

2009 LEGISLATIVE ACCOMPLISHMENTS

LOCAL – SBAOR

- **Measure B** - SBAOR was a member of the “No on Measure B Coalition” which was a diverse group of organizations and individuals who worked to keep Santa Barbara's current height limit and preserve Santa Barbara's historic architecture, protect our environment and promote affordable housing. Measure B was defeated with 54% of the voter turnout.
- **Fire Sprinklers** – SBAOR spoke with Santa Barbara City Council about the addition of fire sprinklers to residential homes. Originally the City of Santa Barbara wanted to have any residential structure where an addition or a remodel exceeds 50% of the floor area or exceeds 1000 square feet. SBAOR expressed its concern about the price of the retrofit and how it would affect homeowners. The City of Santa Barbara decided to take our suggestions and went forward with any residential structure where an addition or a remodel exceeds 75% of the floor area.
- **Cannabis Dispensaries** – SBAOR was concerned about the conflicts that have, and would have arose if medical marijuana dispensaries were allowed in existing mixed-use for-sale condominium buildings. We strongly requested that the City Council prohibit dispensaries in those existing projects. The City of Santa Barbara listened and cannabis dispensaries are prohibited in existing mixed-use projects.
- **Encina Royale** - Encina Royale is categorized as a Community Apartment Project (CAP). In 2008/2009, Fannie Mae and Freddie Mac took CAP's off of their eligibility list for loans. SBAOR worked with NAR to discuss the importance of financing for Encina Royale with Fannie Mae and Freddie Mac. The property now has Fannie Mae approval. The Condo Project Manager (CPM) number is 196413001.
- **Statewide Septic Regulations** – There were proposed statewide septic regulations being proposed in which SBAOR was against. They were: Record Plan and O&M Manual issued at point-of-sale; replacing or updating onsite wastewater treatment systems (OWTS); explanation of fund distribution for low interest loans. The statewide water board decided to go back to the drawing board to relook at concerns that were brought up.

STATE – C.A.R.

TRANSACTIONAL ISSUES – BROKER PRACTICE & RISK MANAGEMENT

- **AB 260 (Lieu) New Sub-Prime Broker Rules** - AB 260 is a re-introduction of AB 1830, which was opposed by C.A.R and vetoed by the Governor last year. Like its predecessor, AB 260 creates new restrictions on mortgage brokers and attempted to create a new one-sided attorney fee rule that would only allow successful plaintiffs to collect attorney fees in suits over violations. This bill would also create an unequal standard that does not hold ALL loan originators to the same rules and restrictions. It would disadvantage mortgage brokers originating loans but not residential mortgage lenders (like Countrywide) to the same extent. AB 260 was amended in July to remove the private right of action provision that would have permitted one-sided attorney's fees. C.A.R. continues to oppose AB 260 and sought amendments that would have created a uniform standard for loan origination. In its current form, AB 260 would create unlevel playing field for loan origination by not applying to all mortgage loan "originators."
Position: Oppose Unless Amended
Status: Signed by the Governor on October 11, 2009 (Chapter 629, Statutes of 2009)
- **AB 329 (Feuer) Reverse Mortgage Elder Protection Act of 2009 and SB 660 (Wolk) Reverse Mortgages** - AB 329 and SB 660 would have enacted reverse mortgage regulation that would have

adversely affected legitimate credit. AB 329 would have permitted borrowers to rescind a reverse mortgage within 30 days of the contract's execution, while SB 660 automatically made anyone (i.e. neighbors, REALTORS®, barbers, grocery store clerks, etc.) "recommending" a reverse mortgage, a fiduciary subject to liability. Both of the authors removed the objectionable provisions that would have swept up legitimate transactions and exposed transactions to new liability. With these amendments C.A.R. removed its opposition. As amended, AB 329 requires lenders to provide prospective borrowers with a list of nonprofit counseling agencies and to disclose any payment arrangements or business affiliations between the lender and a counseling agency. SB 660 now requires anyone anticipating compensation for recommending the purchase of a reverse mortgage to reasonably believe that the borrower understands the risk, benefits and alternatives to a reverse mortgage.

Position: (AB 329 and SB 660) Watch as Amended

Status: (AB 329) Signed by the Governor on October 11, 2009 (Chapter 236, Statutes of 2009); (SB 660) Senate Floor

- **AB 457 (Monning) Notice to Property Owners of Lien Rights** - Existing law requires a lien holder to notice a homeowner that they "might" record a mechanic's lien but permits that lien holder to record a mechanic's lien without providing notice to the homeowner that a lien has actually been filed prior to foreclosing on a lien. AB 457 requires that proof of a Notice of Mechanic's Lien be served upon the property owner as a condition of recording a mechanic's lien with a county recorder. The bill also requires the person filing an action to foreclose upon a mechanic's lien to also record a lis pendens (notice of pendency of an action) with the county recorder within 20 days of the filing of the mechanic's lien foreclosure action. C.A.R. supported AB 457 because it requires an improved notice to property owners about their rights in regard to mechanics' liens.

