

## **i. NAR Testifies on Home Warranty, Dodd-Frank and FHA**

Steve Brown, EVP of Crye-Leike Real Estate Services testified before the House Financial Services Subcommittee on Insurance, Housing and Community Opportunity on Wednesday, July 13, 2011 on behalf of NAR. The testimony focused on fixing the HUD guidance on the sale of home warranty contracts by real estate professionals, the unfair treatment of affiliates in the predatory lending provisions of Dodd-Frank and keeping the FHA program vibrant and available for most homebuyers. Chairwoman Judy Biggert (R-IL) and Congressman Lacy Clay (D-MO) introduced legislation to fix the home warranty issue. Legislation to fix the 3% cap issue is also expected shortly.

## **ii. NAR Calls on HUD to Provide Guidance for New Loan Limits**

In a [July 7, 2011, letter to HUD](#), NAR President, Ron Phipps called on Secretary Donovan to implement guidance that allows lenders to use the existing loan limits for any Federal Housing Administration (FHA) case number assigned prior to October 1, 2011. In March, the US Department of Housing and Urban Development (HUD) issued a market analysis of new loan, lower limits that will likely go into effect October 1, 2011 for loans insured by FHA. Because HUD did not issue implementation guidance many lenders are prematurely implementing the new, lower loan limits. This will negatively impact many communities across the country. The issuance of lender guidance by HUD will provide a clear message to lenders that FHA will insure loans up to legally permitted limits even if the closing occurs after the end of the federal fiscal year.

## **iii. NAR President Meets with HUD Secretary Donovan**

On July 7, 2011, NAR President Ron Phipps met with HUD Secretary Shaun Donovan to discuss a range of key issues. Acting FHA Commissioner Bob Ryan and Assistant Secretary for Policy Raphael Bostic joined the Secretary for the meeting. Phipps emphasized the importance of financial regulators revising their proposed narrow definition of the term Qualified Residential Mortgage (QRM) to cover a wide range of safe and sound mortgages to make lower cost and safe mortgages available to the most consumers possible. NAR is pushing hard to extend the loan limits for FHA, Fannie Mae, and Freddie Mac, and Ron explained to the Secretary the potential damage to the housing recovery of reducing the mortgage limits on September 30. Also on the agenda were REALTOR® concerns about FHA condo policies, delays in selling HUD-owned properties (REOs), and the need to restructure the secondary mortgage market in a way that assures mortgages are available in all types of markets.

## **iv. NAR Backs Bill for Secondary Mortgage Market Reform**

On July 6, 2011, Representatives Gary Miller (R-CA) and Carolyn McCarthy (D-NY) introduced H.R. 2413, the "Secondary Market Facility for Residential Mortgage Act of 2011". NAR 2011 President, Ron Phipps, participated in a press briefing with Representatives Miller and McCarthy to thank them for their efforts in drafting a comprehensive secondary mortgage market reform bill that espouses many of NAR's GSE principals and recommendations. NAR is supportive of this bill because it maintains a government role within the secondary mortgage market, which is required to ensure the viability of long-term mortgage financing for consumers (e.g. 30-yr fixed-rate mortgages).

### **July 2011**

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## v. HUD Publishes SAFE Act Final Rule

On June 30, 2011, the Department of Housing and Urban Development (HUD) [published a final rule under the Secure and Fair Enforcement Mortgage Licensing Act of 2008 \(SAFE Act\)](#) (the rule takes effect August 29, 2011). The SAFE Act requires states to establish loan originator licensing requirements that meet minimum federal standards. HUD has overall responsibility for interpretation, implementation, and compliance until July 21 when the Consumer Financial Protection Bureau takes over.

In its February 12, 2010, comment letter, NAR urged HUD to exempt all seller financing from the licensing requirements or at least exempt some categories of seller financing. NAR also asked HUD to clarify that payment of a real estate commission by a lender for the sale of a lender-owned property (REO) does not require the real estate agent to be licensed.

In the preamble to the rule, HUD states that it lacks statutory authority to grant exemptions to licensing under the SAFE Act. The final rule requires licensing of individuals who engage in the business of a loan originator. An individual engages in the business of a loan originator if the individual, in a commercial context and habitually or repeatedly, takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan for compensation or gain.

HUD chose not to decide how frequently an individual may provide financing before reaching the requisite degree of habitualness. NAR expects CFPB to defer to reasonable state laws on the number of seller financing transactions that would trigger licensing. Sellers financing the sale of their own property would completely avoid the issue of licensing by retaining the services of a licensed loan originator.

The Safe Act exempts those who only perform real estate brokerage activities unless compensated by a lender, mortgage broker, or other loan originator (or their agent). In cases where a real estate broker/agent receives a commission from the lender for the sale of a REO, individuals must only be licensed if they meet the definition of “engaging in the business of a loan originator.” Brokers/agents rarely, if ever, take an application or offer to negotiate terms of a residential mortgage loan for REO transactions and typically would not have to be licensed as loan originators.

