



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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**HEARING BEFORE THE
UNITED STATE HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY**

ENTITLED

“H.R. 2336, THE GREEN ACT OF 2009”

**WRITTEN TESTIMONY OF
DAVID WLUKA, REALTOR®**

**ON BEHALF OF
THE NATIONAL ASSOCIATION OF REALTORS®**

JUNE 11, 2009

Introduction

Chairwoman Waters, Ranking Member Capito, and Members of the Subcommittee, thank you for the opportunity to testify before you. My name is David Wluka and I am a broker/owner of Wluka Real Estate Corp in Sharon, MA. I am the 2009 Chair of the National Association of REALTORS[®] (NAR) State and Local Issues Committee, and a member of the Global Climate Change Presidential Advisory Group. I am also an “Ecobroker Certified”, a designation that predates NAR’s new Green certification.

I am here to testify on behalf of 1.2 million members of the National Association of REALTORS[®]. We thank you for the opportunity to present our views on incentive based approaches to improving the energy efficiency of buildings. NAR represents a wide variety of housing industry professionals committed to the development and preservation of the nation’s housing stock and making it available to the widest range of potential homebuyers.

Thank you for the opportunity to testify on H.R. 2336 (Perlmutter, D-CO), the Green Resources for Energy Efficient Neighborhoods (GREEN) Act to encourage energy efficiency in HUD housing by offering block grants and credit for energy improvements in the underwriting of mortgages. NAR policy is committed to efforts to advance consumer understanding of the need for energy efficiency and reduce energy use, and supports reasonable incentive-based approaches to improve that understanding. This bill would encourage energy efficiency by offering block grants and other financial incentives such as mortgages interest rate reductions for that purpose. For several years, NAR’s membership and the association itself have taken a number of actions to address this commitment, including:

- Building the first LEED certified office building in Washington, D.C.;
- Developing extensive member training and education programs including a Green designation for real estate professionals;

- Partnering with the U.S. Department of Energy on promoting its *Energy Savers* brochure to our members and their clients; and
- Sponsoring significant research on building related energy issues.

While we have some concerns with some of the specifics contained in the GREEN Act, the basic approach – to incentivize building efficiency through mortgages -- is sound. It is a far more workable approach than that taken by H.R. 2454's (Waxman, D-CA), the "American Clean Energy and Security Act" that will label older properties with energy scores and reduce property values. We would encourage the subcommittee to consider substituting a Perlmutter-based approach for the labeling provisions of HR 2454.

H.R. 2336, the GREEN Act of 2009

NAR supports the approach of HR 2336 to encourage energy efficiency and conservation in our nation's housing stock. The bill contains many incentive-based approaches for encouraging energy efficient building, rehabilitation and upgrades, and we are strongly supportive of those provisions. The bill also provides a loan fund for states to implement renewable energy projects. HR 2336 also provides for a number of demonstration and pilot programs in HUD housing, that should help provide best practices and great experiences for promoting energy efficiency in these properties.

Bill Provisions Requiring Further Clarification

While NAR supports the bill's approach and many provisions which are discussed in the next section of our remarks, we do have some concerns with certain provisions and question whether they would achieve desired objective of improving energy efficiency:

