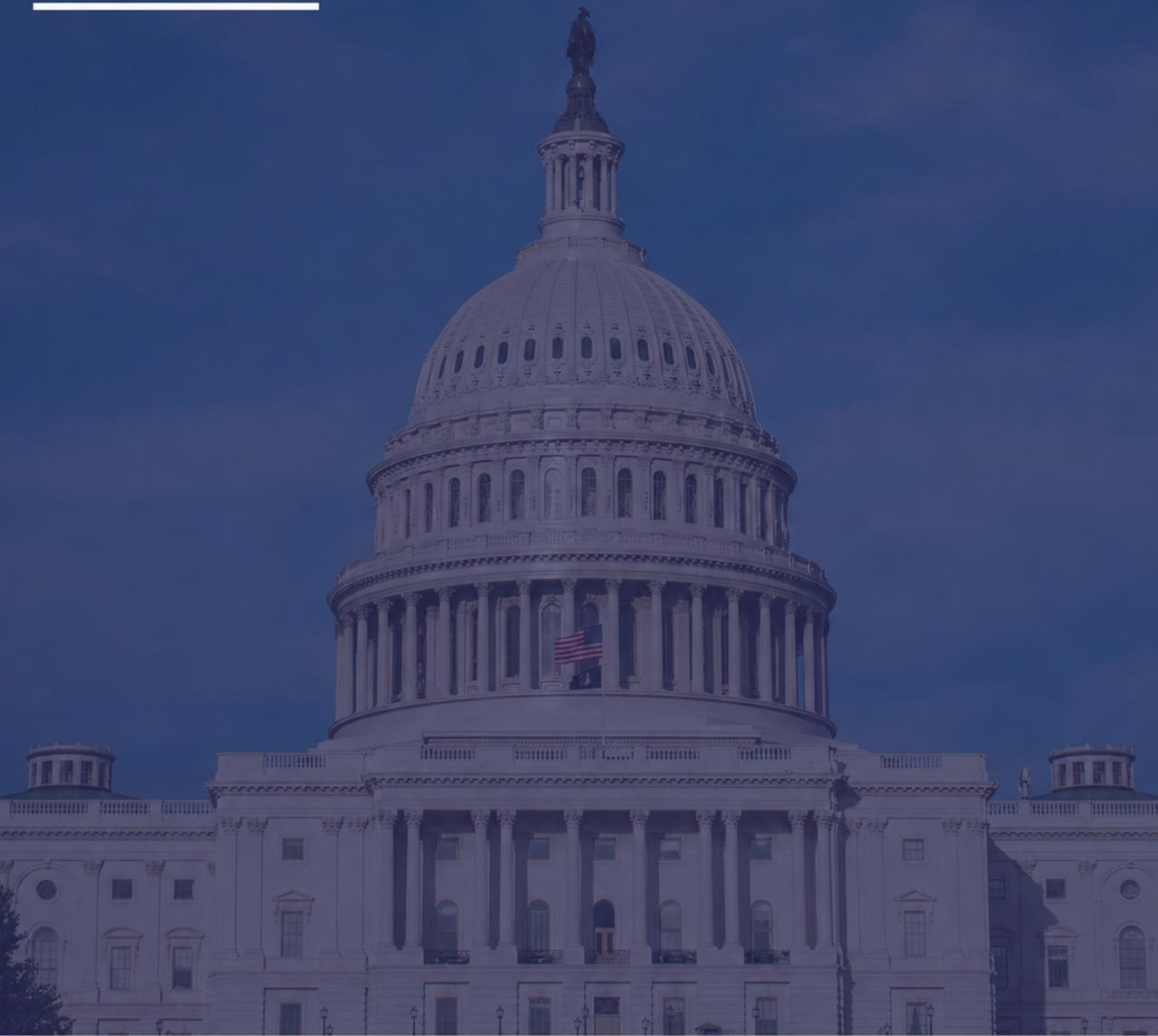
The Real Estate Roundtable

Policy Priorities

Fall 2026



The Real Estate Roundtable

Policy Priorities – Fall 2026

This document provides relevant information on The Real Estate Roundtable (RER)'s key policy issues, including fact sheets and detailed issue briefs. The majority of the document consists of brief summaries of national policy issues currently facing the industry, RER's position on the issue, and helpful links for where to find additional information and details regarding RER's advocacy efforts.

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Summary

Entity choice rules allow U.S. businesses to choose how they will be taxed, and real estate generally is owned and operated through "pass-through" entities—partnerships, LLCs, S corporations, and REITs. These pass-through entities allow income and often deductions to pass through to individual investors. Pass-through entities give investors greater flexibility in how they allocate the risks and rewards of these capital-intensive and relatively illiquid businesses. Our partnership tax rules facilitate the ability of differently situated parties, such as entrepreneurs and capital providers, to come together for productive activities that create jobs and strengthen communities.

Despite the economic benefits of our pass-through tax regime, pass-through rules are often challenged by certain lawmakers who claim that the rules: (1) disproportionately benefit upper-income taxpayers and large corporations, (2) give taxpayers too much ability to pick and choose how and when to pay tax, and (3) are too complicated for the IRS to enforce.

Several proposals in recent years would significantly restrict pass-through taxation or raise tax rates on pass-through income, effectively raising the tax burden on real estate investment. These proposals include:

- Extending the 3.8 percent net investment income tax to all pass-through business income,
- Capping or phasing out the 20% deduction for pass-through business income (section 199A) for taxpayers with incomes exceeding certain levels (see, e.g., Equal Tax Act, H.R. 5336),
- Repealing REIT dividends' eligibility for the 20% pass-through business income deduction (sec. 199A),
- Limiting taxpayers' ability to deduct state and local taxes (SALT) paid by pass-through entities under state laws enacted in response to the Tax Cuts and Jobs Act,
- Requiring partnership liabilities (including recourse debt) to be allocated based on the partners' shares of partnership profits, rather than actual economic liability,
- Restricting how taxpayers account for built-in gains and losses on appreciated or depreciated property when it is contributed to a partnership, and
- Recharacterizing all partnership profits interests (carried interest) as ordinary income.

Support for proposals to raise revenue on the backs of pass-through businesses may grow in the months and years ahead as pressure increases for Congress to address rising debt and deficits. For example, Senate Finance Ranking Democrat Ron Wyden (D-OR) has claimed that his PARTNERSHIPS Act (S. 2095) to reform partnership tax rules would raise over $725 billion.

Key Takeaways

- Our pass-through regime is a competitive strength of the U.S. tax system. Most countries rely on inflexible corporate regimes that provide little ability for an entrepreneur to tailor the capital and ownership structure to meet the needs of the business and its investors.
- Pass-through businesses account for roughly 95% of all U.S. businesses, and these businesses are the drivers of job growth, innovation, and productive risk-taking.
- Half of the 4 million partnerships in the U.S. are real estate partnerships, and real estate activity constitutes a large share of pass-through business activity.
- Publicly traded REITs allow small investors to invest in diversified, commercial real estate using the same single tax system available to partners and partnerships.
- Small and closely held businesses drive job growth and entrepreneurial activity in the U.S. Entity choice is a differentiator that contributes to our entrepreneurial culture.

The Real Estate Roundtable

Carried Interest

Tax Policy

Summary

A "carried" interest is the interest in partnership profits that a general partner receives from the investing partners for managing the investment and taking on the entrepreneurial risks of the venture, such as funding pre-development costs, guaranteeing construction budgets, and potential litigation. Carried interest is also granted for the value the general partner adds beyond routine services, such as business acumen, experience, and relationships. Carried interest may be taxed as ordinary income or capital gain depending on the character of the income generated by the partnership.

In the Tax Cuts and Jobs Act of 2017, Congress created a three-year holding period requirement for carried interest to receive long-term capital gains treatment.

In recent years, both Republican and Democratic leaders have proposed making policy changes that would increase the tax burden on carried interest. These include proposals to: (1) convert virtually all real estate-related carried interest income to ordinary income subject to the top tax rates and self-employment taxes; (2) treat carried interest as an interest-free loan from the limited partners to the general partner that is taxable upon grant, regardless of whether the partnership ever generates any profits; and (3) extend the current three-year holding period for carried interest capital gains treatment to five years.

Since carried interest and its tax treatment first emerged as a controversial political issue in 2007, **RER has consistently opposed legislative proposals to tax all carried interest at ordinary income rates.**

Key Takeaways

- **Carried interest is essential to real estate investment,** supporting housing development, economic growth, and the modernization of U.S. infrastructure. Carried interest changes would harm small businesses, stifle entrepreneurs and sweat equity, and threaten future improvements and infrastructure in neglected areas.
- Carried interest is **not compensation for services**. General partners receive fees for routine services (leasing, property management). Those fees are taxed at ordinary tax rates.
- Proposals to tax all carried interest as ordinary income would result in an enormous tax hike on the **2.2 million** real estate partnerships and **9.7 million** real estate partners across the country who develop, own, and operate income-producing real estate.
- Taxing carried interest at ordinary income rates would increase the cost of building or strengthening infrastructure, workforce housing, and assisted living, and would deter risky projects, such as sites with potential environmental contamination.
- The tax code should reward risk-taking**; the capital gains rate should apply to more than just invested cash.** The tax code has never, and should never, limit the reward for risk-taking to taxpayers who have cash to invest. An entrepreneur who forgoes the security of a salary to invest time and effort into starting a business should qualify for capital gains treatment in the same way that a passive investor qualifies when they put their cash into a public stock or private venture.
- Carried interest proposals apply retroactively to prior transactions and partnership agreements executed years earlier. The agreements were based on tax law **as it existed at the time**.
- Changing the results years later would undermine the predictability of the tax system and discourage long-term, patient investment.

