NATIONAL ASSOCIATION of REALTORS® | Real Estate Services

Newsletter Update

February 2011

i. Obama Administration Releases Plan for Reforming America's Housing Finance Market

On Friday, February 11, 2011, the Administration released its plan for reforming America's Housing Finance Market. The proposal, which offers three options for handling the secondary mortgage market participants Fannie Mae and Freddie Mac (full privatization, a guarantee mechanism during crisis, and catastrophic re-insurance), also proposes criteria that would foster increased down payments to 10 percent, lowering GSE and FHA loan limits, and raise the GSEs' guarantee fees (g-fees) and FHA premiums significantly, in an effort to level the playing field and bring back the private sector. NAR recognizes that the existing system failed and that changes are needed to protect taxpayers from an open-ended bailout; however, we also believe that there must be a certain level of government participation to provide middle-class families access to affordable mortgages at all times and in all markets. To read the Administration's report, NAR's Press Release regarding the Administration's report, and NAR's Key talking points for GSE reform please visit www.REALTOR.org/government_affairs. You can also see the activity the Association has, and is, undertaking on this issue to ensure that the America's home buyers and sellers, as well as the housing industry are well represented and accounted for in this most important conversation.

ii. Congressional Resolution Introduced Supporting Mortgage Interest Deduction

Congressman Gary Miller (R-CA) and a group of bipartisan cosponsors have introduced H. Res. 25, a resolution that affirms the importance of the mortgage interest deduction (MID) and urges retention of current law. He has circulated a letter to all House members to secure additional cosponsors. In addition, NAR has circulated its own letter to House members requesting their support. NAR lobbyists will be aggressively seeking additional cosponsors.

iii. President Obama Silent on MID in State of the Union but Proposal Appears in Budget Again

President Obama's January 25 State of the Union address made no mention of the mortgage interest deduction (MID). The President did express interest in pursuing reforms that would improve the competitive position of Corporate America. Those reforms would not affect the MID. While the President did reference the Deficit Commission report, he did not specifically embrace any of its recommendations. (That report recommended reducing the $1 million cap to $500,000, eliminating the MID for second homes and converting the deduction to a 12% tax credit.) Moreover, the President did not express intent to lead a battle for individual tax reform, but rather appeared to leave the details of any individual reforms to Congress.

In addition, a recurring plan to shave the MID and other deductions for high income earners once again appeared in the Administration budget proposal released on February 14. However, no action is expected on this item. NAR's Homeownership Matters (HOM) campaign is poised to mount a campaign should formal proposals emerge that would reduce the value of the MID.

iv. Senate Finance Committee Reviews Landlord Reporting

During the week of February 7, the Senate Finance Committee held a markup to review a pending Airways Trust Fund bill. Senators offered numerous amendments unrelated to the pending bill. All were withdrawn after discussion, largely because they were non-germane to the bill at hand. Among the amendments was one offered by Senator Snowe (R-ME) that would have repealed the Form 1099 landlord reporting provisions that were enacted in 2010. Those rules are currently in effect. They require any person who receives rental income to report payments of $600 or more to those who provide goods and services.

NAR has strongly objected to this reporting provision as a trap for the little guy. NAR sent a letter to all Finance Committee members supporting the Snowe amendment. Chairman Baucus (D-MT) and ranking member Hatch (R-UT) spoke favorably about the amendment, thus increasing its chances of being adopted at a latter time. The House Ways and Means Committee will mark up a bill during the week of February 14 to repeal the 1099 reporting rules included in the 2010 health care package. NAR has identified sponsors who will attempt to add the repeal of the landlord provisions during that markup.

v. Incorrect Rumors About 3.8% Transfer Tax Persist

For the third time I the past six months, NAR has again been inundated with questions about a real estate transfer tax enacted as part of the Health Care reforms in 2010. THERE IS NO SUCH TAX. A viral Internet posting is riddled with errors.

The Health Care legislation did create a new tax that would apply to a portion of the gain on the sale of any capital asset (including real estate). That tax will apply ONLY to individuals with more than $200,000 Adjusted Gross Income (AGI) (or $250,000 AGI on a joint return). The tax does not apply to any amount excluded from taxation under the $250,000/$500,000 principal residence rules. The tax is never imposed directly on the full amount of any capital gain.

The tax is computed under a multi-step formula that captures only a portion of any gain and will only affect those with total AGI above the amounts noted above. Links are provided for a Q&A on the tax and to a brochure with examples of the tax.

vi. REALTORS® Praise FHFA for Proposed Rule to Prohibit Private Transfer Fees

In a statement released on February 4, 2011, NAR applauded the Federal Housing Finance Agency (FHFA) for moving ahead with a proposed rule to restrict government-sponsored enterprises Fannie Mae and Freddie Mac and the 12 Federal Home Loan Banks from investing in mortgages encumbered by private transfer fee covenants. The proposed rule would allow for private transfer fees paid to some home owner, condominiums, and cooperative associations. According to FHFA the proposed rule would only apply to private transfer fee covenants created on or after the date of publication of the rule.

Since there is virtually no oversight on where or how private transfer fee proceeds can be spent, on how long a private transfer fee may be imposed, or on how the fees should be disclosed to home buyers, as many as 19 states have banned or restricted private transfer fees. The Federal Housing Administration has also restricted private transfer fees through its home loan programs.

