

# 2015 NAR Issue Brief

## Legislative & Regulatory Year in Review

10 December 2015

During the 114<sup>th</sup> 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. **NAR achieved several accomplishments** and set the foundation for many important issues moving forward.

### FHA Implements New Condo Policies

After years of advocating for broad improvements to FHA's condominium rules, FHA Principal Deputy Assistant Secretary Ed Golding announced, at the 2015 REALTORS® Conference & Expo, changes to FHA condo policies. NAR has long argued that existing FHA policy is overly restrictive and keeps many consumers from buying and selling a home. **The new FHA condo rules** are in line with those requested by NAR and include changes to the lengthy and complex recertification process, burdensome owner-occupancy requirements, and limits on the types of property insurance that are considered acceptable coverage under FHA's rules. **NAR will continue to work closely with FHA** to address additional policy changes still needed as it relates to owner occupancy, commercial space percentage, FHA concentration and spot approvals.

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

### G-Fees Removed as a Financing Mechanism from Transportation Bill

After aggressive **advocacy outreach** by NAR through letters, meetings and an all-member Call for Action which generated the highest response rate in NAR history, **Congress removed the use of guarantee fees (G-fees)** as a financing mechanism from the **Fixing America's Surface Transportation Act (FAST Act)**. While originally included in the Senate version of the bill, the final Conference Report removed the G-fee pay-for provision which would have extended elevated G-fees on mortgages backed by Fannie Mae and Freddie Mac. Had this provision been included the fees would have been passed on to homeowners. President Obama signed the bill into law on December 4, 2015.

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

### Waters of the United States (WOTUS) Rule Implementation Halted

For over a year, **NAR has worked vigilantly with Congress** and regulated stakeholders to oppose a rule by the Environmental Protection Agency (EPA) which vastly expands EPA authority over more bodies of water and increases EPA regulation of land uses on private property. Through testimony, letters and in-person meetings, **NAR has been supporting all available legislative efforts to have the Waters of the U.S. rule withdrawn**. These actions by NAR have resulted in the House of Representatives passing H.R. 1732, the Regulatory Integrity Protection Act which would require the EPA to withdraw the rule and start the regulatory process from scratch. Additionally, NAR's initiatives resulted in 47 Senators filing a resolution to kill the legislation in the Senate. Temporary success was achieved on October 9 when a judge from the **6<sup>th</sup> Circuit Court of Appeals halted implementation nationwide of the rule**. However, this regulatory stay is only temporary and NAR will continue to push for a legislative solution.

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

### Terrorism Risk Insurance Act Becomes Law

On January 12, 2015, the **Terrorism Risk Insurance Act (TRIA)** was signed into law. This follows NAR's strong advocacy efforts throughout 2014 in support of reauthorization, including a "fly-in" of commercial practitioners and participation as a steering committee member in the Coalition to Insure Against Terrorism (CIAT). As a necessary financing component of many commercial development projects, it was crucial that this legislation pass Congress as early as possible in 2015.

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

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### **FHA Mortgage Insurance Premium Reductions Finalized**

On January 8, 2015, President Obama announced that the **Federal Housing Administration (FHA) would reduce FHA annual mortgage insurance premiums (MIP) by 50 basis points.** This reduction is a victory for NAR members who had called for lower fees on FHA loans since early 2014. NAR led a coordinated effort with other advocacy groups to educate the Department of Housing & Urban Development and the Administration about the critical need to reduce these fees through letters and in-person meetings with then FHA Commissioner Galante. In addition, NAR worked with 17 Senators to send a letter to HUD Secretary Castro asking him to set FHA premiums at a level that “balances both sustainability and affordability”.

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

### **TILA-RESPA Integrated Disclosure (TRID) Rule Implementation Delayed; Written Guidance Issued**

Following months of **intense outreach by NAR** and numerous industry partners through letters and in-person meetings, the **Consumer Financial Protection Bureau (CFPB) announced it was moving the implementation date of the new TRID rule from August 1 to October 3** to accommodate the busy buying and selling season. While pleased with this decision, **NAR continued to actively engage with the CFPB to request written assurances that the early enforcement of the new rules will take into account the good faith efforts of supervised entities.** On October 1, CFPB Director Richard Cordray, on behalf of the six federal financial regulatory agencies, provided those assurances in a written letter to the industry. Additionally, NAR worked with CFPB to allow brokers and agents to co-brand the **“Your Home Loan Toolkit”** and received clarification on affiliate title companies and mortgage lenders can co-brand, produce, and deliver the toolkit to agents without violating RESPA.