Summary

Created in 2017, Opportunity Zones (OZs) are designated, low-income census tracts where qualifying investments are eligible for reduced capital gains taxes. By channeling investment where it is needed, OZs help stimulate jobs, generate economic opportunity, and improve the built environment in low-income communities. The decentralized design of OZs allows more investors and stakeholders to participate in the market and invest in these projects.

The One Big Beautiful Bill Act (OB3 Act), signed into law on July 4, 2025, permanently extended the OZ tax incentives and made a number of helpful reforms that will further increase the provisions' positive impact in low-income communities.

Since the passage of the OB3 Act, the Real Estate Roundtable has focused on ensuring that investment and capital continue to flow into OZs during the transition from the OZ 1.0 to OZ 2.0 regime.

IRS Notice 2026-40 incorporates several Roundtable recommendations and provides helpful guidance for businesses and funds that are undertaking ambitious, long-duration, and sustained real estate investments.

Specifically, the guidance allows for investments in OZ 1.0 census tracts after 2026 if the expenditure is made in the ordinary course of the business, or if it is pursuant to a working capital plan and the business receives and spends certain percentages of its working capital by the end of 2026.

Key Takeaways

- In their short tenure, OZs have created jobs and spurred billions of dollars of new investment in economically struggling communities across the country.
- Opportunity Funds finance affordable, workforce, and senior housing; grocery-anchored retail centers; and commercial buildings that create spaces for new businesses and jobs.
- Recent estimates suggest OZs have attracted over $120 billion in capital.
- Congress should continue working on improvements to the OZ tax incentives to boost their scale and impact. These improvements should include:
    - Removing limitations on the type of capital eligible for investment in Opportunity Funds.
    - Adding a new OZ tax benefit for the conversion of older, obsolete commercial buildings to housing.
    - Codifying, lengthening, and improving the OZ working capital safe harbor.
    - Increasing flexibility of Opportunity Fund ownership, investment, restructuring, and leasing arrangements.
    - Modifying the substantial improvement threshold to cover a broad range of real estate rehabilitation and development projects.
    - Promoting greater foreign investment.

Summary

For over 100 years, with one brief exception (1987-1990), the U.S. has taxed long-term capital gain at a lower rate than ordinary income. Previous administrations have proposed raising capital gains tax rates and taxing unrealized gains.

RER encourages Congress to continue to support investment and job creation with a meaningful capital gains incentive.

Key Takeaways

- The reduced capital gains rate partially offsets the higher risk that comes with illiquid, capital-intensive real estate projects, as well as the economic effects of inflation. The current structure decreases the cost of capital, drives long-term investment, encourages productive entrepreneurial activity, draws investment from around the world, and increases U.S. workforce productivity and competitiveness.
- Unlike other tax policies, such as immediate expensing, the capital gains preference only rewards smart, productive investments that generate profits.
- High taxes on capital income make it harder to attract the investment needed to rebuild our urban centers. Opportunity Zone capital gains incentives facilitated $75 billion in new investment in low-income communities in the first two years after enactment.
- Current law on capital gains encourages taxpayers to put capital to work on projects that won't pay off for many years. By taxing business assets and investments annually, a tax on unrealized gains would remove one of the major incentives for patient, productive capital investment.
- Risk capital differs from wage compensation. The entrepreneur who forgoes a traditional job in favor of starting a business forfeits many protections and benefits offered to employees, such as a pre-negotiated salary.
- A proposed tax on unrealized gains is quite possibly unconstitutional. Supreme Court jurisprudence has applied a realization requirement to determine whether gains or profits constitute income taxable under the 16th Amendment.
- In addition, taxing unrealized gains would trigger wasteful disputes and litigation, detracting from productive economic activity. Annual valuation requirements will require costly appraisals. Valuation disagreements will be a constant source of audits and administrative appeals.

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Real Estate Like-Kind Exchanges

Tax Policy

Summary

Under section 1031, the tax code allows taxpayers to defer capital gains when exchanging real property used in a trade or business for a property of a like-kind.

In 2017, Congress narrowed Section 1031 by disallowing its use for personal property (art, collectibles, etc.). The last six budgets put forward by Democratic Administrations have proposed severe restrictions on real estate like-kind exchanges. Congressional Republicans initially considered repealing 1031 for real estate as well. In 2025, a group of House Democrats introduced legislation that would impose restrictions on such transactions. **RER advocates for preserving the current tax treatment of like-kind exchanges.**

Key Takeaways

- **15-20 percent of commercial transactions** involve a like-kind exchange. Exchanges help get languishing properties into the hands of new owners who improve them and put them to their best use.
- Academic and outside research has found that exchanges spur capital expenditures, increase investment, create jobs for skilled tradesmen and others, reduce unnecessary economic risk, lower rents, and support property values.
- Like-kind exchanges allow businesses to grow organically with less unsustainable debt, creating a ladder of economic opportunity for minority-, veteran-, and women-owned businesses and cash-poor entrepreneurs that lack access to traditional financing.
- Land conservation organizations rely on exchanges to **preserve open spaces for public use** or environmental protection.
- Like-kind exchanges helped **stabilize property markets** at the height of the COVID-19 lockdown. Exchanges are even more important during periods of market stress when external financing is harder to obtain.
- Roughly **40 percent** of like-kind exchanges involve rental housing. Section 1031 helps fill gaps in the financing of affordable housing. Unlike the Low-income Housing Tax Credit, developers can use Section 1031 to **finance land acquisition costs for new affordable housing projects**.
- Exchanges help low-income, hard-hit, and distressed communities where outside sources of capital are less available. Section 1031 also supports public services (police, education) by boosting transfer/recording/property taxes (nearly 3/4 of all local tax revenue).
- Section 1031 is consistent with corporate and partnership tax rules that defer gains when the proceeds are retained and reinvested in businesses (sections 721, 731, 351, and 368).

Summary

The Tax Cuts and Jobs Act of 2017 included strict new limits on the deductibility of business interest, generally restricting deductions to 30 percent of the taxpayer's EBITDA (earnings before interest, tax, depreciation, and amortization). However, the bill also included a key provision that allows commercial real estate (a real property trade or business) to opt out of the interest limitation. The One Big Beautiful Bill Act (OB3 Act) included a provision that would allow more real estate businesses to fully deduct their business interest and qualify for 100 percent bonus depreciation on their nonresidential interior improvements.

Recent proposals from Members of Congress would further tighten restrictions on the deductibility of interest and disallow private real estate funds from using the real property trade or business election. Other legislation would deny business interest expense deductions for owners of data centers and large owners of single-family rental homes.

Key Takeaways

- Debt is a fundamental part of a real estate entity's capital structure and, in addition to property acquisition costs, is used to finance day-to-day operations like meeting payroll, buying raw materials, making capital expenditures, and building new facilities.
- New restrictions on interest deductibility would cause enormous damage to U.S. commercial real estate by dragging down property values and discouraging new investment. Fewer loans could be refinanced, fewer projects could be developed, and fewer jobs would be created.
- The ability to finance investment and entrepreneurial activity with borrowed capital has driven jobs and growth in the U.S. for generations. America's capital markets are the deepest in the world and provide our economy with a valuable competitive advantage.
- **Commercial banks are the dominant source of financing for commercial real estate investment.** Like other entrepreneurs, small and medium-sized real estate developers and investors lack access to equity markets and rely on traditional lending to grow and expand.
- The OB3 Act's change to the EBITDA/163(j) definition is a positive development that will allow more real estate businesses to fully deduct their interest while also expensing their property improvements and upgrades. The change will accelerate the modernization and repositioning of real estate assets that is critical to meet post-pandemic business needs.
- Concerns regarding excessive borrowing or use of leverage are better addressed through flexible financial regulatory tools that can be revisited and revised, not tax penalties that permanently distort the allocation of capital in the economy.

The Real Estate Roundtable

Protecting Access to Foreign Investment in U.S. Real Estate

Tax Policy

Summary

Foreign investment is a major source of capital for U.S. commercial real estate, but new federal regulations, a wave of state-level restrictions, and proposed legislation threaten to deter the deployment of global capital in U.S. assets.

First, in April 2024, the Treasury Department issued final regulations that greatly expanded the reach of the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), creating a new and unprecedented "look-through" rule that in effect would raise the tax burden on inbound real estate capital. Tax regulations proposed by the Trump administration in October 2025 would repeal the 2024 look-through rule. Separately, in December 2025, Treasury issued final Section 892 regulations and proposed new regulations that could disrupt inbound real estate investment from foreign governmental entities.

Second, at the state level, 20 states have enacted restrictions on foreign investors in real estate and agricultural land, and eight states have considered similar measures.

Third, Congress recently considered a tax proposal—known as Section 899—that would impose higher U.S. tax rates on investors from foreign countries deemed as maintaining "unfair" tax regimes. Section 899 was ultimately dropped from the One Big Beautiful Bill Act (OB3 Act) after the US and OECD agreed to carve out U.S. companies from a global minimum tax agreement.

