

Federal Commercial Legislative/Regulatory Issues Update

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Commercial Issues**

NAR 2016 Commercial Member Profile

- Commercial members completed a median of 9 transactions in 2015 – down from 11 in 2014.
 - However – the median sales transaction volume was \$2.93 million, up from \$2.916 million in 2014.
- Median years of experience fell from 25 to 20 in 2015 – more new members are entering the field.
- 73% of Commercial members are male.
 - However, more women are entering the field to stay – nearly 50% of those with 3-5 years experience are female.
- <http://www.realtor.org/research-and-statistics/research-reports/commercial-real-estate>

NAR Advocacy

- Government Affairs:
 - Policy Representatives: Subject-matter experts, work with Congressional Committees/Executive Agencies
 - Lobbyists: Work directly with Congressional Offices/Members
- Policy Statements from NAR Member Committees
 - Commercial Committee, Commercial Legislation & Regulatory Advisory Board, Commercial Research Advisory Board, Commercial Leadership Forum....
- Affiliates – IREM, CCIM, SIOR, RLI



115th Congress/Trump Administration - Agenda

1. Repeal and Replace the ACA - ongoing
 2. Tax Reform – Fall/Winter
 3. Infrastructure - ?
- Other business?
 - Political appointees: 568 total that require the Senate to confirm
 - 49 confirmed, 145 nominated, 15 awaiting nomination, and 359 no nominee (July 20)
 - Further complications: the debt ceiling, FAA reauthorization, Medicare extension...etc. etc.

EB-5 Visa Regional Center Pilot Program

- Authority for the pilot program expires **Sept. 30, 2017** unless Congress acts to reauthorize it.
- No permanent extension bills yet.
- Most likely – another short-term (1-year) extension in Omnibus package in September



Waters of the U.S. Rule (WOTUS)

- Allows the EPA/Army Corps of Engineers to regulate “navigable waters of the U.S.” –the last administration greatly expanded the definition of “navigable,” broadening their authority over bodies of water.
 - This impacts development on privately owned land, and leads to onerous/time consuming permitting processes
- 114th Congress – several legislative “fixes” introduced, none were able to pass the Senate
 - No bills introduced in the 115th Congress yet, probably because it isn’t necessary →
- The expanded regulation was challenged in court as an illegal taking by the government of private property, and a federal judge issued a stay on its enforcement –the EPA cannot legally implement
 - Additionally, the Trump Administration has begun the process of rescinding the rule.

Commercial Lending

- **Basel III HVCRE ADC risk-weight rules:** raises risk-weight from 100% - 150%
 - H.R. 2148 – Clarifying Commercial Real Estate Loans Act (Rep. Pittenger, R-NC)
 - OCC pledge to clarify HVCRE requirements in 2017
- **“Marketplace lending”/JOBS Act:** new sources of capital for businesses unable to get financing from traditional sources
 - Crowdfunding
- **Small Business Administration loan programs**
- **Regulatory Reform/Dodd-Frank Act reforms**

Internet Sales Tax Fairness

- States lose an estimated \$26 billion each year due to uncollected sales tax from online purchases.
- Congress must grant states the authority to require out-of-state (“remote”) e-commerce retailers to collect and remit sales tax on purchases.
 - *Quill* ruling – Supreme Court, 1992
- Bills:
 - H.R. 2193: Remote Transactions Parity Act (Rep. Noem, R-SD)
 - S. 976: Marketplace Fairness Act (Sen. Enzi, R-WY)
- State challenges: “Nexus” laws
 - SD court challenge – potential for Supreme Court

Tax

- Tax reform in the 115th Congress?
 - House Ways & Means – working groups studying aspects of the tax code
 - Senate Finance Committee – solicited comments on tax reform
 - Stated goal: November (but that’s ambitious)
- House Republican Blueprint for tax reform – June 2016 – DOA?
- Commercial real estate provisions could be in danger – “revenue neutral” tax reform could mean limiting/repealing provisions to “pay for” cuts elsewhere



Tax – 1031 Like-Kind Exchanges

- Nothing about this – yet.
- Is Section 1031 in danger? Maybe.
 - Why? Revenue neutral tax reform; misperceptions on the Hill about it; general lack of understanding.
 - → NAR’s education and advocacy efforts to raise awareness of 1031, including its economic benefits for jobs and efficient use of property, as well as what it actually does.
 - Coalition work, studies, hill visits, talking points, etc.
- [Study on 1031 can be found on NAR’s website here.](#)



Miscellaneous Issues

- 179D Energy Efficient Commercial Building Deduction
- Net Neutrality
- Commercial Appraisals
- ADA Notice Reform
- Unmanned Aerial Systems (drones)



Questions?

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