Position: Support

Status: Signed by the Governor on August 5, 2009 (Chapter 109, Statutes of 2009)

- **AB 764 (Nava) Real Estate Brokers** - see SB 94 (Calderon)

Position: Oppose Unless Amended

Status: Vetoed by the Governor on October 11, 2009

- **AB 957 (Galgiani) Buyers Choice in Escrow** - RESPA prohibits lenders from forcing buyers to purchase title insurance from a particular provider. C.A.R. supported AB 957, which strengthens buyer protections by prohibiting a REO seller from forcing a buyer to purchase title and escrow coverage from providers selected by that seller. This bill is modeled after RESPA applying that rule to REO sellers for both title and escrow services.

Position: Support

Status: Signed by the Governor on October 11, 2009 (Chapter 264, Statutes of 2009)

- **AB 985 (De La Torre) Illegal Historic Real Estate Covenants** - Existing law already voids any provision in a deed of real property that restricts the use of the property based on race, color, religion, sex, marital status, national origin, ancestry, familial status, disability, source of income, or sexual orientation. C.A.R. opposed AB 985 as it was introduced, which would have imposed a point-of-sale required for title companies to review and strike unenforceable historic property restrictions from all documents in a transaction before the close of escrow. C.A.R. offered to support a procedure for electronic "scrubbing" of property records, like that currently used for removing social security numbers. C.A.R. also organized support for the approach from other real estate organizations. AB 985 has been amended to instead provide an enhanced procedure for non-owners to request the county recorder to remove an illegal restriction from the property record. The amendments also set up an expensive program to cover the costs related to the removal of the already illegal and unenforceable covenants by surcharging every recorded real estate document an additional fee to cover the costs "related to" the program. While county recorders are encouraged to periodically

review and re-calculate this fee based on "reasonable" program costs, the existing bill has no limit on fees and will allow overcharging and potential diversion of the fund. C.A.R. opposes AB 985 because it does not include a limitation on charges to actual program costs, nor a cap on the document recording fee and needs better controls on who reviews the fee.

Position: Oppose Unless Amended

Status: Vetoed by the Governor on October 11, 2009

- **AB 1160 (Fong) Contract Translations** - Existing law requires any party that facilitates the negotiation of a contract to provide translated copies of that agreement if the negotiations were conducted in Spanish, Chinese, Tagalog, Vietnamese, or Korean. This bill requires a supervised financial institution that negotiates loans in these languages to provide a translation of that contract or translated summary produced by a regulator, to the borrower in the contract's primary language. The bill would also impose civil penalties against any person who fails to deliver the translation. The bill has a delayed effective date of January 1, 2010. C.A.R., in conjunction with other lending facilitators, reached an equitable solution that satisfies all of the industries concerns. The bill now applies only to "supervised financial institutions."

Position: Watch as Amended

Status: Signed by the Governor on October 11, 2009 (Chapter 274, Statutes of 2009)

- **SB 36 (Calderon) and AB 34 (Nava) Mortgage Loan Originators** - SB 36 and AB 34 attempt to implement the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE ACT) that requires states to set up a mortgage loan originator law that complies with new federal requirements. C.A.R. worked with the both authors to ensure that real estate licensees who are loan originators are regulated within the Department of Real Estate (DRE). These bills will require mortgage loan brokers to get an additional endorsement that must be renewed annually. C.A.R. supports SB 36 and AB 34 because they will result in the least disruption of existing systems and minimize compliance costs to both the state and individual licensees. Both SB 36 and AB 34 were recently amended to add urgency clauses, and will take affect immediately if approved by the Governor. (Note: The continued regulation of mortgage loan brokerage activities within the DRE is dependent on the fate of AB 33 which proposes to reserve the DRE, but shifts the regulation of mortgage loan brokerage over to the new "Super Department" of Financial Services that would have jurisdiction over the regulatory matters currently held by the Department of Financial Institutions and the Department of Corporations. AB 33 is a two-year bill. (see also, SB 491)

Position: Support

Status: (SB 36) Signed by the Governor on October 11, 2009 (Chapter 160, Statutes of 2009); (SB 34) Senate Floor

- **SB 94 (Calderon) and AB 764 (Nava) Advance Fees For Loan Modifications** - Existing law prohibits the taking of an advance fee by a broker unless the licensee's contract has been reviewed and pre-approved by the Department of Real Estate. SB 94 prohibits "cash up front" loan modification contracts. Based upon the authors addition of C.A.R. requested language to clarify the definition of an advance fee, the inclusion of the flexibility to engage in fee for service contracts (e.g. a listing agreement) and a 2013 sunset date, C.A.R. supports SB 94. AB 764 also prohibits any advance payment for loan modifications, but contains no flexibility to allow fee for services contracts and prohibits any compensation until the borrower is bound in a new loan. C.A.R. still opposes AB 764 which would impose a complete prohibition on earning a fee when modifying or arranging a loan until after the buyer becomes obligated on the new loan.