Key Takeaways

- Foreign capital is a critical source of capital for U.S. real estate and infrastructure investment. Policies that discourage foreign investment weaken U.S. competitiveness, raise the cost of capital for U.S. developers, and undermine efforts to revitalize urban cores, modernize infrastructure, and expand the housing supply.
- Treasury's proposed repeal of the FIRPTA look-through rule is a positive development.
    - The rule exceeds Treasury's authority. Congress explicitly authorized "look-through" rules for REITs and RICs, but excluded domestic C corporations. Treasury's 2024 interpretation reads into the statute a rule Congress rejected.
    - The "look-through" rule reverses decades of well-settled law. Treasury's 2024 interpretation of the statute is contradicted by the structure and legislative history of Section 897, the only IRS ruling on the topic, and judicial opinions concerning the application of constructive ownership rules generally.
    - The "look-through" rule is retroactive and disruptive. It imposes the regulations on investment structures in place for years and creates significant uncertainty for foreign investors in REITs and infrastructure.
- States enacting or considering restrictions on foreign investment in real estate should proceed carefully to prevent unintended consequences that could hold back economic growth and capital formation.
- State-level restrictions have national implications and seem to fly in the face of the Commerce Clause of the Constitution in that they interfere with the free flow of interstate and foreign commerce.
- Congress should continue to oppose proposals such as Section 899 that could disrupt global capital flows and chill passive investment in U.S. real estate and infrastructure.
- If a "retaliatory tax" like Section 899 moves forward, lawmakers should modify the measure to exempt passive, non-controlling minority investment in U.S. real estate in order to protect an important source of financing and capital.

Summary

The Terrorism Risk Insurance Act (TRIA) provides a critical federal backstop that enables insurers to offer terrorism risk coverage necessary for commercial real estate financing, development, and operations. Since its enactment in 2002 following the Sept. 11 attacks, TRIA's public-private framework has supported insurance market stability and economic resilience at minimal cost to taxpayers.

The program expires Dec. 31, 2027. Bipartisan legislation passed by both chambers would extend TRIA for seven years, through Dec. 31, 2034. However, differences between the House and Senate bills must be resolved before a reauthorization can become law. RER supports prompt enactment of a long-term extension that preserves the program's effectiveness.

Key Takeaways

- TRIA is a proven public-private risk-sharing program that helps ensure access to terrorism insurance coverage and limits taxpayer exposure through mandatory recoupment mechanisms.
- The TRIA Program Reauthorization Act of 2026 (H.R. 7128) was advanced by the House Financial Services Committee on Jan. 22, 2026, with an overwhelming 51–2 bipartisan vote. The bill was officially reported to the full House for consideration on March 19, 2026. The measure passed the U.S. House of Representatives 373–15 on June 29.
- On April 27, 2026, a broad bipartisan group led by Sens. Dave McCormick (R-PA), Tina Smith (D-MN), Thom Tillis (R-NC), and Ruben Gallego (D-AZ) introduced the companion Senate version. The U.S. Senate passed a companion measure (S. 4395) by unanimous consent on Sept. 28, 2026.
- The Senate bill maintains the program's existing core structure. The House bill would raise the minimum loss threshold for certification of an act of terrorism from $5 million to $10 million beginning in 2029 and add certification-related Treasury requirements.
- Both bills aim to extend the Terrorism Risk Insurance Program for an additional seven years, moving the expiration date from Dec. 31, 2027, to Dec. 31, 2034. Because the two chambers passed different versions, the legislation awaits reconciliation between the House and Senate before a final bill can be sent to the president. The measure is widely expected to be attached to a larger vehicle like the National Defense Authorization Act (NDAA) or reconciled during the end-of-year legislative session.

Background

Why the Federal Backstop Matters

- Following 9/11, terrorism risk insurance became largely unavailable, jeopardizing real estate financing and construction. An RER survey identified more than $15 billion in real estate transactions stalled or canceled in the 14 months before TRIA was enacted.
- Terrorism losses can be highly concentrated and difficult for the private insurance and reinsurance markets to absorb alone. Treasury's 2024 Federal Insurance Office report found the program remains effective and that private reinsurance capacity is insufficient to replace the federal backstop.
- In the absence of affordable coverage, lenders could limit financing, businesses could defer investment, and communities could face major economic disruption following an attack.

CIAT and RER Advocacy

- In 2002, RER helped establish the Coalition to Insure Against Terrorism (CIAT), a broad coalition of commercial insurance consumers formed immediately after 9/11.
- CIAT's diverse membership represents key elements of the commercial facilities sector, including

commercial real estate, banking, energy, construction, hotel and hospitality, higher education, manufacturing, transportation, entertainment, major league sports and racing, as well as public sector buyers of insurance.

- Through CIAT, RER is actively advocating for a long-term reauthorization of TRIA, working with Congress and the Department of the Treasury. Our advocacy primarily focuses on ensuring the **long-term stability** and **affordability** of terrorism insurance for commercial policyholders.
- RER and CIAT supported House passage through a June 29 coalition letter backing H.R. 7128, building on testimony and letters to the House Financial Services Committee in September 2025 and January 2026. (Roundtable Weekly, July 17)
- RER and coalition partners urged congressional leaders on July 29 to include TRIA in must-pass legislation and pressed the Senate Banking Committee to advance S. 4395 in a Sept. 16 letter. They warned that insurance policies already extending beyond 2027 could face conditional exclusions if reauthorization is delayed. (Roundtable Weekly, July 31)
- RER and CIAT continue advocating for final House-Senate agreement and enactment before year-end to provide certainty for policyholders and insurers. (Roundtable Weekly, Oct. 2)

Recommendations

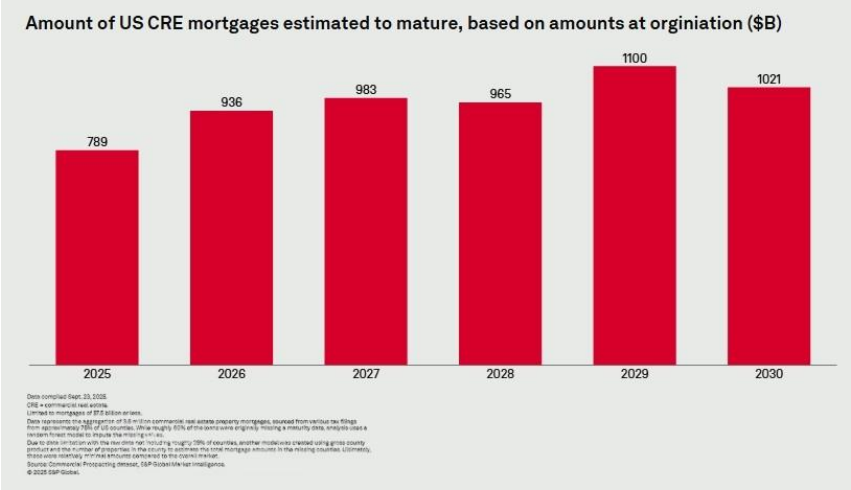
Enact a Long-Term Reauthorization of TRIA: Congress should promptly enact a seven-year extension through 2034 to ensure continued economic stability, maintain access to terrorism risk insurance, and protect taxpayers through the program's mandatory recoupment mechanism.

- **Protect economic and homeland security:** Allowing TRIA to expire would jeopardize access to affordable terrorism insurance, disrupt commercial real estate financing, and threaten investment, liquidity, and economic growth.
- **Prevent market disruption and job losses:** Following 9/11, the lack of terrorism insurance stalled real estate transactions and construction projects, contributing to an estimated 300,000 lost jobs before TRIA's enactment. Reauthorization would prevent similar disruptions and provide certainty for insurers and policyholders.
- **Preserve an effective federal backstop:** RER concurs with the 2024 Department of Treasury's Federal Insurance Office's Report on the Effectiveness of the Terrorism Risk Insurance Program, which concluded that the current terrorism risk insurance program remains effective and that private reinsurance capacity is insufficient to replace the federal backstop. Maintaining the program is essential to ensuring the continued availability of terrorism coverage at minimal taxpayer cost.

Addressing the Wave of Maturing CRE Debt and Pro-Cyclical Regulatory Policy

Capital and Credit

Summary



Source: S&P Global

Nearly $983 billion of U.S. commercial real estate mortgages are estimated to mature in 2027. To help rebalance the wave of maturing loans, it is important to advance measures that will encourage additional capital formation and loan restructuring.

As urged by RER, a policy statement—*Policy Statement on Prudent Commercial Real Estate Loan Accommodations and Workouts*—issued by regulatory agencies encouraging financial institutions to work constructively with creditworthy borrowers on CRE loan workouts is helping to see loans through the current environment. Many of these loans require additional equity, and borrowers still need time to restructure this debt. Capital formation is vital to help restructure maturing debt and fill the equity gap. It is also important to avoid pro-cyclical regulatory actions.

Key Takeaways

- Providing banks with the flexibility to work constructively with their borrowers during times of economic stress has led to **billions of dollars of loan restructurings and reduced undue stress in bank loan portfolios**.
- The largest U.S. banks' capital and liquidity levels have grown dramatically since the original *Basel III* standards were implemented in 2013 in response to the 2008 Global Financial Crisis. **Since 2009, Tier 1 capital has increased by 56 percent and Common Equity Tier 1 capital has tripled**. Today, as the Federal Reserve recently observed, the U.S. "banking system is sound and resilient, with strong capital and liquidity."[1]

Background

Basel III Endgame

- The original *Basel III Endgame* proposal would have increased capital requirements for the largest banks by as much as 20 percent—carrying significant economic cost without clear benefits to the economy.
- On March 19, 2026, the Federal Reserve, FDIC, and OCC jointly introduced three new proposals to modernize bank capital rules. While the 2023 version proposed a 16-19 percent increase in capital, the

[1] https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf

2026 re-proposal is estimated to actually reduce overall system-wide capital requirements by approximately $87.7 billion:

- GSIBs (Category I & II): Estimated ~4.8 percent reduction in Common Equity Tier 1 (CET1) requirements.
- Large Regional Banks (Category III & IV): Estimated ~5.2 percent reduction.
- Small Banks: Estimated ~7.8 percent reduction

Recommendations

Take a Balanced Approach to Setting Capital Requirements: The re-proposal is viewed by many industry participants as a "pivotal step" toward a more balanced approach for both residential and commercial sectors.