NAR has long been vocal in its opposition to private transfer fees, which are often attached to a property by developers and require payment of fees back to the developer each time the property is resold; the covenants can be difficult to reverse and may be attached to a deed for up to 99 years.

vii. NAR Joins Housing Trades and Consumer Groups to Support Affordable Mortgages

On January 11, 2011, NAR joined other major housing trades as well as the Consumer Federation of America and the Center for Responsible Lending in a letter to federal regulators urging them to broadly define the Qualified Residential Mortgage (QRM) under the Dodd-Frank Wall Street Reform and Consumer Protection Act. QRMs will be exempt from credit risk retention when securitized. The 5% risk retention is expected to significantly increase costs of mortgages with those cost most likely borne by consumers.

NAR believes that well underwritten mortgages where the borrower demonstrates an ability to repay should not be subject to risk retention and advocated this position in its own letter on December 1, 2010. Some banking interests have argued for a very narrow QRM, including perhaps a 30% downpayment requirement which would force millions of consumers into costlier mortgages.

viii. NAR Meets with Senior Government Officials

NAR President Ron Phipps and President-Elect Moe Veissi met with the acting Director of the Federal Housing Finance Agency, Ed DeMarco, on January 25, 2011. President Phipps raised on NAR's concerns about unnecessarily rigid underwriting policies and increasing fees established by both of Fannie Mae and Freddie Mac (the government sponsored enterprises, or GSEs) and on overly tight underwriting by others in the lending industry.

NAR President Ron Phipps met with the Treasury Department's Under Secretary for Domestic Finance, Jeffrey Goldstein, on January 26, 2011. President Phipps emphasized the importance of assuring that the secondary mortgage market continues to function in all types of markets and urged that restructuring of the GSEs must take that key principle into account. President Phipps also explained NAR's view that the mortgage insurance deduction must be retained in light of its extreme importance to homeownership and raised REALTOR® concerns about overly tight mortgage credit, credit overlays imposed by lenders that go beyond the underwriting standards of FHA and the GSEs, and the way credit scores are determined. Also discussed was the potential use of property valuation information available through Realtors Property Resource to expedite short sales and the sale of bank-owned properties.

ix. Federal Reserve Releases Publication on Credit Decision Notices

New rules issued by the Federal Reserve Board under the Truth in Lending Act that took effect January 1, 2011, require most creditors to provide consumers with a 'Risk Based Pricing' notice when consumers are offered credit on terms that are less favorable than the terms offered to other consumers due to adverse information in their credit report. A "risk-based pricing notice" or an "account review notice" will not include a credit score, but will include information about how to obtain a free credit report from the credit bureau identified in the notice within 60 days of receiving that notice. Today, most consumers must pay a fee to obtain their credit score but, as an alternative to providing risk-based pricing notices, creditors can choose to provide consumers who apply for credit with a "credit score notice" that includes a free credit score and information about their score. You can check the accuracy of your credit report by obtaining a free annual credit report, which is available to all consumers regardless of whether they have received a notice.

x. HUD Eliminates Master Appraisal Report

The US Department of Housing and Urban Development (HUD) released Mortgagee Letter 2011-07: Elimination of the Master Appraisal Report (MAR) effective January 12, 2011 for mortgages insured by the Federal Housing Administration (FHA). Previously, MARs allowed developers to obtain an appraisal for model units within a planned unit development (PUD), condominium, or subdivision to be used for other units in the same phase of development for proposed construction. MARs had a validity period of up to 1 year with a possible extension for an additional year. Mortgagee Letter 2009-30 shortened the validity of all appraisals, including MARs, to 120 days, which removes the advantages of MARs. An appraisal is now required for each individual unit within a larger housing project.

xi. Wells Fargo to Accept FHA Mortgages with Credit Scores Under 600

Wells Fargo announced that effective January 15, 2011, they will accept Federal Housing Administration (FHA) mortgages for borrowers with credit scores as low as 500. For borrowers with credit scores 500-579 a 10 percent downpayment is required and the downpayment may not be a gift or be part of a downpayment assistance program. For borrowers with credit scores 580-599 a 5 percent downpayment is required and the downpayment may not be a gift or be part of a downpayment assistance program. Borrowers with a credit score of 600 or higher are required to have a 3.5 percent downpayment and a gift is acceptable. For all borrowers, seller concessions are limited to 3 percent.

xii. 2011 NAR Member Orientation Video and Materials Update in Mid-February

NAR's 2011 Member Orientation Video and Materials will be available for use by brokerages in mid-February. In it are the resources and tools to help brokers welcome new agents into the REALTOR® family, and its wealth of benefits and resources. Included will be: a 2011 calendar with key NAR dates; details about the enhanced 2011 Membership Guide—which is now online; and a CD with dozens of flyers and materials (in PDF and Word formats) about NAR programs and services for communications; as well as the new 2011 video about NAR benefits to show at new agent orientation. These materials and more will be available at the updated and expanded Web site. www.REALTOR.org/AEMemberToolkit.

UPCOMING DATA RELEASES

Wednesday, February 23

January Existing-Home Sales

Friday, February 25

Commercial Forecast

Monday, February 28

Pending Home Sales Index

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