Position: (SB 94) Support; (AB 764) Oppose Unless Amended

Status: (SB 94) Signed by the Governor on October 11, 2009 (Chapter 630, Statutes of 2009); (AB 764) Vetoed by the Governor on October 11, 2009

- **SB 109 (Calderon) Real estate auctions** - Existing law requires auctioneers and auction companies to maintain a surety bond or an equivalent deposit and to distribute the terms, conditions, restrictions, and procedures under which goods will be sold at the auction. This bill will apply the consumer protections of the auction law (refunds of deposits, notices of reserve requirements) to real estate auctions.
Position: Favor
Status: Vetoed by the Governor on October 11, 2009
- **SB 237 (Calderon) Appraisal Management Companies** - The recent adoption of the Home Valuation Code of Conduct (HVCC) has resulted in an explosive growth of appraisal management companies (AMCs) which now largely control the appraisal process. These companies are currently unregulated under California law. C.A.R. supports SB 237 which would bring AMCs under the supervision of the Office of Real Estate Appraisers (OREA) and requires that they operate under California's Real Estate Appraiser and Certification Law.
Position: Support
Status: Signed by the Governor on October 11, 2009 (Chapter 173, Statutes of 2009)
- **SB 407 (Padilla) Point-of-Sale Plumbing Fixture Replacement** - C.A.R. has obtained amendments that removed its opposition to SB 407, a bill that would have required that residential and commercial properties be retrofitted at point-of-sale with low-flow toilets, shower heads and faucets. While C.A.R. appreciates the goal of conserving water, C.A.R. opposed SB 407 because its point-of-sale approach would have burdened escrows and further destabilized the already weak housing market. C.A.R.'s amendments removed the point-of-sale provisions from the bill and instead require all properties to be retrofitted by 2017. In the final days of session the author removed all of the Transfer Disclosure Statement requirements from SB 407 in order to avoid any conflict with another bill which adds C.A.R. language to the TDS.
Position: Watch as Amended
Status: Signed by the Governor on October 11, 2009 (Chapter 587, Statutes of 2009)
- **SB 491 (Maldonado) SAFE Act Compliance** - SB 491 was introduced to bring California into compliance with Secure and Fair Enforcement for Mortgage Licensing Act (SAFE ACT) that requires states to set up a mortgage loan originator law that meets new federal requirements. This bill would have required an additional mortgage loan originator endorsement to be renewed annually within the Department of Real Estate (DRE). SB 491 would have also placed similar registration requirements on other types of loan originators not licensed with the DRE. C.A.R. supported SB 491, like SB 36, because it would have resulted in the least disruption of existing systems and minimized compliance costs to both the state and individual licensees. SB 491 was "gutted and amended" to address an unrelated issue. (see also, SB 36 and AB 34)
Position: Watch as Amended
Status: Died in the Senate Banking, Finance and Insurance Committee Due to Amendment
- **SB 660 (Wolk) Reverse Mortgages** - see AB 329 (Feuer) on page 13.
Position: Watch as Amended
Status: Senate Floor

HOUSING & PROPERTY MANAGEMENT

- **AB 530 (Krekorian) Unlawful Detainer and Unlawful Weapons on Rental Properties** - C.A.R. supported AB 1013, signed into law in 2007, which created a pilot program in the cities of Los Angeles, Long Beach, Oakland, San Diego and Sacramento to allow landlords and property managers to serve tenants with an unlawful detainer notice for creating a nuisance on the premises if the tenant illegally possesses weapons or ammunition. Local prosecutors and city attorneys are also permitted to serve the unlawful detainer action to criminal tenants constituting the nuisance on

behalf of the community. This authority exists only until January 1, 2010. AB 530 would have eliminated the sunset date and expanded the enforcement authority statewide. C.A.R. supported AB 530 because it would have provided an important tool for landlords and property managers to help rid neighborhoods of dangerous tenants who illegally possess weapons or ammunition. The scope of bill was reduced and as amended the bill only serves to extend the sunset date to January 1, 2014 on the existing program created by AB 1013.

Position: Watch as Amended

Status: Signed by the Governor on October 11, 2009 (Chapter 244, Statutes of 2009)

- **AB 566 (Nava) Mobile Home Park Conversion Requirements** - When converting an existing mobilehome park to private ownership, the Subdivision Map Act requires subdividers to obtain a survey that gauges the mobile home park resident's support for the proposed conversion. AB 566 takes this requirement one step further by requiring local agencies to consider whether the survey indicated that a majority of the residents of a mobile home park support the park's conversion to private ownership. As introduced, the bill also permitted local agencies to enact ordinances to prevent "sham" conversions and preserve affordable housing. C.A.R. opposed AB 566 because it could have created unnecessary and cumbersome impediments that would have made it more difficult for parks to convert to resident-ownership by permitting local agencies to interfere with a decision that should be left to residents and owners. C.A.R. obtained amendments that satisfied its concerns, leaving the conversion decision up to the park owner and residents. C.A.R. is now neutral on AB 566.