1. Definition of “HUD Assistance”. The bill defines “HUD Assistance” as, “financial assistance that is awarded, competitively or noncompetitively, allocated by formula, or provided by HUD through loan insurance or guarantee”. This definition would include the FHA single family mortgage insurance 203b program as a type of “HUD assistance”. We do not agree with this characterization of FHA mortgage insurance, and are concerned with the precedent that would be set by associating insurance with a term has a very specific meaning related to subsidies. The FHA single-family mortgage insurance program is a mutual insurance fund whose participants fully fund the program. There is no subsidy or federal assistance provided – borrowers to the program pay premiums in return for mortgage insurance. The program has never needed a federal bailout or contribution and is fully self-funding. We strongly urge the Committee to change this definition and remove the 203b program from the definition of “assistance”.
2. Sections 6 and 7 provide additional affordability goals credit and a new duty to establish a secondary market for energy mortgages for Fannie Mae and Freddie Mac, the government sponsored enterprises (GSEs). The current housing market crisis requires that the GSEs focus their efforts on helping at risk families stay in their homes and provide safe and affordable mortgages to homebuyers. This crisis has shown the very critical and necessary role the GSEs play in our mortgage markets. Unlike private secondary market investors, Fannie Mae and Freddie Mac remain in housing markets during downturns, using their federal ties to facilitate mortgage finance and support homeownership opportunity for all types of borrowers. Now is an inappropriate time for an adjustment in focus by the GSEs to build a secondary mortgage market around a product feature. Such a requirement could sidetrack the GSEs from the work our nation requires to help support the housing sector and the national economy.

REALTORS® believe that the GSEs' housing mission, and the benefits that are derived from it, plays a vital role in the success of our nation's housing system. Fannie Mae and Freddie Mac have demonstrated their commitment to housing by staying true to their mission during the current market disruptions by continuing to provide mortgage capital. Now is not the time to redesign the goals or expand the duties of the GSEs. Over the next year or so, Congress will consider many proposals to ensure that safe, affordable mortgage capital is available to deserving American families in all markets. NAR recommends that as part of this effort, Congress consider to what extent the GSEs or the replacement secondary mortgage model should reflect the objectives of sections 6 and 7.

3. Section 20 of the legislation relates to appraisals. The legislation proposes to 1) revise the standards for appraisals of federally-related transactions; and 2) establish specific requirements for appraisers related to energy-efficiency features. The Uniform Standards of Professional Appraisal Practice (USPAP) is the quality control standard applicable for real property in the United States. USPAP already requires appraisers to consider market factors to maintain appraisals as independent market valuations, which is critical to their success. Energy efficient improvements to homes will be reflected in the market-based value of the home through the appraisal. NAR is concerned that requiring appraisers to place a value on certain aspects of the home that are not included in the market-value of the property will distort housing markets and further exacerbate the housing crisis. If a feature adds value to a home an appraiser will note this in the appraisal without a requirement by law. Currently states implement subcommittee standards and qualification criteria for those appraisers involved in federal related transactions. The current draft of the bill could be viewed as an expansion of the subcommittee's authority or worse, direct federal regulation of the appraisal industry.

4. Section 27 provides FHA insurance for loans for renting renewable energy systems – separate from the mortgage. While we applaud the innovation of this type of program, we believe that the Department of Energy may be a better vehicle for federal financing of windmills and solar panel leases. We have concerns that these types of loans could negatively impact the FHA single family mortgage fund and believe further study is necessary before implementation.

NAR Supported Provisions

We strongly support the incentives and demonstration programs provided in Section 3, 4, 5, and 14. There are many property owners out there who aspire to improve their homes, but do not have the actual resources or tools to undertake these renovations. The bill provides homeowners with the resources and incentives to make their property more energy efficient. Unlike the Waxman/Markey labeling proposal (which we will discuss at length later), HR 2336 will facilitate changes in behavior and the implementation of energy efficient retrofits for homes and buildings. These improvements will not only benefit our environment, but will create jobs and reduce energy bills for consumers.

We also support Section 17. This provision of the bill amends the US Code to require a description of a jurisdiction's efforts to coordinate its housing strategy with its transportation planning strategies so that residents of affordable housing have access to public transportation. NAR's official policy encourages the integration of transportation planning into the general community planning effort, including planning for affordable housing. Our policy supports improving mobility so that all citizens have access to transportation means best suited to their needs. We encourage transportation planners to consider the needs of all transportation users when designing improvements. Therefore, we applaud this section of the bill which will foster a better coordination of transportation and housing plans.