## vi. FHA Unveils Updated Condominium Rules

On June 30, 2011, the Federal Housing Administration (FHA) [released Mortgagee Letter 2011-22: Condominium Approval Process for Single Family Housing - Consolidation and Update of Approval Requirements](#). The Mortgagee Letter was released along with an [implementation schedule](#) and the [Project Approval and Processing Guide](#) in an effort to clarify, expand, consolidate and update existing guidance. The new guidance provides increased flexibility for FHA to address individual circumstances so that the agency can be more effective at the neighborhood level.

In the new guidance, FHA made permanent the temporary measures from Mortgagee Letter 2011-03. The concentration limit is 50 percent but Homeownership Centers (HOC) may grant exceptions to go beyond 50 percent. FHA requires that 50 percent of units be owner-occupied but FHA will reduce this to 30 percent for new construction. At least 30 percent of units must be sold prior to endorsement of any mortgage by FHA. This pre-sale requirement is not applicable to existing projects or non-gut rehabilitation projects.

One of the more notable changes is in the calculation of delinquent homeownership association (HOA) dues. Previously, FHA permitted no more than 15 percent of units to be in arrears but this did not include bank-owned foreclosures. The new guidance states that the calculation includes all units - occupied, investor, bank-owned, and vacant). FHA did not increase the maximum permitted investor ownership of units or commercial space requirements.

NAR created a [chart](#) which highlights the major program changes to guidelines and instructions.

## **vii. NAR Calls for Broader QRM Definition**

On June 22, 2011, the original sponsors of the [Qualified Residential Mortgage \(QRM\)](#) provision in the Dodd-Frank Act — Sens. Johnny Isakson (R-GA), Kay Hagan (D-NC) and Mary Landrieu (D-LA) — joined Reps. John Campbell (R-CA) and Brad Sherman (D-CA) to urge regulators to reconsider unnecessarily high down payment requirements under the proposed QRM rule. Also in attendance were members of the Coalition for Sensible Housing Policy, led by NAR. The coalition, which includes 45 industry and consumer organizations, released an in-depth analysis of the impact of the proposed QRM rule focused on drawing attention to the proposed regulation's onerous 20 percent down payment, strict debt-to-income, and rigid credit requirements. The proposed rule implements a provision of the Dodd-Frank Act that requires lenders that securitize mortgage loans to retain 5% of the credit risk unless the mortgage is a QRM or is otherwise exempt (for example, FHA mortgages are also exempt). NAR is asking federal regulators to honor congressional intent by crafting a QRM exemption that includes a wide variety of traditionally safe, well documented and properly underwritten products.

## **viii. NAR Supports Covered Bond Legislation**

On Wednesday, June 22, the House Financial Services Committee passed HR 940, the "United States Covered Bond Act of 2011" (Reps. Garrett (R-NJ) and Maloney (D-NY)). The bill would create a framework to establish a covered bonds market in the United States. NAR weighed in on the vote, sending a letter to the Committee in support of the bill and also signing a letter with thirteen other organizations supporting passage of the legislation. Next, the bill will likely be voted on by the full House of Representatives, though the timing of this vote is unclear.

NAR supports the creation of a covered bonds market in the U.S. because these financial instruments could provide an additional source of capital and improve liquidity in the housing and commercial finance markets. NAR will be sure to keep REALTORS® up to date on the progress of this bill and will continue to push for the development of a U.S. market for covered bonds.

## **ix. Conflict of Interest Rules for Fannie and Freddie REOs**

REALTORS® have raised questions about the [conflict of interest and other policies that apply to REO properties acquired by Fannie Mae and Freddie Mac](#) pursuant to foreclosure (or a deed-in-lieu of foreclosure). Violation of these rules can result in the broker losing current and future REO listings, so it is vital that brokers and agents (and anyone else affected) understand the rules and comply with them. Brokers would be well-advised to be sure that everyone covered by the policies is trained on these limitations and to retain documentation related to the training, including attendees and content. If questions arise, checking with Fannie and Freddie in advance will help minimize problems.

## **x. Check Out the "Under the Hood" Improvements on Government Affairs Landing Page**

A new feature has been added to the government affairs landing page on realtor.org allowing members to search for bills and regulations that NAR is currently tracking. Located under Political Advocacy Issues, the "Bills and Regulations" link will allow members to find the most recent actions Congress has taken on bills, as well as read the full text of the bill and learn who its co-sponsors are. Similarly, members will also be able to search and check the status of regulations such as the SAFE Act, QRM and MARS. Members will be able to search for bills and regulations by a variety of options including: category, subcategory, key terms, bill number, or regulation name.

## UPCOMING DATA RELEASES

**Wednesday, July 20**

**June Existing-Home Sales**

**Thursday, July 28**

**Pending Home Sales Index**

**Wednesday, August 10**

**2<sup>nd</sup> Quarter Metro Home  
Prices/State Resales**

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