Position: Watch as Amended

Status: Vetoed by the Governor on October 11, 2009

- **AB 899 (Assembly Housing and Community Development Committee) CID Disclosures** - Current law requires an HOA to provide specific documents to a purchaser of a unit in a CID. This bill initially proposed to require HOAs to annually distribute, to all owners of a separate interest in a CID, a "Disclosure Documents Index" that lists each document and where it can be found in the Davis-Stirling Act. AB 899 initially proposed to require HOAs to include the assumed interest rate earned on reserves in the existing reserve funding summary and the assumed rate of inflation for the repair and replacement of major components. C.A.R. originally opposed AB 899 because it was duplicative and would have unnecessarily increased costs for homeowners residing in an HOA. Due to C.A.R.'s opposition, the author amended AB 899 to only require distribution of the index to HOA members who request it, eliminated duplication of reserve requirement notices and permitted these documents to be distributed to the requesting HOA members electronically. With these amendments, C.A.R. removed its opposition.

Position: Watch as Amended

Status: Signed by the Governor on October 11, 2009 (Chapter 484, Statutes of 2009)

- **AB 1020 (Emmerson) Swimming Pool Anti-Entrapment Devices** - The federal "Pool & Spa Safety Act," (ACT) enacted in 2007 and effective at the end of 2008, requires all "public pools and spas" to be equipped with anti-entrapment drain devices. The definition of "public pools and spas" includes pools open to the public as well as pools in apartment complexes, residential real estate developments and multi-family apartment buildings. AB 1020 proposes to enact the substantive portions of the federal ACT in state law, in order to allow these requirements to be enforced by state and local agencies. Specifically, this bill would require a "public swimming pool" constructed or renovated after December 18, 2009 to be equipped with an anti-entrapment device or system that meets federal safety requirements. Any pool constructed prior to December 18, 2009 must install an anti-entrapment device by December 19, 2011. C.A.R. favors AB 1020 because it seeks to make state and federal law consistent.

Position: Favor

Status: Signed by the Governor on October 11, 2009 (Chapter 267, Statutes of 2009)

- **AB 1328 (Salas) Common Interest Development Contracts** - - In order to take advantage of energy and water efficiency technologies in CIDs, AB 1328 proposes to allow homeowner associations to enter into long term contracts with a maximum duration of 5 years for energy and water conservation. Current law restricted the term of these contracts to no longer than one year. C.A.R. supports AB 1328 because it will remove unnecessary barriers to energy and water conservation in common interest developments, thus, helping the environment and enhancing the value of homes in CIDs.

Position: Support

Status: Vetoed by the Governor on October 11, 2009

- **AB 1422 (Bass) Affordable Housing Redevelopment** – This bill would have provided redevelopment agencies with the authority to utilize some of their funds to assist local low or moderate income homeowners to mitigate their sub-prime loan difficulties and to purchase vacant foreclosed homes. The provisions of this bill would have sunseted January 1, 2013. C.A.R. supported AB 1422 because any step taken to remove foreclosed homes from the marketplace is a step towards re-invigorating local home ownership opportunities. AB 1422 was "gutted and amended" in the final weeks of session to instead pertain to healthy families.

Position: Watch as Amended

Status: Died on the Senate Floor Due to Amendment

- **SB 111 (Correa) Mobile Home Residency Law Simplification** - SB 111 was introduced to modestly reorganize and simplify the Mobile Home Residency Law (MRL). The intent was to make the MRL more "user friendly" without making any substantive changes in the law, essentially reorganizing sections more logically. C.A.R. would have supported SB 111 if it had been amended to include section titles for each MRL code section, which would have better assisted mobilehome owners in understanding the meaning of each section. SB 111 was amended to instead make minor technical changes to the MRL.

Position: Watch as Amended

Status: Signed by the Governor on October 11, 2009 (Chapter 558, Statutes of 2009)

- **SB 290 (Leno) Repeal of Sunset Date on 60-Day Notice Requirement for Termination of 1-year+ Tenancies** - Current law requires an owner of a residential dwelling wishing to terminate a tenancy to provide at least 60-days' notice, in writing, when tenants have been in occupancy more than 12 months, and at least 30 days' notice prior to termination if any tenant or resident has resided in the dwelling for less than one year. This bill would delete the January 1, 2010 sunset date on this 60-day notice mandate, which if left in place would repeal the 60-day notice requirement. C.A.R. opposed SB 290 and sought amendments to require tenants to give the same 60 days' notice for terminating a tenancy in excess of one year that is currently required for residential rental property owners.

