

NSBAR Statement of Public Policy

Active Advocacy Issues A to Z

2024

ISSUE

Affirmatively Furthering Fair Housing – NSBAR supports meaningful enforcement of the Fair Housing Act’s requirement that jurisdictions receiving federal assistance should assess the impact of that spending on local patterns of segregation and disinvestment. NSBAR opposed the repeal of HUD’s 2015 AFFH rule and supports issuance of a new rule creating a simpler process for communities to assess barriers to fair housing and develop local solutions to overcome them.

Affordable Rental Housing – NSBAR supports legislative and regulatory proposals to remove disincentives that inhibit owner participation in the development of new rental housing or the preservation of existing safe and affordable rental housing.

Alternative Credit Scores – NSBAR supports legislative and regulatory proposals that support alternative credit scoring models aimed at responsibly expanding mortgage credit for millions of hardworking families.

Alternative Valuation Methods – NSBAR is in discussion with legislators, regulatory agencies, and stakeholders on the increased use of data-based valuation methods and alternative appraisal products. NSBAR supports innovation in the valuation field, but only if safety and soundness concerns are also addressed.

ADA Reform – While NSBAR strongly supports the requirements of the Americans with Disability Act (ADA), NSBAR also supports legislation to curb abusive “drive-by” lawsuits that demand high payments or threaten legal action related to minor, often easily correctable infractions of the ADA.

ADA Website Compliance – NSBAR supports clear website accessibility standards under the ADA, and has requested, and successfully received, guidance from the Department of Justice on this issue to curb demand letters for alleged violations by businesses. NSBAR has also engaged with HUD and conducted research on Fair Housing Act-related claims on website accessibility.

Appraisal Bias – NSBAR is engaged with legislators, regulatory agencies, and stakeholders in the discussion of potential bias and discrimination in the appraisal process.

Appraiser Qualifications – NSBAR supports state-level adoption of revised national minimum requirements for trainee appraisers including more flexible education and work hour requirements.

Appraiser Shortages – NSBAR is engaged with legislators, regulatory agencies, and stakeholders on addressing barriers and market conditions that hinder timely and accurate appraisals.

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Artificial Intelligence – NSBAR is engaged with legislators, regulatory agencies, and stakeholders in the discussion of the potential impacts of artificial intelligence, machine learning, and automated decision making for appraisals, lending, rental processing, and other areas of real estate.

Assistance Animals – NSBAR continues to monitor HUD for further guidance for property managers on handling reasonable accommodation requests for assistance animals.

BASEL Capital Standards for Banks and Thrifts – NSBAR supports legislation that would clarify the definition of High Volatility Acquisition, Development & Construction loans (HVCRE ADC), and provide exceptions to the Rule.

Brownfields Clean up and Reinvestment – NSBAR believes it is important for state and local governments to support and encourage the cleanup of Brownfields by providing tax and other economic incentives. These incentives are necessary to attract private investment to abandoned properties and to compensate for the risk of investing in contaminated land – typically surrounded by economically blighted neighborhoods. NSBAR also supports EPA's Brownfield Revolving Loan Fund, which provides communities with resources to transform contaminated sites into community assets that attract jobs and achieve broader economic development outcomes.

Capital Gains Exclusion – NSBAR believes the capital gains exclusion (\$250K for single filers/\$500K for joint filers) for the sale of a home should be increased and indexed for inflation.

Commercial Real Estate Lending – NSBAR supports legislative and regulatory proposals to create a covered bond market in the U.S., and also to increase the lending cap for credit unions. NSBAR supports common-sense regulations which do not place undue burdens on lending for commercial real estate development and purchases.

Competition – NSBAR asserts that the real estate market is vibrant, healthy, and vigorously competitive. Technology innovation in the real estate industry is robust and listing data is available from multiple sources.

Condominium Lending – NSBAR supports legislative and regulatory proposals to ease restrictions on the purchase and sale of condominiums.

Cryptocurrency and Blockchain – NSBAR acknowledges the potential impacts of cryptocurrency and blockchain will bring to real estate and the need for regulatory clarity and oversight, if necessary, for new and emerging technologies.

Data Privacy and Security – NSBAR recognizes the importance of protecting client data entrusted to them and supports common sense data privacy and security safeguards that are effective but do not unduly burden our members' ability to efficiently run their businesses.

ISSUE

Deduction for Sole Proprietors and Owners of Pass-Through Businesses – NSBAR

successfully lobbied the Treasury and IRS to clarify that the 20% “qualified business income” deduction included in the Tax Cuts and Jobs Act of 2017 applies to brokerage services. Also following NSBAR discussions, IRS guidance provided a “safe harbor” of 250-hours of landlord-type activity per year to ensure that net real estate rental income qualifies for the deduction.

