyne (DC)

CALL TO ORDER: Chair Chris Kutzkey called the meeting to order at 10am.

OPENING REMARKS: The Chair welcomed the Committee, introduced Vice Chair John Kmiecik and staff executives, and reminded the group of NAR's Conflict of Interest/Ownership policy.

APPROVAL OF PREVIOUS MEETING MINUTES: The minutes of the Business Issues Policy Committee meeting of November 2016 were approved.

SUMMARY OF ACTIONS TAKEN:

The Committee received the report of the Dodd-Frank/CFPB Work Group from Work Group Chair Anthony Lamacchia (MA), and approved a motion to support the following recommendation of the Work Group. The motion was also subsequently approved by the Public Policy Coordinating Committee, Executive Committee and the Board of Directors during the May meeting.

That NAR continue to support the existence of a federal agency such as the Consumer Financial Protection Bureau (CFPB) designed specifically to protect consumers' interests with regard to financial products and services. Further, it recommends that NAR support policy proposals that restructure the CFPB or similar agency from the current single-director arrangement to a qualified five member board with no more than three members from one political party. The existing independent agency structure and funding sources for an agency such as the CFPB should be preserved.

Rationale: The Dodd-Frank – CFPB Work Group recommends that NAR support the existence of an independent federal agency, like the Consumer Financial Protection Bureau (CFPB), that promotes necessary consumer protection laws and responsible lending practices to advance the pursuit of homeownership. Such an agency is essential to identifying problematic financial services industry practices that harm consumers and is most effective when important procedural safeguards are in place to avoid unwarranted executive overreach.

MINUTES

CHAIR	Chris Kutzkey (CA)
VICE CHAIR	John C. Kmiecik (IL)
COMMITTEE LIAISON	Brenda Small (DC)
STAFF EXECUTIVE	Marcia Salkin, Christie DeSanctis, Melanie Wyne (DC)

CALL TO ORDER: Chair Chris Kutzkey called the meeting to order at 9:00 am.

OPENING REMARKS: The Chair welcomed the Committee members, introduced Vice Chair John C. Kmiecik of Illinois and Committee staff executives, reviewed the Committee's purpose and agenda for the day's meeting, and congratulated the Committee on successfully meeting the President's RPAC Challenge for 2017. Vice Chair Kmiecik then called the members' attention to NAR's Ownership Disclosure and Conflict of Interest.

APPROVAL OF PREVIOUS MEETING MINUTES: The minutes of the Business Issues Policy Committee meeting of May 17, 2017 were then approved.

SUMMARY OF ACTIONS TAKEN: The Committee reviewed the results of its September conference call and the policy motion approved by unanimous consent by a quorum of members at that time. The motion was subsequently referred to and approved by the Public Policy Coordinating Committee, the Executive Committee and the Board of Directors during the November meeting.

That NAR support the disclosure of beneficial ownership of business entities at the time those entities are registered with the states, with appropriate consideration given to address legitimate business privacy concerns.

Rationale: Anonymous shell companies are increasingly being used by corrupt foreign and domestic interests to launder money via real estate purchases. Currently, there are no federal laws requiring the identification of these companies' "beneficial owners," i.e. the individuals who control and benefit from these companies. This has created obstacles for law enforcement agencies' enforcement of anti-money laundering (AML) laws.

Legislation has been introduced to address this problem by requiring the disclosure of the beneficial owners of a shell company when it is formed and registered with its home state. If a state prefers not to collect this data, it could choose to have Treasury take on the responsibility. The information collected would not be made public, and only would be disclosed to law enforcement, or financial institutions that request it in order to fulfill their AML responsibilities. Allowing law enforcement and financial institutions to have access to such information will improve the tracking of illicit money

History of Policies Passed by the Committee

Policies Adopted by Business Issues Policy Committee (as approved by BOD), since 1994, with most recently passed motions first (includes most recent policy, not any that were superseded):

Arbitration

- That NAR support the enforceability of pre-dispute agreements to resolve contract disputes, including agreements to arbitrate consumer, employer and franchise contract disputes. (*May 2009*)

