

AGENDA



**NATIONAL ASSOCIATION OF REALTORS®
2020 REALTORS® Conference and Expo
Business Issues Policy Committee
Thursday, November 5, 2020
1:00-2:00 p.m. (Central Time)**

CHAIR: Dominic Pallini (FL)
VICE CHAIR: Ray Wade (TX)
COMMITTEE LIAISON: Nate Johnson (MO)
STAFF EXECUTIVES: Christie DeSanctis / Nia Duggins

PURPOSE: To identify, monitor, and recommend positions on federal, legislative, and regulatory issues that affect the operations of REALTOR® businesses and the ability of NAR to meet REALTOR® needs and to recommend legislative or regulatory strategies in furtherance of those positions.

I. Call to Order & Opening Remarks: Dominic Pallini, Chair

II. NAR [Conflict of Interest Statement](#): Ray Wade, Vice Chair

III. Approval of [Previous Meeting Minutes](#): Dominic Pallini, Chair

IV. RPAC Committee Challenge Update: Ray Wade, Vice Chair

V. Overview of 2020 Business Issues Policy Committee Goals & Work

VI. Committee Accomplishments & Updates

a. CFPB Updates: Rescission of the 2015 Compliance Bulletin re: MSAs under RESPA and updated FAQs

On October 7, 2020, the Consumer Financial Protection Bureau (CFPB) rescinded the October 8, 2015, Compliance Bulletin (2015-05), which curtailed the use of Marketing Services Agreements (MSAs). Instead of replacing the Bulletin with another interpretation of the Real Estate Settlement Procedures Act (RESPA), the Bureau updated their Frequently Asked Questions (FAQs), recognizing industry best practices and focusing on a facts and circumstances analysis for determining RESPA compliance. The updated guidance includes common scenarios and examples that address RESPA compliance questions related to MSAs, as well as gifts and promotional activities.

[CFPB FAQs on RESPA Section 8](#)

b. NAR COVID-19 Response & Advocacy (Rental Assistance, PUA, PPP)

1. Rental Assistance

NAR President Vince Malta and other NAR leaders met with officials from the White House offices of the Domestic Policy Council and the National Economic Council to discuss the CDC eviction moratorium

President Malta outlined NAR's significant concerns with the order and the burden it places on housing providers. He explained that "kicking the can down the road" and creating mountains of

debt for renters would simply lead to a flood of evictions come January. REALTOR® leaders presented anecdotes about the more than 40% of mom and pop owners around the country and how they are struggling to meet their obligations without rental income. They also explained about the confusion surrounding the order and how it is being interpreted very differently by different courts.

During the Q&A, REALTORS® asked what relief would be provided to property owners - who were ineligible to receive unemployment or PPP or EIDL loans to make up for their lost revenue. White House staff said the Administration is committed to an additional stimulus bill and are working with Congress. They are open to including rental assistance. In the absence of Congressional action, the Administration is also working to prioritize funds for more relief, and will consider a rental assistance program as part of that.

2. PUA

The Coronavirus Aid, Relief, and Economic Security Act ([CARES Act](#)) signed into law on March 27, 2020, provides relief to families, small businesses, and individuals who are self-employed and independent contractors. A key provision in the law creates a temporary “Pandemic Unemployment Assistance” (PUA) program that extends unemployment benefits to those not traditionally eligible, including self-employed individuals.

The Federal Pandemic Unemployment Compensation (FPUC) program, which provided the \$600 per week federal benefit to eligible claimants receiving unemployment under the CARES Act **expired on July 31, 2020**. States will continue to administer Pandemic Unemployment Assistance (PUA), and regular state unemployment benefits under the CARES Act **until December 31, 2020**.

