

# NAR Legislative Analysis

## The American Clean Energy and Security Act



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

### **Houses Passes Climate Bill with Energy Labeling Exemptions**

The U.S. House of Representatives approved H.R. 2454, the American Clean Energy and Security Act by Reps. Waxman (D-CA) and Markey (D-MA). The bill, re-numbered H.R. 2998, includes NAR-supported provisions, championed by Rep. Perlmutter (D-CO), that exempt existing homes and buildings from the bill's provisions to build upon an existing Energy Star energy labeling program.

After multiple consultations with the NAR Climate Presidential Advisory Group, the NAR Land Use, Property Rights and Environment Committee, and state associations who had dealt with energy audit legislation at the state level, the Land Use, Property Rights and Environment Committee directed NAR staff to concentrate on the real estate provisions in the bill. As a result, NAR issued calls for action and made this a talking point for Capitol Hill visits during its recent Midyear meeting.

Overall, Realtors succeeded in making a number of positive changes to the bill. Thanks to Realtors, the House-approved bill:

- Does not create a federal energy audit requirement for real property;
- Exempts existing homes and building from any federal guidelines for new construction energy efficiency information labels.
- Prohibits the implementation of any labeling during a sales transaction.
- Leaves the decision to states as to whether to require energy audits, disclosures, etc.
- Provides property owners with significant financial incentives, matching grants and tools to make property improvements and reduce their energy bills;
- Prohibits the Environmental Protection Agency from regulating residential and commercial buildings under the Clean Air Act;
- Eliminated an early proposal to allow citizens to sue over minor climate risks under the Clean Air Act; and
- Establishes green building incentives for HUD housing, including a loan program for renewable energy, block grants and credit for upgrades in mortgage underwriting.

While H.R. 2998 includes many positive changes, NAR will have additional opportunities to make further changes to address unresolved issues, such as the bill's building energy code targets. The Senate must still pass its version of an energy and climate bill. There would be a House-Senate conference committee to reconcile differences between the House and Senate bills. The timing for a vote in the Senate is not clear as the Environment and Public Works Committee still must develop the climate provisions to "cap and trade" carbon emissions. The Senate Energy and Natural Resources Committee has approved energy provisions that are more realistic and preserve state flexibility to develop and enforce building codes. While the bill as approved by the House represents a significant improvement over the bill that was introduced, NAR will continue to work to address these issues as the legislative process continues.

An NAR summary of climate issues, which summarizes NAR policy, may be accessed on Realtor.org. Here is the link: <http://www.realtor.org/fedistrk.nsf/c2c6e17e27e92119852572f8005cd953/4c238a3be8220682852573d4006f1dfc?OpenDocument>

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# NAR Myths and Facts

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### **Myths and Facts: Home energy labeling**

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:** *"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. While we supported committee amendments to limit these provisions, the amendment to strike the section was unfortunately voted down along party lines.

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 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 supports a "Cap and Tax" bill"*

**Fact:** NAR supported moving legislation to the Senate that provides home owners with the resources and tools they need to improve property and save money on their energy bills. 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.

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At the direction of the NAR Board of Directors and Land Use, Property Rights and Environment Committee, NAR concentrated on the real estate provisions in the bill. While there were many NAR-supported changes to the House bill, NAR will continue working to address the remaining issues as the bill winds its way through the legislative process.

**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.

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