Bankruptcy

- That the NATIONAL ASSOCIATION OF REALTORS® support changes to section 205 of the Bankruptcy Amendments Act of 1993, as passed by the Senate on April 19, 1994, which protects the landlord's control of shopping center tenant mix in bankruptcy. (*May 1994*)
- That the NATIONAL ASSOCIATION OF REALTORS® support changes to section 365(h) of the Bankruptcy Code, which were included in the Bankruptcy Amendments Act of 1993 (S.540), as passed by the Senate April 19, 1994. (*May 1994*)
- That the NATIONAL ASSOCIATION OF REALTORS® support legislation that would provide that homeowner association dues (including condos, coops, etc.) would be a debt not dischargeable in bankruptcy. In addition, should a debtor remain in possession during pendency of bankruptcy, the trustee/debtor should be obliged to keep homeowner association dues current. (*February 1994*)
- That the NATIONAL ASSOCIATION OF REALTORS® support amendments to the pending bankruptcy bills to prevent elimination of the existing United States Bankruptcy Code provisions which were designed to preserve the integrity of shopping center tenant mix. (*February 1994*)

Beneficial Ownership

- That NAR support the disclosure of beneficial ownership of business entities at the time those entities are registered with the states, with appropriate consideration given to address legitimate business privacy concerns. (*November 2017*)

Consumer Financial Protection Bureau Structure

- That NAR continue to support the existence of a federal agency such as the Consumer Financial Protection Bureau (CFPB) designed specifically to protect consumers' interests with regard to financial products and services. Further, it recommends that NAR support policy proposals that restructure the CFPB or similar agency from the current single-director arrangement to a qualified five member board with no more than three members from one

political party. The existing independent agency structure and funding sources for an agency such as the CFPB should be preserved. (May 2017)

Control of Email Spam

- That NAR strongly supports efforts to control fraudulent, misleading and abusive unsolicited e-mails and e-mailing practices. Such efforts must be carefully considered to balance the elimination of abusive spamming practices with the needs of small business to conduct legitimate business via e-mail without the imposition of significant compliance burdens. (November 2003)

Federal Technology Policy Subcommittee

- A motion carried that a new subcommittee, Federal Technology Policy Subcommittee, be created. (May 2011)

Immigration and Visa Reform

Immigration

- That NAR adopt the Statement of Principles as recommended by NAR's Immigration Presidential Advisory Group:
 - Proposed NAR Statement of Principles for Immigration Reform
NAR believes the interests of its members are best served by stable, prosperous, thriving and secure communities. Accordingly, NAR policy should be guided by the following principles:
 1. We believe NAR should be involved in immigration issues to the extent necessary to support stable, prosperous, thriving and secure communities and to enhance the United States as a destination of choice for those seeking to own, transact, lease and use real property.
 2. We support a timely federal resolution of illegal immigration that includes (A) securing U.S. borders to prevent illegal entry, (B) allowing for the flow of legal immigration to accommodate the labor needs of the U.S. economy, and (C) settling the status of illegal immigrants in a way that acknowledges the reality of their presence, their role in the economy and their historic contributions to U.S. society.
 3. We support the rights of foreign citizens to acquire, own and sell U.S. real property and the right of U.S. citizens to acquire property outside the U.S. We also support the free flow of international capital for real estate and oppose laws and regulations that impede that flow.
 4. We believe all resident owners of U.S. real estate should be subject to the same set of rules under the U.S. tax system. In addition, any unique reporting and disclosure requirements regarding foreign buyers and/or their agents should be kept to a minimum.”

(May 2008)

Visa Reform – Residency Visa for Foreign Nationals Purchasing Real Estate

- A motion carried that NAR approve the report of the Visa Work Group adopting the final recommendations per the following (Exhibit H):

I. The Visa Working Group recommends the following set of principles to serve as a guide for advocacy efforts with respect to any federal efforts to create a non-immigrant residency visa for foreign nationals who purchase real property in the United States.