- The Real Estate Roundtable (RER) submitted a coalition letter on June 18 acknowledging that the revised package is an improvement over the punitive 2023 iteration. The letter urges federal regulators to preserve risk-sensitivity improvements in the revised Basel III Endgame proposal while modifying provisions that constrain commercial real estate (CRE) lending.
- Recommendations included more risk-sensitive treatment of CRE and multifamily loans, mortgage servicing, and securitizations, along with changes to prevent disproportionate capital charges on common financing arrangements such as mezzanine loans and preferred equity.
- RER warns that any net increase in capital rules still carries a pro-cyclical impact, potentially constraining credit capacity, liquidity, and financing costs for commercial and multifamily real estate.
- RER continues to push back against legacy provisions in the framework that penalize non-recourse commercial real estate lending—such as rules that reclassify entire borrower exposures or assign harsh 150 percent risk weights to restructured or defaulted loans—stressing that prudent loan workouts benefit both lenders and the broader economy.
- The updated interagency framework lowered overall capital requirements for the largest U.S. banks by a net 2.4 percent (factoring in a 1.4 percent increase offset by a 3.8 percent reduction in the G-SIB surcharge).
- A final rule is anticipated later this year and phased implementation is expected to begin in 2027.

Support Robust Capital Formation: Additional capital is called for to help restructure and transition the ownership and refinancing of commercial real estate from a period of low rates to a time of higher rates. Enacting policies that will encourage robust capital formation is imperative.

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Commercial Insurance Coverage in an Evolving Threat Environment

Capital and Credit

Summary

The proliferation of natural catastrophe threats has raised concerns about commercial insurance coverage for real estate. These concerns have highlighted the lack of—and need for—insurance capacity and various lines of commercial insurance. Risks from natural disasters like floods, hurricanes, wildfires, hail, tornadoes, and drought cost the U.S. billions of dollars each year. Even if policyholders are able to find coverage for these various lines, prices are increasing dramatically. A lack of adequate coverage will lead to economic uncertainty, harm stakeholders, and undermine the growth of communities.

U.S. commercial property insurance premiums grew by **over 15 percent annually** between 2019 and 2024, doubling as a share of rental income and operating expenses. The national average growth rate reached **7.6 percent** (with some markets seeing year-over-year surges exceeding **17 percent**), well above historical norms of 2 percent to 3 percent.

Multifamily and apartment properties experienced the highest median compound annual growth rates (CAGRs) and frequent annual increases exceeding 10 percent. Apartment insurance costs jumped an average of **45 percent year-over-year** in 2024 alone.

Spending legislation passed this year has reauthorized the National Flood Insurance Program (NFIP) through Dec. 11, 2026.

RER, along with its industry partners, continues to work constructively with policymakers and stakeholders to address market failure and enact a long-term reauthorization of an **improved NFIP**.

Key Takeaways

- Natural catastrophe losses have tripled over the past decade, with severe storms surpassing hurricanes as the costliest insured weather peril.
- Commercial property insurance premiums continue to rise, with apartment insurance costs increasing an average of **45 percent year-over-year in 2024**.
- Construction costs have risen nearly **40 percent since 2020**, leaving many properties insured below their actual replacement value.
- Commercial property owners continue to take steps to mitigate the risk of natural disasters and potentially lower their insurance costs.

Background

National Flood Insurance Program (NFIP)

- Floods are the most common and costliest natural peril in the U.S. Established in 1968 and administered by the Federal Emergency Management Agency (FEMA), the NFIP provides essential flood insurance coverage where private insurance is limited.
- Under the NFIP, commercial property flood insurance limits are low—$500,000 per building and $500,000 for its contents. NFIP has approximately 5 million total properties, and only 6.7 percent are commercial. Nearly 70 percent of NFIP is devoted to single-family homes and 20 percent to condominiums. In the total program, 80 percent pay actuarially sound rates; however, in the commercial space, only 60 percent pay actuarially sound rates.
- NFIP faces long-standing solvency and flood mapping challenges that require structural reform. The unintended negative outcomes generated by the NFIP continue to grow and are now spreading to government-sponsored enterprises (GSEs) Fannie Mae and Freddie Mac.
- Since 2017, Congress has extended the NFIP's authorization 36 times.

- As policymakers continue to debate potential changes and improvements to the program, their challenge is to find a balance between improving the financial solvency of the program, reducing taxpayer exposure, and addressing affordability concerns.

Recommendations

Enact a Long-Term Reauthorization of NFIP: The level of flood damage from recent storms makes it clear that FEMA needs a holistic plan to prepare the nation for managing the cost of catastrophic flooding under the NFIP.

- RER and its partners support a long-term reauthorization of an improved NFIP that helps property owners and renters prepare for and recover from future flood losses. NFIP is **essential** for residential markets, overall natural catastrophe insurance market capacity, and the broader economy.

Increase Private Market Participation: By permitting certain private issue insurance policies to satisfy the NFIP's "mandatory purchase requirement" for properties in flood plains financed by loans from federally guaranteed institutions, commercial property owners would have the ability to "opt out" of mandatory NFIP commercial coverage if they have adequate private coverage outside the NFIP to cover financed assets.

- Lenders typically require base NFIP coverage, and commercial owners must purchase Supplemental Excess Flood Insurance for coverage above the NFIP limits. The NFIP's low commercial limits make it problematic for most commercial owners.
- As a result, RER has been seeking **a voluntary exemption** for mandatory NFIP coverage if property owners have flood coverage from commercial insurers.

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Beneficial Ownership & Corporate Transparency Act

Capital and Credit

Summary

The Corporate Transparency Act (CTA) was enacted to combat illicit finance, money laundering, and terrorism financing by requiring certain companies to disclose information about their beneficial owners to the Treasury Department's Financial Crimes Enforcement Network (FinCEN).

In February 2025, RER joined a coalition urging Treasury to delay reporting requirements shortly before the department announced enforcement relief. (Coalition Letter, Feb. 3, 2025)

On Aug. 11, 2026, FinCEN issued a final rule permanently eliminating beneficial ownership information (BOI) reporting requirements for U.S. companies and U.S. persons. Effective Aug. 14, the rule finalizes the narrower framework adopted in March 2025, providing long-term regulatory relief for millions of U.S. businesses, including commercial real estate entities. (Roundtable Weekly, Oct. 2, 2026)

The Real Estate Roundtable (RER) continues to work with policymakers in support of a balanced approach that would inhibit illicit money laundering activity without the imposition of costly reporting requirements for real estate investors.

Key Takeaways

- Treasury's suspension of CTA enforcement for domestic entities significantly reduces compliance burdens for real estate businesses that rely on LLC structures.

Background

CTA Requirements

- Enacted in 2021, the CTA required certain corporations, LLCs, and similar entities to disclose identifying information about individuals owning at least 25 percent of an entity or exercising substantial control.
- The requirements posed significant compliance challenges for commercial real estate, where individual properties are frequently held through separate LLCs and complex partnership structures.
- Following legal challenges and regulatory uncertainty, Treasury suspended enforcement against domestic entities in March 2025. FinCEN's August 2026 final rule made the domestic reporting exemptions permanent under the current regulatory framework. (Roundtable Weekly, March 28, 2025)

Recommendations

Support Measures that Encourage Capital Formation and Reduce Regulatory Burdens: RER, along with its coalition partners, repeatedly raised concerns about the regulatory burden posed by the CTA and has supported the court challenges to the law. RER supports FinCEN's final rule exempting domestic companies from CTA reporting requirements and continues to advocate for a balanced approach to combating illicit finance.

- Preserve reporting exemptions that reduce unnecessary compliance costs for real estate owners, investors, and businesses.
- Support targeted measures against illicit finance without imposing disproportionate reporting burdens on law-abiding businesses or discouraging capital formation.

The Real Estate Roundtable

"Safeguarding Rule" Withdrawal

Capital and Credit

Summary

In 2023, the U.S. Securities and Exchange Commission (SEC) proposed changes to require SEC-registered investment advisers to put all their clients' assets, including all digital assets like Bitcoin and certain physical assets like real estate, with "qualified custodians." The proposal would have required a written agreement between custodians and advisers, expanded the "surprise examination" requirements, and enhanced recordkeeping rules. These rules were originally designed for digital assets. The proposal's "reasonable" safeguarding requirements are ambiguous as applied to real estate. Furthermore, the SEC's release contained an inaccuracy regarding the way deeds evidencing ownership of real estate are recorded. RER opposed the proposed rule on real estate and pushed for an exception for real estate.

Following extensive industry pushback, particularly regarding its application to real estate, digital assets, and the high compliance costs for small firms, the SEC issued a notice on June 12, 2025, withdrawing the proposal.

Key Takeaways

The withdrawal of the SEC's proposed "Safeguarding Rule" in June 2025 is a major relief for the real estate industry. The proposal would have categorized physical real estate as a client "asset" requiring a qualified custodian, a requirement industry groups called "preposterous" and "unworkable."

- **Avoidance of Impossible Custody**: Real estate assets cannot be physically "held" in a bank vault or brokerage account. Ownership is instead maintained through deeds and mortgages recorded at local government offices. The withdrawal prevents a conflict where advisers would have been required to place these physical assets with custodians who were often unwilling or unable to accept them.
- **No Mandatory Independent Verification for Every Transaction**: The proposed rule would have required an independent public accountant to verify **every purchase, sale, or transfer** of a real estate asset within one business day. This would have introduced significant delays and high costs to real estate closings.
- **Preservation of Existing Safeguards**: Real estate remains governed by the original 2015 Custody Rule, which generally does not apply to a real estate partnership's physical assets unless the partnership itself is an advisory client. Existing state and local laws for recording deeds and mortgages continue to serve as the primary protection against misappropriation.
- **Reduced Compliance Costs for Smaller Advisers**: Smaller real estate investment firms avoided the "death by a thousand cuts" described by RER, including expensive new surprise audits and written custodial agreements that would have been required under the expanded scope.
- Capital formation is vital when credit markets tighten to restructure maturing debt.

