

NAR Issue Summary

Business / Tort Reform - Class Action

NAR Committee:

Business Issues Policy Committee

What is the fundamental issue?

Punitive damage awards and class action lawsuits have been cited as factors contributing to the rapid escalation of insurance premiums for both property and liability insurance purposes.

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

Tort reform has taken on importance as real estate licensees have seen errors and omission and property insurance premiums increase sharply and carriers leave the marketplace, in part, due to record jury awards imposed on insurers. In addition, licensees and brokers have seen class action suits brought involving property management practices, environmental disclosures, advertising practices and mortgage lending activities - often filed in courts that routinely approve settlements in which the class members are likely to receive worthless coupon settlements while the lawyers themselves receive large fee awards.

NAR Policy:

NAR policy supports tort reform efforts including the establishment of caps limiting noneconomic and punitive damage awards and standards for the assignment of certain class action lawsuits to federal court.

Opposition Arguments:

Caps on punitive damage awards reward corporate wrongdoers and discriminate against women, children and elderly by linking these caps to multiples of compensatory damages. Plaintiffs should be able to choose the court venue of their choice.

Legislative/Regulatory Status/Outlook

The most recent changes to tort reform law clarified the standards for the assignment of certain class action lawsuits to federal court. These changes were approved by the Senate on February 10, 2005 on a bipartisan vote of 72-26. House approval came on a vote of 279-149 the following Thursday, February 17, 2005. President Bush signed the bill on Friday, February 18, 2005. In the intervening years,



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there has been no additional efforts to legislate any other tort reform measures at the federal level.

Current Legislation/Regulation (bill number or regulation)

No actions at this time.

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