

# LEGISLATIVE PRIORITIES



## 1. IMPROVE ACCESS TO HOMEOWNERSHIP AND INCREASE HOUSING INVENTORY

### HOUSE & SENATE ASK:

C.A.R. is asking Members of Congress to support legislation and efforts to address the state and the nation's housing supply crisis.

- C.A.R. is asking Representatives and Senators to cosponsor:
  - The Housing Supply and Affordability Act (H.R. 2126 and S. 902); which will create a housing grant program that state and local governments can apply for to create more housing units.
  - And The Neighborhood Homes Investment Act (H.R. 2143 and S. 98); which will offer tax credits to attract private investment for building and rehabilitating owner-occupied homes.
- C.A.R. is also asking Members of Congress to support tax incentives to convert underutilized commercial property into residential units.

### Talking Points

#### **The Supply and Affordability Act (H.R. 2126 and S. 902)**

- The Supply and Affordability Act grants will help to incentivize states and local governments to approve more housing units.
- States and Local governments could apply for grants to either create housing plans or implement housing plans that will create more affordable housing units and
- As the bill is discussed and debated, C.A.R. believe it could be made even better by clarifying that the housing plans also include a homeownership component.

#### **The Neighborhood Homes Investment Act (H.R. 2143 and S. 98)**

- The Neighborhood Homes Investment Act would create a tax credit for private developers to build/refurbish 500,000 units.
- This bill includes a workforce homeownership component and will help provide affordable housing.

#### **Commercial to Residential**

- COVID-19 will change the way businesses view the need for employees to work in an office.
- This is already impacting commercial buildings across the country with businesses choosing to permanently have employees work from home and cut back office space size.
- Many commercial property owners could make greater use of their space if they could convert it to residential or mixed use and help to address the housing shortage.
- That is why REALTORS® are supporting a tax incentive to convert commercial to residential.

### Background

- REALTORS® strive to make sure that all Americans have the ability to reach the goal of homeownership, which is the centerpiece of the American Dream and the pathway to economic well-being and intergenerational wealth-building.
- Throughout the pandemic, the residential real estate market has had a positive economic impact on homeowners, communities and the economy.
- However, California and the nation are facing a historic 50-year housing shortage.
- The U.S. has accumulated a 5.5 million unit shortage over the last 20 years.
- California alone has a shortage of over 3 million units.

## **2. PROPOSED TAX INCREASES- HOUSE & SENATE ASK:**

C.A.R. has concerns with some of the tax increases being proposed to pay-for the American Families Plan. C.A.R. is asking Congress to protect:

- Stepped-up basis and oppose capital gains at death,
- 1031 like-kind exchange, and
- Against increases in capital gains on infrequent events (i.e. the sale of a primary residence)

### **Talking Points**

#### **Stepped-Up Basis**

- Stepped-up basis is a provision in the tax code that has helped millions of households build generational wealth by passing on real estate assets at the fair market value for the purpose of calculating capital gains.
- Note: please be prepared to provide examples of how stepped-up basis has been used in your Member of Congress' district.
- Applying a capital gains tax at death – effectively eliminating stepped-up basis – will have less of an impact on households who have already passed on real estate for generations and a greater impact on first- and second-generation homeowners just starting to build family wealth.
- The passing on of wealth benefits future generations by expanding the middle-class and helping families to invest in their children's college education and their path to homeownership.

#### **1031 Like-Kind Exchanges**

- 1031 like-kind exchanges are a vital tool for mom-and-pop housing providers that supports liquidity and encourages investment.
- Often small investors will keep first-homes as a rental when they move up and will use the 1031 exchange to buy-up into a multi-unit property. This helps build wealth and is often used to build a nest-egg and supplement retirement income.
- Nearly 40 percent of all like-kind exchanges take place in California, any restriction on these will have a disproportionate impact on our real estate market.
- Allowing investors to buy into higher-priced and more productive properties in California helps to create more tax revenue—and job opportunities and growth.

#### **Capital Gains Increases on Infrequent Events**

- The Administration put forward a proposal to tax capital gains at 39.6 percent for households with incomes over \$1 million.

