

# NAR Myths and Facts

## The American Clean Energy and Security Act



National Association of REALTORS® Government Affairs Division  
500 New Jersey Avenue, NW, Washington, DC, 20001

On June 26, the House of Representative approved H.R. 2454, the American Clean Energy and Security Act. Since then, there have been many reports about the bill and NAR's position that are based on incomplete information. Here are the facts:

**Claim:** "NAR supports a "Cap and Tax" bill"

**Fact:** NAR takes a position on legislation, or provisions within legislation, that have a direct affect on real estate. Working with our Congressional allies, NAR stripped the Energy Bill of provisions that would have adversely affected our industry. At the direction of the NAR Board of Directors and Land Use, Property Rights and Environment Committee and the Climate Change Presidential Advisory Group, NAR concentrated on the real estate provisions in the bill. NAR was successful in getting harmful federal energy audit requirements and point-of sale triggers dropped from the bill.

As passed, the bill:

- Does not create a federal energy audit requirement for real property;
- Exempts existing homes and buildings from any federal guidelines for new construction energy labeling.
- Leaves the decision to state government whether to pass a law and label, but specifically prohibits any labeling during a sales transaction.
- Prohibits the Environmental Protection Agency from regulating carbon emissions from residential and commercial buildings under the Clean Air Act;
- No longer includes provisions to bolster a private right of action under the Clean Air Act that would have allowed citizens to halt construction over minor risks – whether real or imagined;
- Offers property owners with matching grants and diagnostic tools to make property improvements that saves energy; and
- Provides green building financial incentives for HUD housing, including a loans, block grants and credit in underwriting for energy improvements.

**Claim:** "The bill mandates energy audits and labeling before any home in America is sold."

**Fact:** The bill does not create a federal energy audit or labeling requirement. As introduced, the original bill would have required energy audits and labeling at the time of sale. However, Realtors succeeded in making many positive changes before the bill passed. Many published reports are not based on the version of the bill that was considered by the House. As approved, the bill:

- Does not create energy audit requirement for real property at time of sale.
- Exempts existing homes, multifamily and commercial buildings from any federal energy labeling guidelines such as the existing federal Energy Star label program (section 204(m)), and
- Leaves the decision entirely to state governments whether to pass a law to require labels, but expressly prohibits labeling during a transaction (Section 204(h)).

**Claim:** "The bill federalizes building codes."

**Fact:** The bill would create a national building code standard that improves upon building energy efficiency. States would be given 1 year to bring their state codes into compliance with the new national standards. If a state fails to do so, the federal government would set and enforce the state's energy codes.

Throughout the bill's development, NAR has worked as part of a broad real estate coalition to address concerns with the House bill's building-code provisions. NAR and the real estate coalition were unable to secure committee passage of amendments to limit these provisions. An amendment to strike the provisions defeated along a party line vote. NAR will redouble its efforts in the Senate where the energy committee has reported bipartisan alternative to the House's that sets more realistic energy reduction targets while preserving state and local

# NAR Myths and Facts

## The American Clean Energy and Security Act



### National Association of REALTORS® Government Affairs Division

500 New Jersey Avenue, NW, Washington, DC, 20001

authority. If and when the Senate takes up its bill and it reaches a House-Senate conference to resolve the bill differences, we will undertake the necessary efforts and activities to ensure onerous provisions are not imposed on real estate markets.

**Claim:** "NAR should have read the bill."

**Fact:** NAR reviewed the entire amendment and bill before taking a position. NAR was directly involved in the development of the 308-page amendment. The energy labeling exemption for existing real property was included on page 45. The House bill is available to the public at the Library of Congress' website: <http://thomas.loc.gov/> The real estate provisions are in Title 2 beginning on page 320.

**Claim:** The bill contains a new federal policy that requires residential and commercial buildings to be retrofitted to federal "green" standards prior to time of sale.

**Fact:** Section 202 (building retrofit program) **does not** contain point-of-sale retrofit requirements. The bill does:

- Provide states with the funding for financial incentives to property owners who **voluntarily** decide to make energy efficiency improvements.
- Provide that financial incentives may include grants, loans, loan guarantees, and/or mortgage interest rate buy-downs.
- Establish a sliding scale for incentives -- i.e., if a home owner makes improvements that result in a 10% reduction in energy consumption, the owner would be eligible for an award of \$1,000; a 20% reduction would be eligible for a \$2,000 award, etc. up to a maximum award of 50% of the retrofit cost for each building.
- Require state voluntary retrofit incentives programs that use federal funding for incentives to meet federal guidelines for certifying private contractor training, equipment and practices for energy audit/retrofit services eligible for federal funding.

**Claim:** No Congressional office will deny that there are mandatory point-of-sale retrofit requirements in the bill.

**Fact:** The real estate provisions in the energy bill represent approximately 50 pages of the 1428-page House bill. While members of Congress have been involved in the full range of policy issues involved in the bill, some staff may not be totally familiar with the details of the real estate related provisions. NAR has focused exclusively on these 50 pages, been involved in their drafting from the beginning, and has successfully advocated for significant improvements to these provisions. There are no federal energy audit or retrofit requirements at point of sale in the bill.

**Claim:** The GREEN Act provisions of the bill require owners of federally assisted housing to retrofit their building to energy efficient standards.

**Fact:** The Green Act requires the HUD Secretary to establish incentives for energy efficient programs on HUD-assisted properties. The bill also provides the Secretary discretion to incorporate energy efficient standards into HUD-assisted programs.

#### Legislative Contacts:

Austin Perez, [aperez@realtors.org](mailto:aperez@realtors.org), 202-383-1046

Helen Devlin, [hdevlin@realtors.org](mailto:hdevlin@realtors.org), 202-383-7559

#### Regulatory Contact:

Russell Riggs, [rriggs@realtors.org](mailto:rriggs@realtors.org), 202-383-1259