We believe the most important provision of the bill is Section 9, which provides education and outreach to homebuyers and homeowners. The GSEs and FHA have both offered energy efficient mortgages for a number of years. However, the programs have failed to flourish, mostly due to lack of information on behalf of the homebuying public. We believe increasing public awareness of these products will go a long way to promoting their use. We also believe that REALTORS® are well-positioned to assist in this effort. As mentioned earlier, NAR has recently completed a Green Designation program, which is designed for residential, commercial and property management professionals. This new educational program provides REALTORS® with information about what it means to “go green” and the concerns of consumers seeking green knowledge about real estate. It includes ongoing specialized training that allows REALTORS® to speak knowledgeably about what makes a home, building or property green, the availability of green grants and incentives, and cost/benefit value of green homes and features. We believe REALTORS®, as the first point of contact with consumers, can be helpful advocates in this campaign.

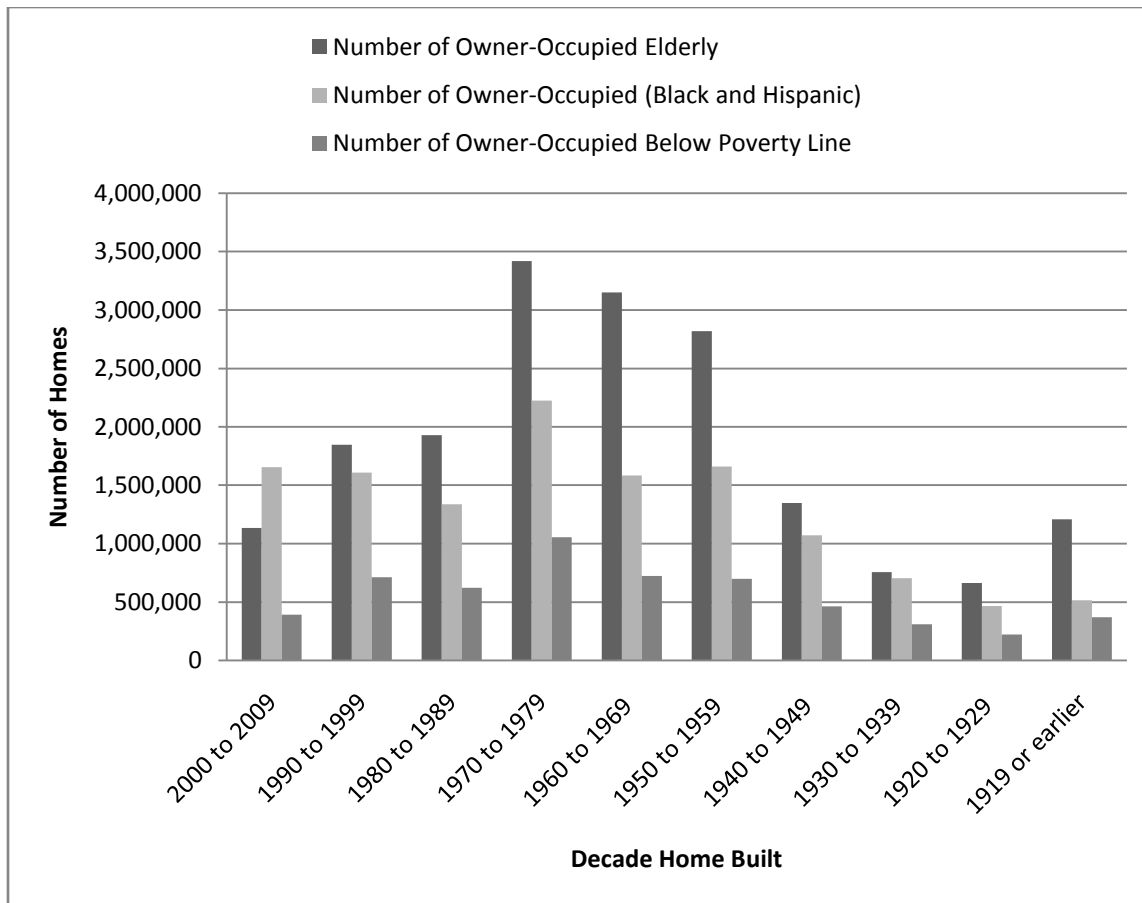
HR 2454 Building Energy Labeling Provisions