Position: Oppose Unless Amended

Status: Signed by the Governor on October 11, 2009 (Chapter 347, Statutes of 2009)

LAND USE, ENVIRONMENT & INFRASTRUCTURE

- **AB 210 (Hayashi) Green Building Standards** - Current law permits cities and counties to adopt local modifications to the state building code provided that those changes are at least as stringent as the state codes. C.A.R. supported the passage of AB 210 which will provide a necessary clarification to current law, assuring that local jurisdictions do have the authority to adopt green building standards that are more stringent than those adopted by the state, but only if they follow the same procedure currently in place to change any other local building codes, which is to make a finding of need for the more stringent standards.

Position: Support

Status: Signed by the Governor on August 5, 2009 (Chapter 89, Statutes of 2009)

- **AB 333 (Fuentes) Subdivision Map Expiration Dates** - The Subdivision Map Act provides for the expiration of tentative maps, and specifically extends the expiration date 12 months for any approved tentative map that has not expired before January 2, 2011. This bill will extend that expiration date 24 months for any tentative map that is set to expire before January 1, 2012, but has not expired prior to the enactment of AB 333. C.A.R. supported AB 333 because it will keep housing projects alive during these economically difficult times, which will allow the projects to go forward as soon as the housing market recovers.

Position: Support

Status: Signed by the Governor on July 15, 2009 (Chapter 18, Statutes of 2009)
- **AB 531 (Saldana) Energy Consumption Data Disclosure** - Beginning January 1, 2009, AB 1103, which was signed into law in 2007, requires non-residential building owners to benchmark their building(s) energy consumption for the last 12-months using the United States Environmental Protection Agency's Energy Star Portfolio Manager (ESPM), and to disclose this data to a prospective buyer, lessee or lender beginning January 1, 2010. C.A.R. supports AB 531 which will delay the implementation of AB 1103, allowing more time to fully develop the program, and gives the State Energy Commission the authority to establish regulatory guidelines and a schedule of compliance.

Position: Support

Status: Signed by the Governor on October 11, 2009 (Chapter 323, Statutes of 2009)
- **AB 758 (Skinner and Bass) Energy Audit** - AB 758 is a reintroduction of AB 2678 (Nunez), the home energy audit and retrofit bill from 2008, where the California Energy Commission would have required energy audits and recommended retrofits to be made at point-of-sale. The point of sale language was removed at C.A.R.'s request. This year, AB 758 does not include point-of-sale and instead ensures that any home energy audit or improvement will not unreasonably or unnecessarily affect the home purchasing process and must be cost effective. C.A.R. supports AB 758 because it tasks the State Energy Commission and Public Utilities Commission with creating a comprehensive statewide campaign of flexible cost-effective energy efficiency improvements for existing buildings that will not impact the home purchasing process.

Position: Support

Status: Signed by the Governor on October 11, 2009 (Chapter 470, Statutes of 2009)
- **AB 920 (Huffman) Net Metering** - This bill will permit owners of solar and wind renewable energy systems to receive compensation from their electric utility for any excess power generated at their home on an annual basis. Currently, utilities are not required to compensate homeowners for any energy their home systems may add to the grid. C.A.R. supported AB 920 because it will ensure that property owners are given the necessary incentives to not only install renewable energy systems, but also to conserve the energy they produce. AB 920 will also provide direct compensation to homeowners who are actively adding energy back to the grid.

Position: Support

Status: Signed by the Governor on October 11, 2009 (Chapter 377, Statutes of 2009)
- **AB 1085 (Mendoza) CARB Regulation "Sunshine" Law** - This bill requires the California State Air Resources Board (CARB) to make all of the technical data used in the development and cost analysis of a proposed regulation available to the public. C.A.R. supported AB 1085 because it will ensure that the public has access to data and assumptions as CARB develops new air quality and greenhouse gas regulations.

Position: Support

Status: Signed by the Governor on October 11, 2009 (Chapter 384, Statutes of 2009)
- **SB 310 (Ducheny) Water Quality and Stormwater Runoff** - This bill will broaden the authority of local water districts to provide a comprehensive stormwater management service and authorizes a

local water district to construct and maintain facilities to manage and treat stormwater by creating a stormwater diversion and treatment system to deal with urban runoff. C.A.R. supported SB 310 because it will facilitate coordination between local governments, agencies and districts when developing necessary programs and plans to address stormwater drainage and watershed protection goals for an entire region.

Position: Support

Status: Signed by the Governor on October 11, 2009 (Chapter 577, Statutes of 2009)

- **SB 488 (Pavley) Energy Efficiency Financing** - As introduced, C.A.R. supported SB 488 which would have removed the financial barrier to improving energy efficiency in existing homes and commercial buildings. The bill proposed to establish an energy efficiency financing program that would have allowed energy efficiency improvements to be financed by an on-bill cost-avoidance financing program funded by the energy saved with the improvements. As amended, SB 488 instead requires utilities, on or before July 1, 2010, to periodically disclose a residential customer's energy usage compared to other residences on their billing statement. The bill requires utilities to identify those residences that use significantly more energy than similar residences, and to provide information to those subscribers on energy saving strategies and programs. C.A.R. continues to favor the passage of SB 488 because the program and energy usage information will empower residents to not only lower their energy usage, but their utility bill.