- The problem is, because the capital gains is included in calculating the income, households that would normally NOT fall into this \$1 million capital gains tax bracket would be forced into it for that one year.
- A household could experience a large capital gains on a property or investment when they were to:
  - Sell their primary home. It is not uncommon that homeowners, such as retirees, who purchased their homes decades ago and are now looking to downsize could realize a capital gain above \$1 million.
  - Mom-and-pop investors with a handful of income properties may look to liquidate the properties at retirement.
  - Unexpected life events such as medical emergencies, family member going into assisted living or the elimination of employment may force households to liquidate assets.
- In all these instances, a household whose yearly-income is far below \$1 million would be forced to pay over 40-percent in capital gains tax because the capital gains from these events would be included in their income for that year.

### **Background**

- The Biden Administration has proposed The American Families Plan.
- Included in the Administration's plan are proposals to offset its cost with tax increases.
- There are a number of tax increases proposed. Specific to California real estate are the proposals to:
  - Cap stepped-up basis at \$1 million (\$2.5 million for couples, including an existing real estate exclusion).
  - Cap 1031 like-kind exchanges at \$500,000
  - Tax capital gains at 39.6 percent (the proposed top tax bracket in the plan) for households with incomes above \$1 million. \*NOTE: There is a 3.8-percent unearned income tax that may be added to capital gains, increasing the tax rate to 43.4-percent.
  - It is important to remember, that because of California's higher home prices and rate of property appreciation, any capping of existing tax provisions would have a greater impact on California property owners than in other states.

## **3. SUPPORT INDEPENDENT CONTRACTOR STATUS FOR REAL ESTATE SALESPEOPLE**

### **HOUSE & SENATE ASK:**

REALTORS® are asking Congress to protect the right of real estate salespeople to choose whether to be independent contractors or employees.

### **Talking Points**

- More than 87-percent of REALTORS® are independent contractors.
- This choice provides them with greater opportunities, such as the autonomy to work as an entrepreneur and build their own brand.
- As independent contractors REALTORS® can "shop" their brand to competing brokers for greater negotiating leverage.

- There are already real estate businesses that utilize the employee model. Real estate salespeople already have a choice to work as employees or independent contractors; the vast majority choose to work as independent contractors.
- For decades, real estate agents have been classified as statutory non-employees for federal tax purposes.
- California has addressed the issue of who is an “employee” and who is an “independent contractor” with the passage of AB 5 (Gonzalez) in 2019.
- C.A.R. is concerned that the PRO Act (H.R. 842) fails to include clarification for real estate salespeople and lacks proper deference to state laws on the issue creating uncertainty and the possibility of legal challenges.
- This uncertainty and resulting potential legal challenges are why California passed AB 5.

### **Background**

- Congress is looking at legislation that would enact the ABC test at the federal level and strengthen organized labor laws.
- Specifically, the House of Representatives has already passed the PRO Act (H.R. 842).
- If the Senate passes the PRO Act, there would be amendments to the House bill requiring the House of Representatives to revisit the issue.

## **4. ENSURE FAIR HOUSING FOR ALL**

### **HOUSE & SENATE ASK:**

REALTORS® are asking their Members of Congress to cosponsor the Housing Fairness Act, H.R. 68 and S. 769, that would reauthorize and increase funding for HUD fair housing testing and enforcement programs.

### **Talking Points**

- The bills would increase HUD’s Fair Housing Initiatives Program by \$18 million with the bulk of funds directed to increased discrimination testing under the Private Enforcement Initiative.
- Further, NAR is asking for an additional \$20 million for HUD’s Office of Fair Housing and Equal Opportunity to provide new resources to be directed to proactive, agency-initiated investigations.
- Fair housing violations can easily go unreported, often due to consumers not realizing they were ever discriminated against.
- Testing for fair housing violations is a proactive and proven method to uncover these violations.

### **Background**

- As REALTORS® we should be on the front line fighting for a housing market free from discrimination.
- Recent news investigations and reports show there continues to be fair housing violations.
- The Federal government has contracted with fair housing groups for decades to assist in investigating and enforcing fair housing. The bill language does not add additional authority.
- The legislation does include language supporting the Affirmatively Furthering Fair Housing rule.
- REALTORS® support the Fair Housing Act’s directive that the federal government and its funding recipients affirmatively further fair housing (AFFH).

- While we believe a new AFFH rule should be less cumbersome for communities to implement, we strongly support the 2015 rule's focus on examining and addressing segregation in our communities.