



## REALTOR<sup>®</sup> Office Contact (ROC) - Legislative Briefing September / October 2009

*Every day governmental bodies and elected officials are making decisions that impact the real estate industry and thus REALTOR<sup>®</sup> livelihoods. This briefing will help keep you informed about the issues which could affect you and how the San Diego Association of REALTORS<sup>®</sup> is working to protect your business.*

### FEDERAL

**NAR Adopts Policy on Streamlining the Regulation of Non-admitted and Surplus Lines of Insurance** On September 9, 2009, the U.S. House of Representatives passed H.R. 2571, the Nonadmitted and Reinsurance Reform Act, a bill that seeks to modernize the insurance regulatory system by providing a uniform approach to regulating the commercial surplus lines market. The bill was authored by Reps. Dennis Moore ( D-Kan.) and Scott Garrett ( R-N.J) and supported by the leadership of the Financial Services Committee.

More than 25 percent of commercial insurance in the United States is placed in the surplus lines market, also known as the nonadmitted insurance marketplace. NAR supports replacing the existing patchwork approach to state regulation with a more uniform approach under which the rules of the insureds' home state apply in the case of multistate placements.

The bill now moves to the Senate, where it was introduced on June 25 by Sens. Evan Bayh (D-Ind.), Mel Martinez (R-Fla.), Mike Crapo (R-Idaho) and Bill Nelson (D-Fla.)

**HUD Releases Expanded FAQs on New RESPA Rule** The Department of Housing and Urban Development (HUD) has recently released three sets of new FAQs on the new RESPA rule published in November 2008. The latest additions were published on HUD's website on September 3, 2009, after two previous releases in August. The FAQs are organized by subject, cover multiple topics ranging from questions concerning effective dates, to filling out the new GFE and HUD-1 forms. While some provisions of the final rule went into effect on January 16, 2009, the majority of the provisions, including mandatory use of the new GFE and HUD-1 forms, will go into effect on January 1, 2010. [HUD's Expanded RESPA FAQs](#)

**NAR Begins Push to Extend Homebuyer Credit** NAR will push hard during the coming weeks to assure that the first-time homebuyer tax credit is extended beyond its current December 1 expiration. Under current law, homebuyers will be eligible for the credit only if they are able to complete their purchase (i.e., go to closing) before December 1, 2009. This requirement intensifies pressure on purchasers and on Realtors and lenders as that deadline approaches. NAR is deeply concerned that prospective purchasers, even those with binding contracts, could be denied the credit through no fault of their own. Senior members of the tax-writing committees are aware of these concerns and have noted the dangers of delay.

Informal NAR informal surveys suggest that, depending on the market, transactions are taking anywhere from 30 to 100 days to get to closing; short sales take even longer. Accordingly, NAR has begun an intense campaign that will have major grassroots components to secure an extension of the credit as soon as possible to avert a slowdown in the market.

**DoD Homeowners Assistance Program for Active Military Released** Following a lengthy delay, the Department of Defense and Army Corps of Engineers last week published the final rules for the Homeowners Assistance Program, as it applies to Members of the Armed Forces permanently reassigned during the mortgage crisis. The American Recovery and Reinvestment Act (ARRA), passed in February, provided new relief for active duty military personnel who have been permanently relocated, and face or have faced a loss on the sale of their home. The program applies to those who purchased their property before July 1, 2006, and their reassignment was ordered at least 50 miles away, between 1 February 2006 and 30 September 2012. The property has to have served as the primary residence, and the recipient must not have received HAP aid previously. For full information and an application, visit the DoD HAP website. [Click here for more information](#)

*Please contribute to the REALTOR<sup>®</sup> Action Fund so SDAR may continue to protect your interests. For additional information or to contribute to the REALTOR<sup>®</sup> Action fund, please contact the Government Affairs Dept. at [govaffairs@sdar.com](mailto:govaffairs@sdar.com) or 858-715-8026.*



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### STATE

**SENATE APPROVES C.A.R. SUPPORTED AB 957 - BUYER'S CHOICE IN ESCROW** AB 957 codifies in California law the federal RESPA rules for selection of title insurance, and extends the same rules to protect buyers in the selection of escrow services. While C.A.R. supported AB 957, C.A.R. opposed amendments that would have extended the rules for title and escrow to Natural Hazard Disclosure (NHD) reports and reduced REALTOR® liability protections. Due to industry opposition, the bill was returned to its previous version. If AB 957 is approved by the Assembly and the Governor it will take affect immediately.

### LOCAL

#### **APPEALS COURT REJECTS LOCAL BUSINESS TAX AND RENTAL UNIT TAX PROCESSING FEE**

**IN SAN DIEGO** In an August ruling, the Fourth District Court of Appeals rejected a San Diego County Superior Court decision that had upheld a fee imposed in the city of San Diego to collect a business license tax on all rental units. The fee was imposed by the city in 2004 to offset the \$3.5 million costs it incurred to collect and process its own business tax and the rental unit business tax (RUBT). While the legality of the business taxes were not challenged, the legality of the processing fee was. The appeals court reversed the superior court ruling, by finding that the fee is a general tax that is void because it was not approved by a majority vote of the municipal electorate.

More info: <http://www.metnews.com/sos.cgi?0809%2FD0527877>

**INCREASING LINKAGE FEES BEING DISCUSSED AT THE CITY:** The City of San Diego Land Use and Housing Committee voted on a three-to-one vote, with Councilman Kevin Faulconer opposing, to direct staff to prepare the necessary studies to consider an increase in linkage fees for the next year (Linkage fees are fees assessed on non-residential developments on a square foot basis and deposited into the Housing Trust Fund. This includes all commercial properties and Tenant Improvements. Linkage fees are combined with rents collected from public housing residents, and administrative fees as source funding for the San Diego Housing Commission). The committee requested that the Housing Commission prepare an update of the Linkage Fee Nexus Study and an updated fee schedule for consideration. In addition, they requested the San Diego Housing Commission to work with industry stakeholders to define additional options to increase funding for affordable housing in a broad based and comprehensive manner.

The San Diego Association of REALTORS® along with a broad business coalition, including the Building Industry Alliance, California Restaurant Association, the San Diego Chamber of Commerce and others were in agreement that in this current economic environment, that there is absolutely no reasonable justification for even looking at increasing the fee. Linkage fees were first enacted in 1990 when the San Diego Municipal Code created a Housing Trust Fund. When the fee was first proposed, it was among several options to help provide for affordable housing that the city council considered. However, only two have ever been levied, one being the linkage fee, the other being the inclusionary housing policy. No other broad-based funding measures have ever been given serious consideration, despite the fact that they would provide far more revenue and, therefore, far more housing units to help address the affordable housing issues in this region. To date, commercial, industrial and retail projects have paid more than \$50 million in linkage fees. The nexus study is expected to be completed by Spring 2010 with committee consideration expected sometime in June.

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