Background

Current Regulatory Status

- The SEC has shifted toward its **"ACT" (Advance, Clarify, Transform) framework**, which prioritizes clear, workable rules over the broad "catch-all" approach of the withdrawn safeguarding proposal. For real estate advisers, this means a return to traditional fiduciary duties and standard bookkeeping without the specialized custodial mandates originally proposed in 2023.
- The **SEC Custody Rule (Rule 206(4)-2)**, as established in its 2015-compliant framework, applies to any Registered Investment Adviser (RIA) that has "custody" of client funds or securities. For **Real Estate Investment Trusts (REITs)** and their advisers, compliance primarily centers on how the entity is structured—specifically whether it is treated as a **pooled investment vehicle**.

The Real Estate Roundtable

Gold and Platinum "Trump Cards" and the EB-5 Visa

Capital and Credit

Summary

On Sept. 19, 2025, the White House released an Executive Order, fact sheet, and website announcing Gold and Platinum "Trump Cards." The program is intended to grant permanent residency in the U.S. for immigrants with high net worth. The administration's announcement directs the Secretaries of Commerce, State, and Homeland Security to coordinate and establish a program that expedites "green cards" issued under the EB-1 and EB-2 visa categories for foreign nationals who make a "significant financial gift to the Nation."

This new green card program raises important questions:

- Will Trump Cards appeal to overseas investors and American employers as viable options for permanent residency in the U.S.?
- Will Trump Cards impact the separate EB-5 "regional center" program, which confers green cards on foreign investors who make capital commitments to finance job-creating projects in the U.S.?
- Will Trump Cards speed up backlogs for visas—particularly in markets like China, India, and other countries—where investors must wait years to advance in the process to get a green card?

Key Takeaways

- The new Trump Cards and the EB-5 visa program provide separate visa pathways to **attract global capital and top-tier talent**.
- Trump Cards do not and legally cannot replace EB-5 visas.
- The EB-5 program is the established, statutorily authorized pathway to attract foreign investors to the U.S. It has delivered **$350 billion in economic impact and created over 1.5 million American jobs—at no cost to taxpayers—and should continue to be fully supported by Congress and the administration**.
- **Congress should permanently authorize the EB-5 program.** It should give the foreign investment market stability by authorizing regional centers in 2026, ahead of their scheduled expiration in 2027.

Background

The EB-5 Visa Program

- The EB-5 visa is a job creation program that attracts overseas investors to provide capital for economic development projects in the U.S.
- EB-5 requires $800,000 investments in targeted employment area (TEA) projects (i.e., infrastructure, rural, high unemployment census tracts)—or $1.05 million investments in projects not within favored TEA categories.
- In 2022, Congress modernized the investor visa through the EB-5 Reform and Integrity Act. These reforms have helped improve the program's transparency and accountability. **They should be made permanent.**

The "Trump Card" Program

- According to the Sept. 19 Executive Order:
    - **Cost:** Gold Cards will require $1 million payments from individuals, and $2 million payments from companies. Platinum Cards will require $5 million payments. The $2 million Corporate Gold Card is "per employee." That is, the company (not the employee) "owns" the Corporate Gold Card, and it is portable to other workers.

- **Taxes:** Platinum Card holders can spend up to 270 days in the U.S. without being subject to U.S. taxes on non-U.S. income. Gold Card holders are treated similarly to other permanent residents and citizens.
- **Trump Card holders will not get their money back.** They are making a gift and buying a green card. In contrast, EB-5 investors expect their money back—with a return on their investment.
- **Trump Cards do not create new visa programs or add more visas.** Payments for a Trump Card are considered "evidence" to support green card eligibility under either the EB-1 visa category, for people of "extraordinary" ability, and/or the EB-2 visa category, for professionals with advanced degrees and those with "exceptional" ability.
- **Trump Cards do not replace EB-5 visas.** And, they will not add to or subtract from the number of EB-5 visas available in a given year. However, Section 3(f) of the Executive Order states that the agencies shall "consider… expanding the Gold Card program" to EB-5 visa applicants.

Recommendations

Permanently authorize EB-5 Regional Centers: Give stability to foreign investment markets—and maximize U.S. job growth opportunities—by making permanent the 2022 reforms that have created a fair and workable balance for urban and rural projects.

- EB-5 investment helps finance **housing, grid modernization, infrastructure, and manufacturing plants** to further recent Executive Orders and national priorities.

The Real Estate Roundtable

Democratizing Access to Alternative Assets for 401(k) Investors

Capital and Credit

Summary

On Aug. 7, 2025, President Trump issued an Executive Order titled "Democratizing Access to Alternative Assets for 401(k) Investors," signaling a fundamental shift in federal policy regarding access to asset classes previously reserved for institutional investors.

The EO aims to expand access to alternative assets, including private equity and real estate, through 401(k) plans by reducing regulatory obstacles and clarifying fiduciary responsibilities. The U.S. Department of Labor (DOL) and Securities and Exchange Commission (SEC) are responsible for advancing related regulatory changes.

The DOL released a proposed rule on advisors' duties when recommending alternative investments for defined contribution plans on March 30, 2026. RER submitted comments in support of the proposed rule. On Nov. 5, 2026, the DOL submitted its final rule to the White House Office of Management and Budget (OMB) for review, a key step before the rule can be published.

Key Takeaways

- In the August order, President Trump directed the DOL to propose new regulations on alts in retirement plans subject to the Employee Retirement Income Security Act (ERISA) within six months. It also directed the DOL to work with other regulators to determine necessary rule changes to ease alternative investment access in 401(k)s, and for the SEC to help with that effort in participant-directed retirement plans.
- While such alternative investments have long been part of defined-benefit plan portfolios, such as pensions, they are not expressly barred from defined contribution plans. Nonetheless, fiduciary rules make it challenging to include them in 401(k)s.

Background

Action Post-Executive Order

- SEC Chair Paul Atkins has supported expanding retail investor access to alternative investments, including real estate, "within reason." Commissioner Mark Uyeda has also called for litigation reforms to protect plan sponsors offering alternative investments in 401(k)s. While the Executive Order and rescission of DOL guidance demonstrate a change may be on the horizon for 401(k) plans and investors, they do not bring with them any regulatory change; further guidance and rulemaking from the DOL and SEC will clarify what comes next for fund sponsors, general partners, and their institutional investors.
- The DOL's March 30 proposed rule addresses the selection of alternative investments in defined contribution plans, including:
    - Private equity and private debt/credit.
    - Digital assets, including cryptocurrency.
    - Real estate, infrastructure projects, and commodities.
- On Nov. 5, 2026, the DOL sent its final rule to OMB for review. The final rule is expected to be published once OMB completes its review.

Recommendations

Support Regulatory Implementation: RER submitted comments supporting the DOL's proposed rule to expand access to alternative investments in 401(k) plans. RER will continue monitoring the rulemaking process, including OMB's review of the final rule, and related SEC actions affecting real estate investment opportunities.

Summary

There is a chronic shortage of housing in the U.S. that is driving up housing prices and making it more difficult for lower-income individuals to find safe, affordable housing. Housing production in the U.S. is not keeping pace with expanding housing needs. The underbuilding gap in the U.S. now totals more than 5.5 million housing units. The impact of this growing problem is far-reaching and undermines economic growth—particularly in urban areas. Sweeping bipartisan housing legislation, the 21st Century ROAD to Housing Act, was enacted in July 2026, without the Senate bill's unconstitutional seven-year forced-sale mandate targeting build-to-rent (BTR) housing.

In April, RER released a white paper authored by Paul Clement of Clement & Murphy, PLLC, finding that Title IX of the Senate-passed bill raises serious constitutional concerns under the Takings Clause, equal protection, and federalism principles, through unprecedented federal restrictions on certain single-family housing owners, including the forced-sale mandate for BTR homes. RER and coalition partners strongly supported the House amendment, which eliminated the forced-sale mandate while preserving supply-focused reforms to modernize federal housing programs, reduce regulatory barriers, encourage new construction, and support capital formation.

Key Takeaways

- **Safe, decent, and affordable housing is critical to the well-being of America's families, communities, and businesses.** The COVID-19 pandemic intensified the nation's persistent housing crisis and heightened the need to expand the supply of affordable housing.
- Addressing the housing crisis requires a national policy transformation, including a **comprehensive strategy to expand supply.**
- Policymakers should look at the full scope of tools available to bridge the underbuilding gap as part of this national strategy, including:
    - Policies that preserve the flow of institutional capital into residential real estate and support a robust single-family rental (SFR) market;
    - Yes in My Backyard (YIMBY) policies;
    - Property conversion incentives;
    - Reforms to zoning and permitting rules;
    - Reforms to the GSEs that continue to protect financial stability and access to affordable mortgages;
    - Further improving Opportunity Zones (OZs);
    - Enacting the *Housing Affordability Act*; and
    - Further expanding the Low-Income Housing Tax Credit (LIHTC).
- RER has partnered with 16 other national real estate organizations to jointly advocate for policies that will help to **increase housing supplies, grow jobs, and modernize our nation's critical infrastructure**.

21st Century ROAD to Housing Act Enacted

- To address these challenges, the sweeping 21st Century ROAD to Housing Act (H.R. 6644 / Public Law 119-101) was enacted into law on July 11, 2026. The Senate passed the final version 85–5 on June 22, 2026, and the House of Representatives passed it 358–32 on June 23, 2026.
- The legislation includes:
    - Affordable Housing Financing: Increases FHA multifamily loan limits and modernizes the HOME Investment Partnerships Program.