NAR believes that a visa program designed to encourage the purchase of real property in the United States should:

- a. Be available to citizens of as many countries as possible while recognizing the national security issues, which must be addressed. The determination of how countries are included should be left to Congress;
- b. Provide reciprocity to foreign nationals whose home countries provide favorable treatment to U.S. citizens who own or purchase real estate in those countries;
- c. Acknowledge the potential for additional demands to be placed on local, state and federal services by new international residents and account for additional revenues needed to provide those services. In addition, the financial and economic benefits that may accrue to the nation as the result of allowing more foreign nationals to purchase real property in the U.S. should also be taken into account;
- d. Ensure that the length of time for which a visa is issued is long enough to create the certainty needed for foreign nationals to be confident that they will be able to enjoy property purchased for a time period that justifies the sizeable expenditure made. From a practical perspective, a 5 year timeframe should be the minimum amount of time for which a real-estate related visa should be issued;
- e. Allow visa holders to determine the number of days per year of their stay(s) in the United States up to any legislatively prescribed limit and not mandate a required minimum stay;
- f. Include appropriate thresholds for the value of property purchases to ensure that new visa holders have the financial resources needed to maintain properties purchased and not become a burden on local, state or federal government services;

- g. Use property valuation measures that are appropriate for the purpose intended, which in most cases will be the market-determined sales price;
- h. Avoid imposing arbitrary requirements that would discourage the use of the visa, including the loss of benefits available to foreign nationals from their home countries (e.g. eligibility for home country national health coverage, favorable home country tax treatment, etc.), in order to encourage property purchases; and
- i. Focus on stimulating long term market demand, as opposed to short term market conditions.

2. The Working Group also reaffirms existing NAR policy that:

- a. opposes unduly burdensome visa rules that create unnecessary barriers to tourism, ownership of US real estate by foreign nationals, and the use of those properties; and
- b. states that “all resident owners of U.S. real estate should be subject to the same set of rules under the U.S. tax system. In addition, any unique reporting and disclosure requirements regarding foreign buyers and/or their agents should be kept to a minimum.”

3. The Working Group acknowledges that the complexity of visa issues and the attendant liability that could accrue to a real estate professional who provides incorrect advice will create the need for member education should such a visa program be enacted. (*May 2012*)

- That NAR explore federal legislation to create a retirement residency card for foreign nationals who are over 55 years of age, have documented income and own U.S. real property. (*November 2006*)

Interstate Land Sales Act (ILSA)

- That NAR support legislation to amend the Interstate Land Sales Act (ILSA) to treat large residential condominium projects under construction in the same manner as completed residential condominium projects for purposes of the ILSA. (*November 2013*)

Lobbying

- That NAR support free and unlimited access to government employees and elected officials at the local, state, and national level, by REALTORS® in the course of their personal and business interests. NAR supports registration and full disclosure of activities by professional federal lobbyists and opposes any restrictions or limitations, which would directly or indirectly affect communication by state & local REALTOR® Associations with their

membership regarding legislative and regulatory issues, including grassroots communications. (May 1995)

Occupational Safety

- That the NATIONAL ASSOCIATION OF REALTORS® oppose H.R. 1280, the *Comprehensive Occupational Safety and Health Reform Act* and S. 575 the *Comprehensive Occupational Safety and Health Reform Act*; Construction Safety, Health, and Education Improvements Act of 1993. (April 1994)

Public Policy Coordinating Committee

- That NAR support the retention of the Public Policy Coordinating Committee (PPCC). (May 1995)

Real Estate Settlement Procedures Act

Section 8 Violations

- A motion carried that, in light of the increasing number of requests for funding for lawsuits alleging violations of Section 8 of RESPA, the Leadership Team will create a Workgroup, PAG, or other appropriate group of members to examine current legislative, regulatory, administrative, and judicial interpretations of Section 8 of RESPA, and to investigate specific remedies to eliminate or mitigate any continuing adverse impact on brokers under Section 8. (November 2011)

RESPA/TILA Harmonization

- A motion was carried that the National Association of REALTORS® (NAR) reaffirm items #1-8 of its existing policy on the *Real Estate Settlement Procedures Act* (RESPA) as approved by the Board of Directors in November, 1997, and make clarifying changes to #9.
 - Recommendation #1: That the National Association of REALTORS® support efforts to increase regulatory clarity for both the *Real Estate Settlement Procedures Act* (RESPA) and the *Truth in Lending Act* (TILA) by recommending the following:
 - RESPA and TILA be merged onto one disclosure statute.
 - If they cannot be merged, RESPA and TILA should be written to complement each other.
 - Enforcement authority should be placed with the Department of Housing and Urban Development (HUD) if RESPA and TILA are merged.
 - If merged, maintain the real estate broker exemption from the 3-day right of rescission. (Currently contained in the TILA regulations.)

