

Commercial and Investment Real Estate Economic Stimulus Proposal

Proposed by the National Association of REALTORS®

REALTORS® Commercial Alliance Workgroup – January 15, 2009

- I. **GOAL:** Stabilize and Provide Liquidity to the Commercial Real Estate Credit Markets, including Mortgage-backed Securities

Issues: For a host of reasons, the credit markets, including the market for commercial mortgage-backed securities (CMBS), that support commercial and investment real estate are frozen. Many property owners are concerned that during 2009 and 2010 they will be unable to refinance existing loans (including land and residential development loans). Similarly, they are concerned that loans on performing properties could be considered as in default because of problems determining the fair market value of those properties.

Solutions:

- a. Make mark-to-market accounting rules more flexible, including use of discounted cash flow analysis for valuing assets in illiquid markets.
- b. The Treasury and Federal Reserve should exercise their authority to implement and/or expand the Term Asset-Backed-Securities Loan Facility (TALF). The TALF should be encouraged to purchase commercial mortgage-backed securities and conventional commercial real estate loans.

- II. **GOAL:** Maintain or Enhance Federal Tax Policies that Strengthen the Commercial Real Estate Market.

Issues: The Federal tax treatment of real estate, while imperfect, is well established and well understood. The financial impact of those tax rules is capitalized into the value of existing real estate. Changes that would make those rules less favorable would reduce property values in an already fragile marketplace.

Solutions:

- a. Retain current capital gains rules as they apply to appreciated property, like-kind exchanges and carried interests, **in particular by keeping the capital gains tax rate at the existing 15%**. Suspend passive loss rules.
- b. Improve the depreciation, depreciation recapture and leasehold improvement rules without triggering the Alternative Minimum Tax.
- c. Reduce the investment impediments caused by the passive loss rules by providing a temporary suspension of the rules for designated investments.
- d. Attract new investment in existing real estate by providing higher income limits and expenditure limits to the so-called “small investor” provisions of the passive loss rules.

III. **GOAL:** Stimulate and Support the Commercial Real Estate Industry through Investment

Issues: Owners and investors in commercial real estate recognize the importance of infrastructure investment and investment in making real estate investments more environmentally friendly.

Solutions:

- a. Provide federal funding for capital improvements to our nation's infrastructure (transportation, roads, energy grids, etc).
- b. Encourage the commercial real estate industry's investment in energy efficiency and "green" building initiatives through tax and other incentives, **and not through legislative and regulatory mandates that artificially raise the cost of construction and operation of commercial real estate properties.**