- Regulatory Relief: Streamlines federal environmental review requirements for certain housing construction and rehabilitation projects to speed up development.
- Manufactured Housing: Eliminates the permanent chassis requirement for manufactured homes, allowing for more varied, multi-story factory-built designs.
- Community Banking: Includes measures to raise the cap on banks' "public welfare investments," unlocking more private capital for affordable housing projects.
- Housing Supply and Local Reforms: Encourages local zoning and land-use reforms, supports transit-oriented development, and advances other supply-focused measures to reduce barriers to housing production.

Proposed Rulemaking (Section 1001)

- The U.S. Department of the Treasury's Notice of Proposed Rulemaking (NPRM), published on Oct. 23, 2026, implements Section 1001 of the 21st Century ROAD to Housing Act and formalizes Executive Order 14376 to restrict large institutional investors (LIIs) from acquiring single-family homes.
- The new law enacts the most significant federal restrictions on institutional single-family housing investment in modern U.S. history, alongside housing supply and banking reforms.
- Starting Jan. 7, 2027, large institutional investors (LIIs)—defined as entities controlling 350 or more single-family homes—are barred from buying additional single-family properties, though passive investors without control are excluded.
- The law requires no forced divestiture of existing portfolios, and earlier proposals for a seven-year sell mandate were removed during negotiations.
- Violations risk penalties up to $1 million or three times the purchase price. The ban sunsets after 15 years, and LIIs must report annual property counts to HUD.

The Roundtable is working on a comment letter in response to the NPRM and welcomes member input before the submission deadline of Nov. 23, 2026.

Recommendations

Support a Robust Single-Family Rental (SFR) Market: The administration and legislators have framed moves to ban "large institutional investors" from purchasing single-family homes as part of a broader push to improve housing affordability. However, research shows that **large-scale SFR investments** have **helped revitalize distressed properties and communities**, contributing to economic growth and stability. RER continues to work with policymakers to demonstrate why institutional capital is essential to expanding housing supply and addressing affordability nationwide. RER will also advance initiatives that remove barriers to housing development, incentivize capital investment in housing, and help people achieve the American Dream.

- A UNC Charlotte study, for example, released in May 2024, found that children from low- and moderate-income households see **improved achievements in school** when they rent single-family homes in neighborhoods where they cannot afford to buy.
- Additionally, an August 2025 report from the American Enterprise Institute found that **institutional investors are not a primary driver of housing unaffordability**, noting that housing shortages stem largely from restrictive zoning, limited new construction, and inflationary pressures.
- On March 24, 2025, RER responded to the FTC's request for public comment regarding the impact that large-scale SFR operators and institutional investors are having on home prices and rents in single-family housing.

Enact Federal YIMBY Legislation: Proposed legislation like the bipartisan *Yes in My Backyard (YIMBY) Act* would help eliminate discriminatory land use policies and remove barriers to production of affordable housing.

- RER and 17 other national organizations submitted a letter in strong support of a version of the bill introduced in the 118th Congress, H.R. 3507.

- The *YIMBY Act* requires recipients of certain federal grants to submit public reports about their implementation of specific land-use policies, such as policies for expanding high-density single-family and multifamily zoning.

Implement Property Conversion Incentives: The bipartisan *Revitalizing Downtowns and Main Streets Act of 2025* (H.R. 2410) would create a market-based tax incentive for converting older commercial buildings to residential use.

- By incentivizing residential conversions, the bill would help modernize U.S. real estate, create new and affordable housing, and strengthen cities and neighborhoods that continue to suffer from the aftereffects of the pandemic.
- The bill would create a new and temporary 20 percent tax credit for qualified property conversion expenditures, modeled after the historic rehabilitation credit. The total credit authority would be limited to $15 billion, allocated by state housing finance agencies based on feasibility and impact.

Reform Zoning and Permitting Rules: Restrictive zoning and permitting rules create prohibitive barriers to constructing affordable housing and are exacerbating the housing crisis.

- Exclusionary zoning policies, such as prohibitions on multifamily homes, constrain housing construction. Streamlining permitting and zoning processes can unlock new housing supply.

Further Improve OZs: Opportunity Zone (OZ) tax incentives have successfully mobilized private investment in historically underserved communities. Long-term extension and targeted reforms are essential.

- Since their enactment in 2017, OZs have spurred billions in private investment to revitalize distressed communities, finance affordable housing, and create jobs. The One Big Beautiful Bill Act (OB3 Act), signed into law on July 4, 2025, permanently extended the OZ tax incentives and made a number of helpful reforms.
- Congress should also continue working on improvements to the OZ tax incentives to boost their scale and impact.
- 72 percent of U.S. counties contain at least one OZ. Recent estimates suggest OZs have attracted over $120 billion in capital.

Further Expand the LIHTC: The LIHTC is a critical federal tool for addressing the widespread lack of affordable rental housing. Expansions to the program are critical to maximizing its impact.

- The OB3 Act included a permanent 12 percent increase in the amount of LIHTC allocations to states and permanently lowered the requirement for private activity bond financing for LIHTC projects from 50 percent to 25 percent.
- Legislation has been previously proposed to strengthen the LIHTC, including the *Affordable Housing Credit Improvement Act (AHCI)*, which would make it easier to combine LIHTC with other sources of capital. RER continues to support elements of this bill that were not included in the OB3 Act. Additionally, the *Decent, Affordable, Safe Housing for All (DASH) Act* would offer a new Middle-Income Housing Tax Credit (MIHTC).

Pass the Housing Affordability Act: Sens. Ruben Gallego (D-AZ) and Dave McCormick (R-PA) introduced the bipartisan *Housing Affordability Act* to expand the supply of affordable housing by increasing the Federal Housing Administration's (FHA) outdated multifamily loan limits.

- Without this fix, most areas are misclassified as "high-cost," limiting HUD's ability to support new multifamily developments and deepening the national housing crisis.
- If enacted, it will increase apartment construction, add supply, and help bring down housing costs, making housing more available and affordable for millions of American families.
- The *Housing Affordability Act* has the broad support of a number of real estate industry organizations, including RER, NAHB, NAR, NMHC, NHC, NAA, IREM, NAHMA, NLHAC, NAHC, and others.

The Real Estate Roundtable

Property Conversions and Housing Tax Incentives

Housing, Infrastructure, and Cities

Summary

The U.S. faces a severe shortage of affordable housing as production has failed to keep pace with demand. At the same time, certain other commercial real estate assets like office buildings are under significant stress due to structural shifts in workplace demand. **RER is encouraging lawmakers to help revitalize cities, boost local tax bases, and address housing challenges** by enacting a tax incentive and federal loan support for converting older, underutilized buildings to housing. RER also supports a meaningful expansion of the Low-Income Housing Tax Credit (LIHTC).

Key Takeaways

- Congress should help expand and grow the supply of affordable and workforce housing by investing greater resources in time-tested tax incentives like the LIHTC and adopting creative new approaches that support the conversion of underutilized, existing buildings to housing.
- Property conversions are a cost-effective way to increase housing supply, create jobs, and generate critical sources of local property tax revenue.
- The LIHTC is an efficient, market-based housing solution that relies on the private sector to finance, build, and operate affordable housing by creating a federal incentive for new construction and redevelopment.

Recommendations

Implement Property Conversion Incentives: Congress should pass the *Revitalizing Downtowns and Main Streets Act of 2025* (H.R. 2410) to incentivize property conversions, increase the housing supply, and revitalize downtowns.

- The bill would create a 20 percent tax credit for commercial-to-residential conversions with a significant set-aside for affordable rental units.
- Federal loan programs should be streamlined to support conversion projects.
- In particular, the administration should gear Department of Transportation loans for transit-oriented development (RRIF and TIFIA) to better enable commercial-to-residential building conversions.

Correct the Tax Treatment of Redevelopment Costs: Congress should modify the tax treatment of demolished buildings and demolition costs.

- The remaining tax basis of a demolished building should be immediately deductible as a loss. These changes would lead property owners to replace vacant and underperforming properties with new housing and mixed-use developments while spurring the redevelopment and revitalization of cities and neighborhoods.

Expand the LIHTC: Congress should further expand LIHTC, and RER continues to support elements of the *Affordable Housing Credit Improvements (AHCI) Act* (S. 1136, H.R. 2573 in the last Congress) that were not included in the OB3 Act.

- The *AHCI* would create and preserve more than 2 million affordable homes, support 3 million jobs, and generate $119 billion in sustainable tax revenue.
- The One Big Beautiful Bill Act (OB3 Act) included a permanent 12 percent increase in the amount of LIHTC allocations to states and permanently lowered the requirement for private activity bond financing for LIHTC projects from 50 percent to 25 percent.

Summary

In response to the Global Financial Crisis in September 2008, the U.S. Treasury placed Fannie Mae and Freddie Mac into conservatorship under the oversight of the Federal Housing Finance Agency (FHFA). This action was intended to stabilize the mortgage market and restore confidence in the government-sponsored enterprises (GSEs). It also involved an injection of $190 billion of capital, while creating an explicit U.S. government guarantee. The ongoing conservatorship means that the government has total control over these huge government-backed mortgage enterprises, with $7.7 trillion in combined assets.

Conservatorship was not meant to be indefinite. More than 18 years later, the GSEs are in a much stronger financial position and have repaid the $187 billion used to preserve Fannie and Freddie during the financial crisis. Yet, retiring the government's preferred and common equity stake would require a refinancing of massive scale, a taxpayer gift from the U.S. Treasury of tens of billions of dollars to Fannie and Freddie, or both.