Position: Favor

Status: Signed by the Governor on October 11, 2009 (Chapter 352, Statutes of 2009)

TAXATION

- **SB 17xxx (Ducheny), AB 19xxx (Evans) and SB 19xxxx (Ducheny) 3% Withholding for Independent Contractors** - C.A.R. opposed a budget proposal, intended to bridge the state's budget gap, that would have forced those making payments to independent contractors to withhold 3%. This would be in addition to the quarterly estimated tax payments independent contractors must pay. This provision was included in several proposals intended to increase revenues to the state. The Governor vetoed one of these and the others were defeated in the legislature.

Position: Oppose

Status: Defeated

- **AB 474 (Blumenfield) Water Efficiency Improvements** - Existing law, created by AB 811 of 2008, permits cities and counties to designate an area within its jurisdiction where local government officials and willing property owners can enter into contractual agreements to finance the installation of energy efficiency improvements on existing homes. AB 474 will permit these contractual agreements to also be applied to water efficiency improvements made to real property. C.A.R. supported the passage of AB 474 because it offers a workable alternative to point-of-sale for water efficiency upgrades to existing property. Utilizing a voluntary contractual obligation between property owners and utilities through both public and private incentives allows homeowners to more affordably make the appropriate upgrades to their homes.

Position: Support

Status: Signed by the Governor on October 11, 2009 (Chapter 444, Statutes of 2009)

- **SB 279 (Hancock) Mello-Roos Districts/Energy Efficiency** - This bill would authorize a Mello-Roos District to finance the acquisition and installation of energy efficiency improvements on public and privately owned real property. C.A.R. opposed SB 279 until it was amended to allow Mello-Roos districts to finance energy efficiency improvements, but only if those districts are formed through an alternative method that assesses only those homeowners who opt-into the district.

Position: Watch as Amended

Status: Vetoed by the Governor on October 11, 2009

- **SB 306 (Calderon) Real Property Transactions** - Created in 1982, the Escrow Agents' Fidelity Corporation (EAFC) serves to indemnify escrow agents against certain losses. EAFC membership is required for each person licensed under the Escrow Law who engages in the business of receiving escrows for deposit or delivery of real property transactions. As introduced, SB 306 appeared to exempt money or property held by, or deposited with, a person acting as an 21 exchange facilitator from real property escrows for which EAFC is required to provide fidelity coverage. C.A.R. opposed SB 306 until it was amended to clarify that this provision only applies to funds placed with an escrow to meet the financial responsibility requirements imposed on exchange accommodators by last year's SB 1007, which requires all exchange funds be deposited in a qualified escrow account or qualified trust.

Position: Favor

Status: Signed by the Governor on August 5, 2009 (Chapter 43, Statutes of 2009)
- **SB 676 (Wolk) Recording Fees** - C.A.R. opposed SB 676 which proposes to increase the cost for recording the first page of a document from \$4 to \$10 without any reference to the actual cost of providing the recording service. C.A.R. argued that the amount of the recoding fee should be limited to the actual cost of providing the service, and was concerned that SB 676 was merely intended to increase revenue for local governments. In order to satisfy C.A.R.'s concerns, SB 676 was amended to limit the recoding fee to actual costs up to a maximum of \$10. With this amendment, C.A.R. has removed its opposition.

Position: Watch as Amended

Status: Signed by the Governor on October 11, 2009 (Chapter 606, Statutes of 2009)
- **SB 15XX (Ashburn) Housing Tax Credit** - SB 15XX created an additional tax credit for new home purchasers that equals 5% of the sale price of a home, not to exceed \$10,000. The credit is only available for new, or previously unoccupied, homes purchased between March 1, 2009 and March 1, 2010. The purchaser must live in the home for at least two years or forfeit the credit (i.e. repay it to the state). The bill allocated \$100 million from the state's general fund for these tax credits. C.A.R. sought amendments to expand this credit to all homes.

Position: Oppose Unless Amended

Status: Signed by the Governor on February 20, 2009 (Chapter 11, Statutes of 2009)

FEDERAL – NAR

Protecting REALTORS®' Business Interests and Activities

- **Banks in Real Estate** - After 8 years of continuous struggle to convince Congress that real estate is not financial in nature and banks should not be allowed in the real estate brokerage business, NAR achieved its objective. On March 11, 2009, the Omnibus Appropriations Bill, H.R. 1105, was signed into law, and with it a declaration that, going forward, neither real estate brokerage or real estate management can be classified as a financial activity.
- **Mortgage Reform** - On May 7, 2009, the House of Representatives passed the Mortgage Reform and Anti-Predatory Lending Act of 2009 by a vote of 300 – 114. NAR supported this bill because it acts to protect both the consumer and the housing sector. NAR secured a significant victory by “carving out” real estate brokerage and management activity from the bill’s broad definition of “mortgage originator” which, unchecked, could have encompassed significant portions of our member’s daily customer service activities. More significantly, this “carve out” will serve as the basis for NAR’s efforts to ensure that broadly defined financial reform aimed at the mortgage market (i.e., the Consumer Financial Protection Agency Act of 2009) does not encroach on the commercial activity of real estate brokerage and management.

