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## The Real Estate Roundtable

May 1, 2019

The Honorable Michael Crapo  
Chairman  
Committee on Banking, Housing  
and Urban Affairs  
United States Senate  
Washington, DC 20510

The Honorable Lindsey Graham  
Chair  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

The Honorable Sherrod Brown  
Ranking Member  
Committee on Banking, Housing  
and Urban Affairs  
United States Senate  
Washington, DC 20510

The Honorable Dianne Feinstein  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

### **Re: *Support for SAFE Banking Act (S. 1200) and STATES Act (S. 1028)***

Dear Chairmen and Ranking Members:

We represent members involved in almost every aspect of residential and commercial real estate development, design, construction, ownership, management, finance, and brokerage. Our members provide the homes, apartments, health care facilities, offices, industrial sites, shopping centers, and hotels where the American people live, work, play, and heal.

We encourage your committees to hold hearings on S. 1200, the broadly bipartisan Secure and Fair Enforcement (“SAFE”) Banking Act, led by co-sponsors Senators Gardner (R-CO) and Merkley (D-OR). Hearings would create a record to resolve and reconcile the conflict between business transactions deemed legal under state law, that are nonetheless exposed to federal criminal liability. S. 1200 will bring state-licensed cannabis-related businesses (“CRBs”) into the federal banking system. If enacted, federally regulated banks would no longer face the threat of sanction simply by providing financial services to a legitimate CRB.

S. 1200 clarifies that banks could not face adverse action on a loan to a real estate owner solely because that owner leases property to a legitimate CRB. The measure also protects sellers and lessors of real estate and other CRB “service providers” by clarifying that proceeds from state-approved marijuana-related transactions do not derive from unlawful activity, and thus do not provide a predicate for federal criminal money laundering.

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There is a deepening rift between federal and state laws regarding cannabis policy. According to the National Conference of State Legislatures, all but four (4) states have enacted some form of public marijuana access to this point.<sup>1</sup> At the federal level, however, the Controlled Substances Act classifies marijuana as a “schedule 1” drug rendering its use, possession, and sale illegal.<sup>2</sup> This federal-state conflict leaves banks

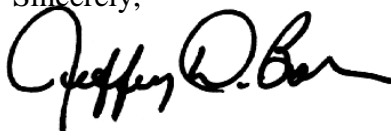
and real estate providers trapped between their mission to serve the needs of lawful businesses in their local communities, and the threat of federal enforcement action. The SAFE Banking Act provides much-needed clarity for the banking, real estate, and business sectors to function within the contours of state laws that have legalized marijuana.

Without a bank account, dispensaries and other legal CRBs must operate on a cash basis. Risks of crime thus increase and tax revenues to pay for infrastructure and other government services are potentially lost. S. 1200 can significantly address these problems by providing protections for banks, real estate firms and their employees from punishment simply because they aim to serve businesses within the 46 states that have legalized marijuana to varying degrees.

Passage of the SAFE Banking Act is a strong first step to clarify a full range of proper business conduct in the rapidly evolving context of cannabis policy. We recommend that Congress further pass S. 1028, the bipartisan Strengthening the Tenth Amendment through Entrusting States (“STATES) Act, led by co-sponsors Senators Gardner (R-CO) and Warren (D-MA). The STATES Act more holistically addresses financial issues caused by the federal marijuana prohibition. It provides that state-compliant transactions are not “trafficking” and do not result in unlawful proceeds. Brokerage, investment, transportation, advertising and other commercial transactions intrinsic and ancillary to real estate services could function more productively with STATES Act safeguards.

The Real Estate Roundtable urges swift enactment of both S. 1200 and S. 1028. For more information, please contact Duane J. Desiderio, Senior Vice President and Counsel ([d-desiderio@rer.org](mailto:d-desiderio@rer.org)).

Sincerely,



Jeffrey D. DeBoer  
President and Chief Executive Officer

cc: Members of the Senate Banking, Housing and Urban Affairs Committee  
Members of the Senate Judiciary Committee

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<sup>1</sup> <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>.

<sup>2</sup> <https://www.dea.gov/drug-scheduling>.