The GSEs are currently "effectively owned" by the U.S. Treasury, which holds senior preferred stock and warrants for 79.9 percent of their common stock. While they have built significant reserves, the Congressional Budget Office (CBO) projected that their equity value by early 2027 would still fall short of full recapitalization requirements.

Policymakers have increasingly discussed various reform proposals, including ending the conservatorship, full privatization, hybrid models, and continued government backing with additional safeguards. The administration has set reform as a key priority, yet concrete details have yet to emerge.

As policymakers consider privatization or structural reforms, it is essential to the real estate industry and the broader economy to **preserve a well-functioning housing finance system that supports homeownership, expands affordable housing supply, and sustains economic growth**.

The enactment of the 21st Century ROAD to Housing Act in July 2026 directly impacts GSE operations and capital deployment, moving the goalposts for structural housing finance reform:

- Multifamily Backstop Role: The law explicitly codifies the GSEs' role as a stable liquidity backstop in the commercial and multifamily mortgage markets.
- FHFA Loan Purchase Caps: In alignment with the Act's goals, the FHFA sharply increased the 2026 multifamily loan purchase caps to a combined $176 billion (a 20.5 percent increase over 2025's $146 billion limit). The FHFA committed to a "liquidity backstop" pledge, promising not to reduce these caps even if the broader market contracts.
- Intertwined Legislative Fate: Because the ROAD to Housing Act leveraged banking system relief and increased Public Welfare Investment caps to unlock private capital, standalone legislative GSE reform has been sidelined. Congress has effectively prioritized using the GSEs as tools for immediate supply creation rather than executing a complex wind-down or restructuring of their charters.

Key Takeaways

- The tension between the executive branch's administrative ambitions and the legislative reality in Congress shapes the future of both GSE reform and institutional housing rules. While the administration utilizes regulatory agencies to bypass legislative gridlock, congressional opposition and structural legal hurdles create significant friction.
- The FHFA and the Treasury Department are quietly exploring an administrative "recapitalization and release" framework. With the GSEs holding $328 billion in combined capital, the administration is evaluating a consent decree that would restructure the Treasury's senior preferred stock and allow the enterprises to exit conservatorship without a new act of Congress.
- A complete, rapid exit from conservatorship is considered unlikely in the immediate term due to the technical complexity of raising enough capital to meet regulatory requirements. Instead, a gradual transition involving partial share offerings is more likely.

- A critical future debate is whether the government will provide a "paid-for explicit guarantee" on GSE mortgage-backed securities (MBS). Without this, critics warn mortgage rates could spike due to increased risk for private investors.
- However, one key concern for a successful exit is the "explicit guarantee." If the government does not legally guarantee the mortgages post-exit, mortgage rates could rise by 0.2 to 0.8 percentage points ($500 to $2,000 more per year for a typical buyer). An explicit, paid-for guarantee would likely stabilize the 30-year fixed-rate mortgage but would require an act of Congress.
- If Fannie and Freddie are transitioned to private ownership, the process must ensure **financial stability, avoid market disruptions, and protect access to affordable mortgages.**
- Reforms to the GSEs should be part of a **larger national transformation in housing policy** to unleash a wave of new housing construction and fully address the underbuilding gap, including Yes in My Backyard (YIMBY) policies, property conversion incentives and reforms to zoning and permitting rules, Opportunity Zones (OZs), and the Low-Income Housing Tax Credit (LIHTC).

Background

Fannie Mae and Freddie Mac

- As of December 2024, Fannie Mae and Freddie Mac collectively guarantee $6.6 trillion in Agency Mortgage-Backed Securities (MBS), or some 50 percent of all outstanding U.S. mortgage debt.

Recommendations

Preserve Market Liquidity: Reforms must preserve sufficient liquidity to avoid higher borrowing costs that could reduce investment in new housing supply and exacerbate the housing shortage.

- The GSEs serve a vital purpose in the U.S. housing market, helping to keep mortgage rates relatively low and encouraging financial institutions to finance single-family and multifamily housing.
- Fannie Mae and Freddie Mac support around 70 percent of the mortgage market, and in the first half of 2024, were responsible for 48 percent of newly originated apartment loans.

Support Affordable Housing Goals: GSE reforms should ensure that Fannie and Freddie continue to maintain a strong emphasis on affordable housing and underserved markets.

- GSE-backed financing assists in the construction of new affordable housing, which is essential to address the chronic housing shortage.
- As part of their mission, Fannie and Freddie purchase multifamily loans which support affordable and workforce housing. The FHFA oversees these purchases and sets volume caps based on market forecasts.

Ensure Soundness and Stability: Any privatization or restructuring must ensure that the GSEs maintain financial strength, mitigate risk to taxpayers, and support long-term market confidence.

- Fannie Mae and Freddie Mac together accounted for 42 percent of the total dollar volume of multifamily mortgages originated in 2023, according to the Mortgage Bankers Association (MBA). Reforms should ensure that the soundness of these and other loans continues to meet standards while providing sufficient liquidity to meet the market's needs, particularly in the affordable sector.
- The Enterprise Regulatory Capital Framework (ERCF), adopted by the FHFA as part of the conservatorship, established risk-based capital standards for the GSEs that exceed the statutory minimum leverage requirements. Reforms to Fannie and Freddie's capital requirements should ensure that they continue to be well-capitalized and can withstand economic distress.

Enhance Private Market Capacity: GSE financing efforts should focus on affordable and workforce housing and avoid crowding out private-sector financing and investment in class "A" market-rate apartments. However, reforms must appropriately calibrate any restrictions on multifamily lending to avoid any unintended consequences to aggregate credit capacity—particularly in times of economic distress.

The Real Estate Roundtable

Real Estate's Role in Unleashing America's Energy Dominance

Energy

Summary

President Trump's Executive Order on "Unleashing American Energy" calls for policies to: cut energy costs; strengthen the nation's electric grid by developing "base load" power resources (coal, gas, nuclear) over intermittent sources (solar, wind); streamline federal permitting of energy infrastructure projects; and ensure America wins the global race for AI leadership.

The U.S. commercial real estate industry has a central role to play in achieving the country's energy and economic goals. With energy demand surging, real estate is a critical partner to support energy investments, increase energy efficiency, and deliver energy savings across the economy.

Key Takeaways

- **No energy should be wasted, and efficiency should be prioritized.** Doing more with less energy consumption is the most cost-effective way for buildings to lower utility bills for owners and tenants and strengthen U.S. energy security. Building retrofits that use less energy save consumers money, support grid reliability, and free up power for AI, mining crypto, and re-shoring the U.S. industrial base.
- **Investments to modernize and expand the grid are essential to increase energy supply, address utility bill affordability, and meet spikes in demand from AI, manufacturing, and electrification trends.** It is crucial to expand grid capacity and invest in long-distance transmission. Federal permitting reform is critical to speed up energy infrastructure projects.
- **RER supports a national "all of the above" energy strategy** that invests in building efficiency, grid modernization, faster permitting, and innovation across all energy sources.

Recommendations

Strengthen Grid Reliability and Expansion: Electricity demand is surging. Lawmakers must encourage investments to support quick, cost-effective, and reliable power.

Prioritize Building Efficiency: Reducing energy use in buildings—"nega-watts"—is the lowest-cost pathway to achieving U.S. energy dominance.

Embrace "All of the Above" Energy Creation: America must lead across all energy technologies, regardless of fuel source, to achieve America's energy dominance.

Pass Permitting Reform (SPEED Act): RER has explained real estate's interest in energy permitting reform to spur housing and other economic development. (Letter, Dec. 8, 2025) Projects once approved should be allowed to finish—and later political administrations should be barred from revoking previously and legitimately issued permits.

The Real Estate Roundtable

ENERGY STAR and Building Performance Standards

Energy

Summary

US-EPA's ENERGY STAR is a critical voluntary, non-regulatory public-private partnership focused on energy efficiency in buildings and products. Commercial, residential, and manufacturing stakeholders all rely heavily on ENERGY STAR certifications and other offerings.

RER has rallied a coalition of real estate, manufacturing, consumer tech groups, and energy efficiency advocates to preserve the ENERGY STAR program; support its transition from EPA to the U.S. Department of Energy as the agency with the lead implementation role; and assure the program's funding through ample, annual appropriations by Congress.

Meanwhile, a number of progressive cities and states (map) have enacted building performance standards (BPS). These mandates impose rules regarding building emissions, electrification, and compliance timelines. The regulatory specifics vary from jurisdiction to jurisdiction—making compliance exceedingly complex and expensive. To help bring consistency to the nationwide "patchwork" of BPS regulations, **RER has developed a peer-reviewed policy guide outlining 20 key considerations for any jurisdiction adopting a BPS law.**

In addition, non-governmental organizations (NGOs) have developed their own BPS-type standards and climate accounting frameworks. Chief among these are the World Resources Institute's Greenhouse Gas (GHG) Protocol and the Science Based Targets Initiative (SBTi). These NGO standards increasingly influence decisions of certain pension and sovereign wealth funds, pressuring CRE and other companies to "align" with "net-zero" targets as a condition to providing investment capital.

Recommendations

Support ENERGY STAR: Programs like EPA's ENERGY STAR and "NextGen" certified buildings and DOE's Better Buildings initiative signify "high performance" real estate and are critical to unleashing America's energy dominance.