Depreciation – NSBAR supports shortening the 27.5- and 39-year cost recovery periods for real property.

Disparate Impact – NSBAR opposes policies and practices that have a disproportionately adverse effect on a demographic group defined by race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity, unless such policies are justified by a legitimate business necessity and there is no less-discriminatory alternative. NSBAR believes that eliminating disparate-impact discrimination, as defined by the Supreme Court in its 2015 Inclusive Communities decision, helps protect both the legitimate business interests of real estate professionals and the fair housing rights of consumers. NSBAR supports the reinstatement of HUD’s 2013 disparate impact standard, as proposed by HUD in August of 2021.

Drones – NSBAR supports efforts to create new federal regulations to create a safe regulatory framework for the commercial use of unmanned aerial vehicle technology by the real estate industry.

Electronic Signatures – NSBAR support ongoing legislative and education efforts to promote digital real estate transaction options for consumers, including the use of remote online notarization technology.

Eminent Domain – NSBAR supports eminent domain authority only for a public use, as well as a broad interpretation of “just” compensation. NSBAR also supports states’ rights governing eminent domain.

Endangered Species Act (ESA) Reform – NSBAR supports reforms to the ESA that recognize economic impacts when designating endangered species and their habitats. Proposals must provide market-based incentives to encourage species protection and compensate private property owners if their property’s economic value declines.

Fair Housing (Sexual Orientation & Gender Identity) – NSBAR supports legislation, including the Equality Act, that adds sexual orientation and gender identity as prohibited bases for discrimination under the Fair Housing Act. NSBAR has also included these categories in the Code of Ethics.

FHA Lifetime Mortgage Insurance Premium – NSBAR urges FHA to remove the requirement that premiums be paid for the life of the loan, and instead return to the practice where these could be canceled after the borrower has sufficient equity.

ISSUE

First Time Home Buyer Savings Accounts – NSBAR supports Home Buyer Savings Accounts established at the state level and urges states to adopt such plans. NSBAR believes individuals or families saving for homeownership should be able to put a percentage of income or maximum amount of funds into an account that is tax free to be used within a specified amount of time for the purchase of a home. Home Buyer Savings Accounts are typically used for first time homeowners or returning home buyers.

Flood Insurance – NSBAR urges Congress and the Administration to reauthorize and reform the National Flood Insurance Program and remove barriers to a more robust private market to offer higher quality, lower cost flood insurance.

Global Climate Risk – NSBAR supports action that protects property rights while emphasizing environmental stewardship and voluntary local action, based on private sector, market-based investments to encourage energy efficiency, adaptation, and mitigation.

GSE Guarantee Fees – NSBAR is concerned with the high loan level pricing adjustments (LLPAs) charged by Fannie Mae and Freddie Mac, which raise costs unnecessarily for consumers. NSBAR supports reasonableness when setting G-fees and LLPAs to avoid overcharging tax-paying homeowners and a specific reduction in light of recent tax legislation.

Home Rule – NSBAR believes home rule authority is too often used to diminish the rights of private property owners and provides less checks and balances on local government; we oppose efforts by local municipalities to become home rule, and we support efforts by the citizenry to revert from home rule to non-home rule.

Homelessness – NSBAR supports Veterans Affairs Supportive Housing (VASH) vouchers to ensure veterans have access to housing, and continuum of care programs that focus on housing first programs.

Housing Counseling – NSBAR supports housing counseling programs that incentivize housing education.

Housing Finance Reform – NSBAR supports reforming Fannie Mae and Freddie Mac into government-chartered market utilities, in a way that ensures the mission of the GSEs continues to meet the needs of consumers while protecting taxpayers. Such reforms must also encourage private capital’s participation in the secondary mortgage market and ensure there is mortgage capital in all markets at all times and under all economic conditions, with the continued availability of the 30-year fixed rate mortgage.

Impact Fees – NSBAR opposes impact fees. Where impact fees exist, NSBAR urges their repeal. Impact fees should be used solely for capital improvements related to a specific new development.

Independent Contractor Status – NSBAR strongly supports the continued right of brokers to choose whether to treat and classify agents as employees or independent contractors for federal tax purposes; and supports actions at the state level to strengthen the rights of brokers to make these determinations and opposes efforts at the federal level to weaken those rights.

ISSUE

Infrastructure and Transportation – NSBAR supports efforts to develop a long-term, dedicated source of revenue to maintain and fund surface transportation projects; rebuild and modernize other infrastructure needs such as transit, ports, and water management systems; and streamline the permit process.

Internet Sales Tax Fairness – NSBAR supports legislation to level the sales tax playing field for all retailers – online and brick and mortar.