- Recommendation #2: That NAR codify the exemptions in the 1992 Rule for Section 8 as they relate to employer-employee compensation. The exemptions sought would include:
 - A payment by an employer to its own bona fide employee for generating business for the employer; and
 - In an affiliated business arrangement, a payment by an employer of a bonus to a managerial employee based on criteria relating to performance (such as profitability, capture rate, or other thresholds) of a business entity in the affiliated business arrangement.
 - A payment by an employer to its bona fide employee for the referral of settlement service business to a settlement service provider that has an affiliate relationship with the employer, provided written disclosure is made to and accepted by all clients and customers to the transaction, and there is no required use of these services.
- Recommendation #3: That NAR affirm its current position on affiliated business arrangements as defined by the RESPA statute, we believe brokers/agents and other staff are entitled to remuneration for the delivery of real estate related services provided that written disclosure is made to and accepted by all clients and customers to the transaction and that there is no required use of these services.
- Recommendation #4: That NAR support disclosure requirements for referrals to affiliated businesses made over the telephone as written in HUD's May 9, 1997, Proposed rule.
- Recommendation #5: Clarify that HUD does not have authority to regulate the rental of office space.
- Recommendation #6: That NAR support maintaining RESPA enforcement authority at HUD.
- Recommendation #7: That NAR seek to remove or limit criminal penalties under RESPA.
- Recommendation #8: That NAR support the concept of consumer discounts and rebates as permitted by state law. However, NAR opposes the current draft federal legislative language that would exempt payments to an "affinity group" from Section 8 of RESPA.
- Recommendation #9: That NAR oppose blind bundling¹ of settlement services as outlined in the Consumer Mortgage Coalition (CMC) proposal. We do support the consumer's right to compare and select from

¹ PAG members characterized the CMC proposal as "blind bundling" since the CMC proposal would offer consumers a bundle of all services necessary to close the mortgage loan without defining the services provided within the bundle, the individual cost for each service, and the lack of disclosure of whom would perform these services.

fully optional and disclosed packages of settlement services, provided the following:

- Anyone, not just lenders, could offer a package of settlement services.
- The consumer would be permitted a choice of whether to buy the package or purchase services separately. In other words, no required use of package the lender cannot require the use of their package to obtain the loan and cannot charge a rate or point differential if the consumer chooses a competitor's package.
- Lenders should be prohibited from rejecting the use of a competitor's package if providers in the package are approved by the secondary market, the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), or any other law governing loan products.
- If consumer is offered an open package at a guaranteed price, there should be no government restrictions or prohibitions on how settlement service providers price their product.
- When consumers choose to use a package, package providers could require use of those services and service providers contained within the package even if they are from affiliated businesses.
- A basic package of settlement services is defined as all settlement services associated with closing the mortgage loan and required by the secondary market, FIRREA, or any other law governing loan products.
- Fully disclose services, the service providers and the price of services within the package, however, in a basic package there is no need to disclose the service providers. In supplemental packages, those requested by the consumer in addition to the basic package, the services and service providers must be disclosed.
(February 1998)

RESPA Advocacy Budget

- That the budget adjustment request for \$295,000 to develop RESPA advocacy and research be approved. (*Change in Budget, February 1997*)

RESPA Affiliated Business Arrangements

- That NAR amend its policy to replace the term “controlled business arrangement” with the term “affiliated business arrangement” where it appears in NAR policy documents.
(February 1997)

Wireless 411 Service Privacy Concerns

- That NAR support efforts to establish federal guidelines for any wireless directory assistance service developed for cellular subscribers' telephone numbers. De minimis standards should

include an opt-in requirement and give subscribers the right to opt-out without incurring any expense to do so. (*November 2004*)

Worker Classification

- A MOTION was carried that the NATIONAL ASSOCIATION OF REALTORS® support the separation of the workers compensation classifications of real estate property managers, site managers, and leasing agents from those of building maintenance and repair people. (*April 1994*)

Note all Federal Technology Policy Motions are now under the new Federal Technology Policy Advisory Committee, such as eSignatures and Net Neutrality.