- **Home Valuation Code of Conduct (HVCC)** - Citing a lack of guidance from the GSEs, among other things, NAR called for a 12-month moratorium on April 20, 2009. NAR later extended the time of the moratorium to 18 months. Staff from both GSEs met with the Appraisal Committee at NAR's 2009 Midyear Meetings. The conversation focused on the implementation of HVCC. NAR has created several education documents for members that can be found with other resources at www.realtor.org/hvcc. Documents include frequently asked questions, an overview of NAR survey findings, and a Myths and Facts flyer.
- **RESPA** - Provisions of HUD's final RESPA rule went into effect on January 16, 2009 after NAR successfully urged HUD to make significant changes to the proposed rule that will benefit real estate brokers and agents, including: Elimination of the "closing script"; Creation of a 30-day cure period; Improved uniform formatting of GFE/HUD-1
- **Short Sales** - Responding to the call of the National Association of REALTORS®, on May 14, 2009, the Obama Administration announced incentives and uniform procedures for short sales under its new Foreclosure Alternatives Program (FAP). For borrowers who are unable to retain their home under the Making Home Affordable Loan Modification Program (HAMP), the servicer may consider a short sale or, if that is not successful, a deed-in-lieu of foreclosure.

On November 30, 2009, the Treasury Department released guidelines and forms for its new Home Affordable Foreclosure Alternatives Program (HAFA), part of the Home Affordable Modification Program (HAMP).

- **Small Business Administration (SBA)** - NAR obtained a letter from SBA that expressly states that real estate brokers and real estate agents are eligible for SBA loans.

Developed and implemented a new Small Business Administration Web page that describes SBA programs and helps to facilitate SBA loans to real estate brokers and real estate agents:

http://www.REALTOR.org/realtors/sba_loans

- **Health Insurance Reform** - NAR weighed in throughout the entire legislative process with the Congressional offices and committees and was able to secure changes to the bills that better addressed the challenges facing the REALTOR® community. NAR's vigilance was a major factor in the successful effort to fend off changes to the mortgage interest deduction as a "pay for" used to offset the cost of the health reform legislation.

EXPANDING HOUSING OPPORTUNITIES

- **First-Time Homebuyer Tax Credit** - H.R. 1, the "American Recovery and Reinvestment Act of 2009," was signed by the President on February 17, 2009. Included in the provision, at the urging of NAR, was an \$8,000 tax credit for first-time home buyers. Since enactment of the stimulus provision, inventories of homes available for sale has steadily decreased, supporting the efficacy of the credit.

On November 6, 2009, President Obama signed legislation to extend and expand the Home Buyer Tax Credit. The legislation: Extends the First-Time Home Buyer Tax Credit of up to \$8,000 to first-time home buyers until April 30, 2010. Expands the credit to grant up to \$6,500 credit to current homeowners purchasing a new or existing home between November 7, 2009 and April 30, 2010

- **Protecting the Mortgage Interest Deduction** - The Administration's proposed Fiscal Year 2010 budget included a recommendation that health insurance reform be "paid for" by limiting the value of the mortgage interest deduction (MID) and other itemized deductions for upper income taxpayers. The Administration proposed limiting the value of the deductions to 28% for all taxpayers paying more than 28%. Accordingly, those in the 33% and 35% brackets would receive less value for their deductions.

NAR aggressively fought off changes to the MID through grassroots, advertising and similar advocacy tools. To date, no version of health reform has included any provision that would limit the MID.

- **FHA Modernization** - NAR championed H.R. 3146, the “21st Century FHA Housing Act of 2009.” This bill would provide FHA with the resources it needs to upgrade their technology systems and hire additional staff . The bill will also allow FHA to more appropriately manage risk and provide FHA more flexibility in the area of foreclosure prevention.
- **FHA and GSE Loan Limits** - House-passed HUD Appropriations Bill for FY2010 includes an extension for the FHA and GSE loan limits through December 31, 2010. This extension was the second time in 2009 that NAR has successfully advocated to retain limits of 125% of the median home price (at 2007 levels), capped at \$729,750.
- **FHA and GSE Condominium Policy** - NAR recommends that FHA adopt a policy similar to Government-Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac where there is no owner-occupancy requirement if the borrower is going to occupy the unit after purchase. NAR also recommends increasing or temporarily suspending the FHA concentration requirement, reducing or eliminating the requirement that 50% of units must be sold prior to FHA insuring a mortgage in the project, and clarification on the reserve study requirement.

On November 6, 2009, FHA released [Mortgagee Letter \(ML\) 2009-46 A: Temporary Guidance for Condominium Policy](#) and [ML 2009-46 B: Condominium Approval Processes for Single Family Housing](#).