Investor Visa – NSBAR supports EB-5 Immigrant Investor Program reauthorization that encourages investment in the US economy and emphasizes program accountability in return for a path to citizenship.

Lead Based Paint – NSBAR supports federal policies that reduce lead exposure risks in homes without costly and burdensome rules on property owners.

Marijuana Legalization – NSBAR does not have a policy on the legalization of marijuana, but provides guidance to property owners/agents about issues to be aware of if the state allows marijuana. Conflicts between federal and state law can create difficulties for all types of properties. NSBAR also supports access to financial institutions for state-legalized businesses. Illinois protects the legalization of marijuana.

Marketing Service Agreements (MSAs) – NSBAR encourages the Consumer Financial Protection Bureau (CFPB) to publish guidance that specifically rejects the contention that the marketing of settlement services is a mere referral, and ensures that real estate professionals can be paid fair market value for such marketing.

Money Laundering and Terrorism Financing – NSBAR supports continued efforts to combat money laundering and the financing of terrorism through a risk-based analysis approach, focusing regulation on high-risk entities such as financial institutions. NSBAR supports the current rules requiring reporting receipt of cash over \$10,000 and ensuring real estate professionals understand their responsibilities to prevent criminal activity from infiltrating the real estate market without the imposition of burdensome or duplicative regulatory requirements.

Mortgage Debt Cancellation Relief – NSBAR supports legislation to provide a permanent extension of the exclusion from taxation of the phantom income generated when all or a portion of a mortgage on a primary residence is forgiven.

Mortgage Interest Deduction – NSBAR supports indexing for inflation the \$750,000 maximum loan amount eligible for deducting mortgage interest.

Mortgage Loan Limits – NSBAR supports reliable loan limits to provide security and consistency to the marketplace. Providing access to credit for all communities during all economic times is a hallmark of our federal housing policy. Appropriate loan limits for FHA, Freddie Mac, and Fannie Mae (GSEs) are, and will continue to be, a critical factor in ensuring access to safe and affordable mortgage financing in all areas and all markets. Reducing limits will constrict liquidity to housing markets, and homebuyers.

ISSUE

Opportunity Zones – NSBAR supports Qualified Opportunity Zones, which offer powerful capital gains tax incentives to investors to redeploy assets into economically troubled areas throughout the country and to keep them invested for long periods. Newly constructed and revitalized commercial real estate is expected to be a primary focus for a great deal of the new investment expected through this incentive program.

PACE Loans – NSBAR supports legislative and regulatory proposals that require Property Assessed Clean Energy (PACE) loan terms to be fully disclosed to borrowers.

Pandemic Relief – NSBAR supports funding for additional economic relief including unemployment assistance, rental assistance, mortgage assistance, small business relief, and funding for state and local governments.

Patent Litigation Reform – NSBAR supports common sense patent litigation reform in an effort to protect our members from abusive patent trolls.

Possession and Evictions – NSBAR believes that the fundamental right of rental property owners to regain possession of their property shall not be abridged. NSBAR opposes the erosion of these property owner rights: 1. The right to owner occupy property. 2. The right to inspect property with proper notice. 3. The right to terminate tenancy within the terms of the lease. 4. The right to freely go out of the rental business and convert property to other uses.

Real Estate Settlement Procedures Act (RESPA) – RESPA (Regulation X) TILA (Regulation Z) Harmonization (Know Before You Owe or TRID) – NSBAR supports a RESPA/TILA harmonization that adds transparency, simplifies disclosures, and reduces burdens to settlement service providers, including real estate professionals. NSBAR continues to work with the CFBP to ensure outstanding concerns with the rule are addressed.

Real Estate Transfer Taxes – NSBAR opposes real estate transfer taxes. Where transfer taxes currently exist, NSBAR urges their repeal and opposition to any increases. NSBAR urges the redirection of fees to be used for one-time capital acquisitions that are related to housing or commercial property improvements (e.g., infrastructure) and exemptions to transfer taxes for first-time homebuyers and for homebuyers from low- and moderate-income households.

Remote Online Notarization – NSBAR supports ongoing legislative and educational efforts to promote digital real estate transaction options for consumers, including the use of remote online notarization technology. Currently Illinois has remote online notarization.

Rent Control – Rent control and rent stabilization are infringements upon private property rights. NSBAR opposes current and future rent control and rent stabilization laws on both residential and commercial properties. NSBAR encourages local and state REALTOR® associations to oppose any legislative measure allowing for rent control or rent stabilization efforts.

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Rural Housing Loans – NSBAR supports the role of the Rural Housing Service to provide loans for low to moderate income borrowers in rural areas and small towns. NSBAR urges the Rural Housing Service to move forward with efforts to allow lenders to directly endorse RHS loans, in order to increase the availability of guaranteed loans.