3. PPP

On Thursday, October 8, the Small Business Administration (SBA) and the Treasury Department announced the release of a new, further simplified forgiveness application for PPP borrowers with loans of \$50,000 or less. The new application - Form 3508S - is one-and-half pages long and requires the borrower to certify that the amount they are seeking forgiveness for was spent in accordance with the PPP requirements. Documentation must be submitted to their lender confirming payroll costs, employee numbers, business mortgage interest payments, rent and utility costs for the covered period. The new forgiveness application is simpler for eligible borrowers to use and will reduce the processing time on the part of the lenders.

In addition, borrowers who use the Form 3508S are exempt from the PPP requirements for maintaining the number of "Full Time Equivalent" employees and not reducing employee wages. Thus, borrowers with loans of \$50,000 or less who use the new form are eligible to have their full PPP loan amount forgiven even if economic circumstances kept them from meeting one or both of those requirements of the program.

c. AML Updates- release of the GTO graphics

Money launderers use ill-gotten gains to buy real estate with cash—often through legal entities like shell companies—to help hide their identities and sources of funds. Avoiding banks also avoids the monitoring and reporting of real estate purchases under programs designed to identify potential money laundering.

To help close this regulatory gap, the Financial Crimes Enforcement Network (FinCEN) issued a “geographic targeting order” to collect information on certain U.S. real estate transactions. *d. 2020 Census Updates & Engagement*

The Supreme Court ruled that the Census Bureau must stop all census counts by October 15, 2020. The Court issued its opinion ruling in favor of the Trump Administration after weeks of ongoing litigation on this issue. In late September, many advocacy groups filed a lawsuit against the Commerce Department seeking an injunction to prevent census counts from ending on September 30, 2020. A California federal court heard the issue and ruled in favor of the advocates and granted an injunction and ordered the Commerce Department to continue counts through October 31 and also order the Department to disregard the December 31 deadline for when the total enumeration is due to the President. The Trump Administration appealed and filed an emergency request asking the Supreme Court to rule on the issue.

There are many concerns regarding the accuracy and integrity of the data collected by the Bureau given the time constraints and pandemic related impacts to its field operations. NAR along with other advocacy groups support Congress extending the statutory deadline to ensure a complete and accurate population count. NAR supports the Census Deadline Extension Act, which is bipartisan legislation to extend the statutory deadline for when the Bureau must provide the total apportionment count to the President, Congress, and States.

e. DOL IC NPRM Update

The U.S. Department of Labor (DOL) issued a notice of proposed rulemaking revising its interpretation of independent contractor status under the Fair Labor Standards Act (FLSA) with a streamlined economic reality test in an effort to promote certainty for stakeholders, reduce litigation, and encourage innovation in the economy.

In determining a worker’s status as an employee or independent contractor, the proposed rule examines a workers’ economic independence based on:

- The nature and degree of workers’ control over the work (i.e. setting your own schedule; selecting your own projects; ability to work for others.) and,
- The workers’ opportunity for profit and losses based on workers’ investment (i.e. individual management of investment or capital expenditure on material to further work).

Should additional analysis be needed, DOL proposed three additional guideposts for deciding a worker’s status based on: (1) the amount of skill required for work; (2) the degree of permeance of the working relationship between the worker and the potential employer; and, (3) whether the work is part of an integrated unit of production. In evaluating the individual’s economic dependence on the potential employer, the actual practice of the parties involved is more relevant than what may be contractually or theoretically possible. For example, a business’ contractual authority to supervise or discipline an individual may be of little relevance if in practice, the business never exercises such authority.

VII. Introduction of Speakers: Dominic Pallini

a. Guest Speaker: Danielle Scoggins, Vice President of Public Policy Florida REALTORS®

b. Guest Speaker: Joe Ventrone, NAR Vice President of Federal Policy, and Industry Relations

VIII. State Advocacy & Protecting the Independent Contractor Status w/ Danielle Scoggins (including Q&A)

IX. Post-election Industry Update w/ Joe Ventrone (including Q&A)

X. Open Discussion

XI. Overview of 2021 Business Issues Policy Committee Goals

XII. Closing Remarks: Dominic Pallini

XII. Adjournment