- **FHA Multifamily Loan Limits** - NAR supported H.R. 3527, which would increase the FHA multifamily loan limits for elevator buildings. In FY07 and FY08, FHA insured a total of only three multifamily buildings with elevators nationwide. The costs of constructing high-rise multifamily buildings are significantly more than the costs of garden-style apartments, but can provide many more opportunities for families looking to rent. H.R. 3527 will provide FHA with the tools it needs to facilitate the construction and rehabilitation of apartments. This bill has passed the House.

EXPANDING COMMERCIAL REAL ESTATE OPPORTUNITIES

- **Economic Stimulus** - H.R. 1, the “American Recovery and Reinvestment Act of 2009,” was signed by the President on February 17, 2009. Those provisions of the bill most helpful to commercial real estate relate to: green building and energy efficiency, business tax incentives, and investment in transportation and infrastructure. Some of the most important tax provisions included in the bill would be the extension of the 50% bonus depreciation provision through the end of 2009 and the cancellation of the debt income provision that provides tax relief for businesses that discharge debt obligations from 2009 through 2014.
- **Term Asset** – Backed Securities Loan Facility (TALF) - The “Financial Stability Plan” announced in early 2009 by Treasury Secretary Geithner included a major expansion of the Term Asset-Backed Securities Loan Facility (TALF) program to include commercial mortgage-backed securities (CMBS). To further ensure the stability and recovery of the commercial credit markets, NAR was successful in advocating for the extension of TALF loans from 3 years to 5 years, as well as having the TALF program extended through 2010.
- **Surplus Lines** - The U.S. House of Representatives passed H.R. 2571, the Non-admitted 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. More than 25% of commercial insurance in the United States is placed in the surplus lines market, also known as the non-admitted insurance marketplace. This legislation is a key component in overhauling insurance regulation and will help ensure the availability of non-admitted and surplus lines of coverage in areas of the country where admitted property and casualty coverage has grown costly and may even be unavailable.

ELIMINATING BARRIERS TO HOMEOWNERSHIP

- **Flood Insurance** - NAR successfully worked to extend authority for the National Flood Insurance Program while Congress continues to consider important reforms to improve the program's long-term viability. Without this program, property owners in thousands of communities across the U.S. would not be able to obtain the insurance necessary for them to obtain a mortgage in federal-designated floodplains.
- **Energy Efficiency Incentives** - NAR eliminated time-of-sale energy efficiency requirements from H.R. 2454: the American Clean Energy and Security Act before passing the House of Representatives. Those provisions would have prescribed energy audits and recording, public disclosure and MLS listing. NAR also succeeded in exempting existing residential and commercial buildings from state building labeling programs in the bill. The House bill also includes additional funding and guidelines for state governments to offer financial and other incentives to property owners who voluntarily improve the energy efficiency of homes. NAR is working to retain those exclusions as the Senate considers the House-passed legislation.
- **Foreclosure Prevention and Response (FPR) Program** - In March of 2009, NAR launched a new program to help state and local REALTOR® Associations develop and implement plans to help REALTORS® address the nation's foreclosure crisis with locally developed action plans. The \$3.0 million grant program is allocated to states based on NAR membership. The program also unveiled a Web page at www.REALTOR.org/foreclosure that contains information resources and accounts of best practices to help local Associations in their planning. To date, more than \$1.5 million has been awarded to 85 Associations around the country. Approved grants have gone for REALTOR® education programs on short sales and foreclosures. Grants have also funded foreclosure hotlines, public education events, and innovative partnerships with local governments and other community organizations.

REGULATORY COMPLIANCE GUIDES

- **Money Laundering/Terrorist Financing** - Created a new anti-money laundering and terrorist financing Web page featuring information on how real estate is currently being used for illegal financing purposes and containing links to United States departments and agencies involved in fighting ML/TF: Financial Crime Enforcement Network; Office of Foreign Asset Control; Internal Revenue Service
- **Lead Paint Renovation Compliance Guide** - This online compliance guide provides information for REALTORS® on the EPA's new Renovation, Repair and Painting Rule. The guide describes the new lead-based paint safety practices established by the rule, and what steps real estate agents, brokers and property managers need to take to comply with the new procedures. The guide includes a short introduction, two narrated presentations and two sets of frequently asked questions (FAQ) answered by EPA officials and regulatory experts — one video each for real estate agents and brokers, and property managers.
- **Talking to Homebuyers About Flood Risk and Flood Insurance** - NAR worked with FEMA to create two flyers — one for REALTORS® and one for homebuyers — that talk about flood risk and flood insurance. For REALTORS®, the flyer clarifies what they should know about flood risk and flood insurance, and how they can talk about it with their customers. For homebuyers, the flyer is designed to be used in discussions with their insurance agent by serving as a checklist for the homebuyer to ensure their new investment is adequately protected.