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

### **Protection of Homeownership and Real Estate Investment Incentives**

NAR continues to educate Congress and their staff on the vital role that real estate tax provisions play in the nation’s housing markets and economy. While **comprehensive tax reform is not likely to be enacted soon**, Members of Congress are still exploring the possibility of some limited business-only tax reforms and looking to current law provisions, **such as Section 1031 Like-Kind Exchanges, that can be repealed or curtailed in order to “pay for” lowering tax rates.** NAR has submitted several letters to Congress’ tax writing committees outlining its position on Section 1031 Like-Kind Exchanges and other real estate related tax provisions. NAR is engaged in a continuous dialogue with Members of Congress to ensure its message is heard. NAR is also actively encouraging Members of Congress through letters and meetings to cosponsor **The Mortgage Forgiveness Tax Relief Act** in either the House or Senate which would extend the tax relief for an additional two years.

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

### **New Net Neutrality Rules Preserve Equal Access to the Internet**

After extensive outreach by NAR and its broad real estate coalition of over 100 MLSs, large firms and industry associations, the Federal Communications Commission (FCC) on February 26, 2015, approved new “net neutrality” rules, which gives the Commission strong legal authority to regulate broadband providers more heavily than in the past and restrict their power to control download speeds on the web. The new rules ban Internet providers from blocking or slowing any traffic and from striking deals with content companies, known as paid prioritization, for smoother delivery of traffic to consumers. **The new rules are**

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a victory for consumers, and for REALTORS® who embrace technology and online resources to meet the needs of their clients.

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

### Tenant Star Bill Becomes Law

On April 30, 2015, after almost a year of ongoing outreach by NAR in coalition with other real estate industry groups, the **Energy Efficiency Improvement Act of 2015, S. 535**, was signed into law. More commonly known as the “Tenant Star” bill, this **legislation created a voluntary, market-driven approach to encouraging landlords and tenants to adopt energy efficient practices in leased spaces.**

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

### Federal Housing Finance Agency Announces New Non-Performing Loan Requirements

After yearlong outreach by NAR, the Federal Housing Finance Agency (FHFA) announced enhanced non-performing loan (NPL or note sales) requirements for sales of NPLs by Freddie Mac and Fannie Mae in March. In a letter last year to Director Mel Watt and subsequent meetings with FHFA officials, **NAR raised concerns that this disposition strategy gives investors an advantage over potential owner occupant buyers.** NAR requested more information on the sale of the notes and asked FHFA to study the cost and impact of bulk note sales to institutional investors.

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

### Creating Common Sense Patent Litigation Reforms

Despite a major NAR advocacy effort which included an all-member Call for Action, meetings with Members of Congress, Congressional testimony, letters from NAR and State Associations, and participation in the United for Patent Reform coalition, Congress did not act on **The Innovation Act, H.R. 9** or any other patent reform bills. **NAR will continue to engage with Congress to ensure it understands the importance of passing comprehensive patent litigation reform legislation** to address the abusive use of demand letters by patent trolls and to reform patent infringement claims.

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

### Engaging with the FAA on Drones

**NAR continues to educate the Federal Aviation Administration (FAA) and Congress on how real estate professionals can use drones safely** in marketing efforts for properties. In September, NAR President Chris Polychron testified before the House Judiciary Committee on the value of drones in real estate. While wide-scale commercial use of drones is currently prohibited, in March the FAA updated its waiver policy and came out with a streamlined process which gives individuals and businesses interested in using drones for commercial purposes a Certificate of Waiver or Authorization (COA) and eliminates the need for operators to apply for a COA for each block of airspace they wish to use. Since this policy change, dozens of Realtors® have obtained a Section 333 waiver. **In 2016, NAR will continue to work with the FAA and Congress to develop a clear regulatory framework for REALTORS® to responsibly make drones a part of their business practices.**

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