The Energy and Commerce Committee recently approved H.R. 2454, the American Clean Energy and Security Act that includes provisions which establish real estate labeling program. The legislation has been referred to this Committee. While the bill’s authors and Mr. Perlmutter share the same objective (energy efficient homes), both bills adopt different approaches to improve building efficiency. The GREEN Act would encourage energy efficiency through financial incentives and mortgages – a sound approach, while H.R. 2454 will create a system of energy labels for homes and buildings and suggested triggers for state implementation of a labeling program. Again, NAR’s members are committed to advancing consumer understanding energy efficiency, but these provisions will impose burdens on consumers and an already troubled housing market – without improving the energy efficiency of our nation’s building stock in a timely manner.

Labeling every home in America will not improve building efficiency. The label will stigmatize older properties and further reduce property values in many areas around the country. At a time when retirement savings and property values have plummeted, many families and commercial property owners do not have the financial resources or equity to make needed energy-related improvements such as replacing aging heating and cooling systems, appliances or windows. Adding to the cost of homeownership will complicate the economic concerns that homeowners are already facing.

Of particular concern is the effect of energy labeling on properties that were not built to any specified energy code. The first national standardized building energy codes were not established until 1978. More than 60% of U.S. homes were built prior to 1980, and will face a loss in value due to building labels. These properties could require significantly more improvements than newer properties in order to improve the labeling score and maintain property values. As the following table¹ shows, a disproportionate share of these older properties are owned by those populations – including 73% of elderly and 69% of those living below poverty -- that live on fixed incomes or are least able to afford those improvements without significant financial assistance. For example 64% of Hispanic and black owners reside in pre-1980 homes. We are also concerned that labels would not only stigmatize older homes but also the older inner city communities where they are located and which are struggling to maintain and continue to attract investment. My own state of Massachusetts considered adopting a similar energy scoring and labeling requirement at the point of sale. But due to concerns about stigmatizing properties and disadvantaging certain populations, the legislature opted instead to allow a buyer to waive the requirement.

¹ Source: American Housing Survey, 2007.



We are especially concerned with provisions could encourage state governments to require that labels be disclosed at the time of sale. The energy committee added a provision that specifies that the actual, physical labeling of a building could not occur after a contract has been executed – but that does not address the issue of a mandated disclosure and comes far too late in the sales process to avoid the disruption of a sale. As a practical matter, states will read this as a requirement to receive federal funding. Labeling and disclosure will be implemented at the time of sale – one of several optional trigger points in bill.

Our members’ experiences with sales transactions indicate that labels will become a bargaining chip at closing to negotiate down selling prices without any assurance that energy-related improvements are made. In addition, with less than a very small percentage of homes changing hands each year even in a robust market, such an approach will prove ineffective at meeting the stated goals of the legislation in a timely manner.

Before prescribing new requirements for branding homes and buildings with labels, consumers require a better understanding of energy efficiency and, just as importantly, must be given the financial resources and incentives to make needed energy improvements. The GREEN Act includes many provisions that achieve those goals, and NAR would support those provisions that will provide the financial incentives needed by consumers to improve homes and buildings and result in significant energy savings in the very near term. But labels will not achieve either goal.

We respectfully urge the Committee to strike this labeling section in favor of retaining retrofit incentive programs in section 202 and applicable provisions of HR 2336, as the most effective means to improve energy efficiency in America's homes and buildings.

Conclusion

Again, thank you for the opportunity to testify. This is a timely hearing and topic. We recently wrote the Financial Services Committee about the labeling provisions of HR 2454; our letter is also attached. That bill has been jointly referred to this committee along with others, who have all been directed to complete their work within a few weeks.

We support the GREEN Act's approach to energy efficiency, and would welcome an opportunity to work with the committee to develop the approach as a substitute to the labeling provisions of the Waxman bill.