

NAR Issue Summary

Business / Interstate Land Sales Act

What is the fundamental issue?

The Interstate Land Sales Full Disclosure Act (ILSA) was created to help protect consumers looking to buy subdivision lots without full knowledge from purchasing swampland or deserts. It requires developers to provide complete information about the land for sale, and provides the consumer with extensive rights to rescind a contract.

Over the last several years, there has been an increase in the number of consumers suing to cancel purchase contracts for condo units (as much as 2 years after signing the sales contract) on the basis of a developer's failure to include a complete legal description for the unit purchased or when additional units are added to a complete project. In many jurisdictions, that unique legal description is not available at the time of sale since that unique description for units is only assigned once the entire project is completed. The ILSA is currently construed broadly by the courts; this has resulted in decisions ordering condominium developers to rescind purchase agreements due to the lack of a final legal description when the contract is signed, or when additional units are added to a completed project.

In many cases, purchasers who have gone to court to rescind the sale bought their units when the market was at or near the top of the market. When the great recession ensued, developers were forced to lower the price of units sold subsequently. As a result, these early purchasers paid a price that was higher than those who came later, became upset with the loss in value, and used the rescission provisions of the ILSA to successfully cancel their purchases.

I am a real estate professional. What does this mean for my business?

Info to come

NAR Policy:

NAR supports efforts 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.

Opposition Arguments:

There has been no opposition to legislation to amend the ILSA to treat unit sales in condo developments under construction in the same manner as units in completed projects. A House bill to do just this passed in late 2013 by a vote of 410-0. Potential opponents could raise the specter that such a change could reduce the law's ability



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to provide a maximum degree of consumer protection.

Legislative/Regulatory Status/Outlook

In order to address the condo-related issues that have arisen, H.R. 2600 (Maloney, D-NY; McHenry, R-NC) was introduced; the bill would treat condominiums that are being developed in the same manner as completed condominiums for purposes of the ILSA. It would not exempt the projects from the anti-fraud provisions of the ILSA that prohibit misrepresentations or practices that would defraud purchasers. The bill passed the full House by a vote of 410 to 0 on September 26, 2013.

S. 2101, a Senate companion bill to H.R. 2600, was introduced on March 11, 2014 by Senators Charles Schumer (D-NY), Dean Heller (R-NY) and Kristen Gillibrand (D-NY). The bill's sponsors have indicated that they hope to bring the measure up for consideration by the Senate in the very near term.

NAR has communicated its support for Senate consideration to the Senate leadership, as well as written to thank the cosponsors of the new Senate bill. Among the other real estate groups that have supported the amendments proposed by both H.R. 2600 and S. 2101 are the Real Estate Roundtable, the Real Estate Board of NY, the National Associations of Real Estate Investment Trusts, the American Resort Development Association (ARDA) and the Building Owners and Managers Association (BOMA) International.

For more information on the Interstate Land Sales Full Disclosure Act, please go [here](#).

To access, NAR's correspondence supporting quick Senate consideration, please check [here](#).

Current Legislation/Regulation (bill number or regulation)

H.R. 2600, "To amend the Interstate Land Sales Full Disclosure Act to clarify how the Act applies to condominiums" (McHenry, R-NC; Maloney, D-NY)

S. 2101, "A bill to amend the Interstate Land Sales Full Disclosure Act to clarify how the Act applies to condominiums" (Schumer, D-NY; Heller (R-NY); Gillibrand (D-NY)