Summary of Priority Issues under Jurisdiction of the Committee

Below is a brief summary of the issues, which link to more detailed policy background.

Affiliated Business 3% Cap on Fees and Points

The Dodd-Frank Ability to Repay/Qualified Mortgage (QM) rule discriminates against various business models including mortgage bankers, mortgage brokers, and affiliates. Specifically, for a mortgage to be a QM and receive safe harbor protections, the mortgage's fees and points cannot exceed 3 percent of the loan amount. However, mortgage bankers, mortgage brokers, and affiliated companies are required to count more items towards fees and points than large retail financial institutions, putting these smaller firms at a competitive disadvantage.

Immigration Reform

With nearly 12 million undocumented immigrants in the United States, high levels of real estate investment interest on the part of foreign nationals, and the pending expiration of a major visa program for foreign entrepreneurs, immigration and visa reform is an issue with ramifications for the real estate community.

Anti-Money Laundering/Terrorism Financing (AML/TF)

Real estate professionals should understand their existing legal responsibilities and the current efforts to combat money laundering and the financing of terrorism. There continues to be increased attention on imposing mandatory obligations on real estate brokers and agents, and other non-financial designated businesses, which NAR would oppose given the existing AML regulations that already apply to U.S. financial institutions. Therefore, continued partnership with enforcement agencies and increased member education will help more effectively preventing, recognizing, and combating money-laundering schemes, without the imposition of unnecessary regulatory burdens.

RESPA Marketing Services Agreements (MSAs)

The Real Estate Settlement Procedures Act (RESPA) provides consumers with improved disclosures of settlement costs and to reduce the costs of closing by the elimination of referral fees and kickbacks. Section 8 of RESPA generally prohibits any person from giving or receiving any “thing of value” in exchange for the referral of settlement service business. However, there is an exception under RESPA that allows brokers and agents to exchange reasonable payments in return for goods provided or services performed by other settlement service providers, so long as those arrangements are carefully structured to comply with the law and regulations. The Consumer Financial Protection Bureau (CFPB) has increased scrutiny of settlement service provider relationships and activities under RESPA in the past, resulting in growing uncertainty for the real estate industry and use of Marketing Service Agreements (MSAs).

TRID (TILA-RESPA Integrated Disclosure)

The CFPB has been working to harmonize the *Real Estate Settlement Procedures Act* (RESPA) and *Truth in Lending Act* (TILA) disclosures and regulations for a number of years. The new integrated disclosures replace the long-standing Good Faith Estimate (GFE) and HUD-1 settlement statement, resulting in a learning curve for the industry since the rule went into effect in October 2015.

Visa—Investors

The EB-5 Investor Visa Regional Center Program was established as a pilot program administered by the U.S. Citizenship and Immigration Service. The regional centers and the traditional EB-5 visa process provide foreign nationals with a means to obtain a permanent residence visa in the United States by investing a minimum of \$500,000 or \$1 million and creating or preserving 10 or more American jobs. Authority for the regional center pilot program needs to be reauthorized periodically.

Visa—Seasonal Workers

Seasonal workers play an important role in maintaining and keeping resort properties looking good and operating effectively. The H-2B Visa Program allows workers to enter the U.S. on a temporary basis for these kinds of jobs, for example, landscapers, wait staff, lifeguards and ski lift operators.

Visa—Tourism and Retirement

The current visa system does not allow foreign citizens who own a home in the United States to use that home on a full-time basis and/or to enter and exit the U.S. without restriction and no changes have been made in recent years.

Worker Classification (independent contractor v. employee)

The longstanding business arrangement for real estate brokerages includes real estate agents classified as independent contractors rather than employees. While real estate agents have been specifically considered independent contractors for federal taxation purposes since 1984, there have been occasional challenges to that classification in state courts for purposes other than federal taxation, such as overtime pay and other benefits. Calls for federal action to address employer abuses of the independent contractor classification have been ongoing for many years.