Sales Tax on Services – NSBAR opposes the application of state or local sales tax to rent, and to real estate services and other professional services, including real estate broker commissions, title searches, appraisals, home inspections, property management services, and any other services related to the real estate transaction.

Section 1031 Like-Kind Exchange – NSBAR opposes any change that would undermine the deferral mechanisms associated with exchanges or lead to fewer transactions. The like-kind exchange technique is fundamental to the real estate investment sector. The current law provides investors with a great deal of flexibility in managing their real estate portfolio. Real estate is essentially an illiquid asset that requires substantial commitments of cash. Flexibility is needed in order to assure the free movement of property and capital. This, in turn, results in economic growth and job creation.

Short term rentals – Private property rights include the right to gain income from property and the right to rent out property on a short-term basis. Local governments are granted the legal authority to regulate land use within their jurisdiction by police powers and/or zoning regulations. But the National Association of REALTORS® (NSBAR) believes local short-term rental regulations should focus on issues such as health, safety and noise mitigation, and respect the rights of private property owners.

Sign Ordinances – REALTORS® have the right to advertise properties and use For Sale signs, and NSBAR opposes efforts to restrict such activity.

Small Business Issues – NSBAR supports policies that assist REALTORS® and the small-business clients commercial real estate practitioners work with access financing and other assistance to make their businesses successful. This includes access to small business loans and emergency relief, as well as education and counseling resources through the Small Business Administration.

State-Legalized Cannabis Businesses Access to Banking – NSBAR supports the rights of states and residents of those states to create laws aligned with their interests. NSBAR supports allowing businesses that are properly registered and that are legitimate by state standards to have the ability to access banking services. NSBAR does not have a position on cannabis legalization.

Student Loan Debt – NSBAR supports federal policies that help raise borrowers' financial awareness and to allow student borrowers to refinance into lower rates as well as to streamline income-based repayment programs.

ISSUE

Tax Benefits for Property Ownership – **NSBAR** supports the enactment of a meaningful tax credit for homeownership for those who do not currently benefit from the mortgage interest and real property tax deductions because they no longer itemize their deductions. Tax changes enacted in 2017 reduced the previously available homeownership tax incentives to only about 10% of households, which prevents many middle-income, minority and millennial households from realizing a direct tax benefit for owning a home.

Tax Deduction (State and Local) – **NSBAR** supports legislative efforts to reinstate the full deductibility of state and local taxes. At a minimum, **NSBAR** urges legislators to index the current \$10,000 cap for state and local tax deductions to inflation and to remove the marriage penalty by increasing the deduction cap for joint returns to \$20,000, twice the amount of that for single filers.

Terrorism Insurance – **NSBAR** supports and urges Congress to continue to authorize the federal terrorism risk insurance program.

TILA-RESPA Integrated Disclosure (TRID) – RESPA (Regulation X) TILA (Regulation Z) Harmonization (Know Before You Owe or TRID) – **NSBAR** supports a RESPA/TILA harmonization that adds transparency, simplifies disclosures, and reduces burdens to settlement service providers, including real estate professionals. **NSBAR** continues to work with the CFBP to ensure outstanding concerns with the rule are addressed.

Tort Reform/Class Action – **NSBAR** supports legislative proposals to establish caps limiting noneconomic and punitive damage awards and standards for the assignment of certain class action lawsuits to federal court.

Transportation – Convenient and efficient transportation infrastructure enhances the quality of communities, supports property values, and mitigates traffic congestion effects that accompany growth. REALTORS® support improving mobility in communities so that all citizens have access to transportation means best suited to their needs. **NSBAR** believes in leveling the playing field with respect to funding highways versus transit and other modes. **NSBAR** supports a broad community vision that considers the needs of all transportation users and emphasizes repair and maintenance over development of new capacity. In addition, **NSBAR** supports a modest increase in the federal motor fuel tax and annual adjustments for inflation.

VA Home Loan Guaranty – **NSBAR** continues to work with the Department of Veterans Affairs to allow veterans to be on a level playing field with other buyers.

Waters of the US (WOTUS) – **NSBAR** supports legislation and regulation to clearly define what “waters” are under the jurisdiction of the federal government.

Wildfires – **NSBAR** encourages active forest management practices that return the ecological benefits of fire to forested areas, bring balance to our nation’s firefighting policies, and protect homes and communities in the wildland/urban interface.



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X and Z – RESPA (Regulation X) TILA (Regulation Z) Harmonization (Know Before You Owe or TRID)
– **NSBAR** supports a RESPA/TILA harmonization that adds transparency, simplifies disclosures, and reduces burdens to settlement service providers, including real estate professionals. **NSBAR** continues to work with the CFBP to ensure outstanding concerns with the rule are addressed.