- **ENERGY STAR helps "unleash American energy dominance," aligned with President Trump's priorities.** It is key to the "all of the above" national energy strategy because it is the main U.S. government program focused on avoiding energy waste. It provides the federal standard to use all energy resources efficiently regardless of fuel source.
- ENERGY STAR assists real estate companies in helping their **renter families and business tenants lower their utility bills.** It gives owners the tools to effectively quantify and communicate how much energy tenants use in the spaces they lease.
- ENERGY STAR **improves grid reliability**. It quantifies how buildings can free up capacity on the electric grid needed to grow AI, crypto markets, and U.S. manufacturing.
    - ENERGY STAR certified buildings—including data centers—use 35 percent less energy compared to similar buildings in their asset class.
    - In 2024, ENERGY STAR helped buildings and plants save kWh equal to about 92 percent of all electricity used in the state of Florida in a single year.
- The U.S. real estate industry needs ENERGY STAR to **attract investment capital**—especially from overseas. We use ENERGY STAR to push back against unrealistic "net zero" requirements from Europe and elsewhere.
- Real estate is **aligned with the manufacturing sector**. We support ENERGY STAR with the appliance-side of the program and are pursuing joint advocacy to Congress and the federal agencies.

Ensure Fair and Reasonable BPS Laws: States and localities should ensure their building performance mandates reflect the 20 points raised in RER's peer-reviewed policy guide, which provides extensive guidance and detailed stakeholder input.

- Chief among these points: US-EPA and US-DOE guidelines should offer compliance pathways with state/local BPS laws. Uniform federal criteria can bring rationality and consistency to the chaotic "patchwork" of BPS regulatory mandates across the country.
- No city or state BPS law should fine or penalize a "high performance" building recognized by US-EPA or US-DOE partnerships.
- Policymakers must also consider how BPS regulations impact key points such as:
    - Affordability and supply of housing for low-income and working-class families;
    - Availability of debt, equity, and incentives to pay for all of the retrofit projects induced by BPS laws;
    - Reliability of local grids to provide electricity, if power infrastructure is strained by all of the extra loads caused by building electrification;
    - Achievability of goals to reduce overall emissions, if the community's electric grid relies heavily on fossil fuels; and
    - Accessibility of market-based programs (e.g., RECs) to purchase clean power to help achieve an "all of the above" energy strategy.

GHG Protocol's Proposed Changes to Scope 2 Guidelines are Impractical—and Should Not be Adopted:

- GHG Protocol recommendations to change its "Scope 2 Guidelines" to account for emissions from purchased electricity, steam, heat, and cooling would not be workable or practicable for U.S. real estate assets.
- RER and other real estate industry groups do not support GHG Protocol's proposal to require so-called "24/7 matching" for bulk clean energy purchases.
- It is not feasible to require companies that contract for clean energy to match power consumption with emissions-free generation every hour of every day, co-located on-site and/or within the same local grid segment.
- GHG Protocol should continue to allow optional 24/7 matching—but not require it under its Guidelines.
- Mandating strict time and place restrictions for corporate procurements like Renewable Energy Certificates will make compliance burdens with the Scope 2 Guidelines too onerous—and disincentivize private sector investments in clean energy.

The Real Estate Roundtable

Data Centers

Energy

Summary

Congressional scrutiny of data centers and AI is likely to continue into the next Congress and the 2028 presidential campaign, driven by rising utility bills, job displacement concerns, and risks posed by autonomous AI agents.

Not every data center or AI policy affects commercial real estate, but some warrant RER's engagement. Proposals that single out data centers for disproportionate regulation or taxation could establish precedents that might eventually extend to other CRE asset classes and building types.

RER evaluates data center policies against the objectives below, to protect commercial real estate interests while recognizing legitimate energy, infrastructure, and community concerns.

Recommendations

- **Fair allocation of infrastructure and energy costs.** Data centers should bear a fair and reasonable share of energy and other costs attributable to their construction and operations. Cost allocations and impact fees should be proportionate and tied to demonstrable impacts.
    - The Ratepayer Protection Act (H.R. 9340) would direct state utility regulators to consider standards ensuring that large data centers pay incremental electricity infrastructure costs. RER supports the bill's underlying principles, provided any resulting costs are allocated proportionately to a data center's actual impacts on the grid, water supplies, and other infrastructure.
- **Ensure fair and equitable tax treatment.** RER opposes discriminatory tax policies that single out data centers for unfavorable treatment relative to other commercial real estate asset classes.
    - Senate Finance Committee Ranking Member Ron Wyden's (D-OR) Oct. 23 draft would impose an excise tax on operators; deny bonus depreciation, Opportunity Zone incentives, and R&D tax credits; and treat data center income received by private REITs as "bad income." RER is concerned that excluding data centers from otherwise available tax incentives is discriminatory and could discourage real estate investment and development.
- **Promote grid reliability and increase energy supply.** RER supports expanding electricity generation and transmission capacity and streamlining federal permitting.
    - RER endorses the American Affordability and Jobs Act (S. 5653), which would streamline reviews, facilitate transmission construction and require data centers to bear specified electricity infrastructure costs.
    - RER is examining the Grid Resiliency Tax Credit Act (S. 5453), providing a 30% investment tax credit for qualifying transmission projects and grid-enhancing technologies, and policies addressing the shortage of electricity transformers.
- **Regulations must follow ownership vs. operational control.** Regulatory compliance obligations must be assigned to the entities controlling the activities being regulated. Policymakers must avoid burdening owners/landlords with responsibilities properly borne by tenants/operators, and vice versa. RER's September comments to the North American Electric Reliability Corp. (NERC) call for clear compliance responsibilities for data center owners distinct from operators—including utility data sharing, interconnection requirements and "ride through" during temporary power fluctuations.
- **Transparency in energy and water use.** RER supports reasonable transparency and reporting requirements. Reporting obligations should rest with entities that control or have access to energy and water consumption data. Where owners must report facility-wide usage, policies should require tenants and operators to provide accurate, timely information necessary for compliance. Requirements should be standardized and use ENERGY STAR Portfolio Manager.

The Real Estate Roundtable

Cyber and Physical Threats to U.S. Real Estate

Homeland Security

Summary

Rising incidence of cyber and physical security threats—including terrorism, cyberattacks, and organized crime—have heightened concerns about protecting commercial properties and critical infrastructure.

The conflict in Iran raises additional security concerns. Iran poses a credible, near-term threat to the U.S. homeland, utilizing cyber operations, targeted assassination plots against officials, and potential proxy network activations to retaliate against U.S. strikes in the Middle East. Increased risks include cyberattacks on critical infrastructure, violent extremist radicalization, and attacks on religious or government targets by Iran-linked actors.

The Islamic Revolutionary Guard Corps (IRGC) and its affiliates are capable of conducting asymmetric operations and creating and strengthening proxy networks within the U.S. The conflict has prompted warnings from the FBI regarding intelligence, espionage, and potential attacks from Iran-linked individuals.

The conflict may motivate homegrown violent extremists or Iranian proxies to launch attacks on U.S. soil, targeting public gatherings, faith-based institutions (synagogues, mosques), and universities. While direct state-sponsored attacks are less common, Iran may leverage its global network of proxies, such as Lebanese Hezbollah, or activate "sleeper cells" to carry out asymmetric retaliation.

In addition to the challenges posed by Iran and its proxy groups, the ongoing Russian invasion of Ukraine and rising tensions in Asia have raised security concerns about the increased incidence of cyberattacks from the Russian Federation, the People's Republic of China (PRC), North Korea, and other state actors.

Information sharing is vital for the commercial facilities sector to enhance cybersecurity, improve incident response, mitigate physical threats, build community resilience, and maintain a competitive edge by fostering collaboration and innovation among different facilities and organizations.

Key Takeaways

- Recent high-profile hacking attacks underscore the need to fortify **the nation's IT infrastructure against cyberattacks**. There are also **growing concerns that cyberattacks could exploit AI vulnerabilities** to gain unauthorized access to facilities or sensitive data.
- RER supports enhanced information sharing and cooperation among its membership with key law enforcement and intelligence agencies through its **Homeland Security Task Force and Real Estate Information Sharing and Analysis Center (RE-ISAC)**.
- Policymakers should avoid imposing duplicative or inconsistent regulations that create additional challenges for those tasked with defending the nation's critical infrastructure and undermine cyber preparedness.

Background

CISA 2015 Reauthorization – Critical for Information Sharing

- The Cybersecurity Information Sharing Act of 2015 (CISA 2015) was designed to encourage and protect the sharing of cyber threat information between private-sector companies and the federal government. The act was a cornerstone of public-private partnership in cybersecurity, enhancing national defense and economic security. The law, which provides liability and privacy protections for companies sharing cyber threat data with the government, originally featured a 10-year sunset clause that led to several lapses and temporary renewals starting in late 2025.
- This law is important for our sector as it provides specific legal protections for private companies sharing cybersecurity threat information with the government. While sharing may continue, the lack of explicit liability and antitrust shields could reduce the flow of critical threat intelligence, weakening a key defense against increasingly sophisticated cyberattacks.

- The House Homeland Security Committee, led by Chairman Andrew Garbarino (R-NY), continues to advance a reauthorization bill, the Widespread Information Management for the Welfare of Infrastructure and Government (WIMWIG) Act (H.R. 5079). Chairman Garbarino's bill seeks to reauthorize CISA 2015 for 10 years through 2035 and update it to address artificial intelligence and supply chain threats. The measure was passed out of the Committee by a 25-0 unanimous vote but has not yet gone to the full House for a vote.
- Because H.R. 5079 remains pending in the broader legislative workflow, Congress utilized the short-term Continuing Resolution mechanism to keep the underlying 2015 threat-sharing liability shields active until Dec. 11, 2026.

Information Sharing and Real Estate

- The Department of Homeland Security (DHS), primarily through the Cybersecurity and Infrastructure Security Agency (CISA) as the Sector Risk Management Agency (formerly Sector-Specific Agency), manages information sharing for the Commercial Facilities Sector through the following:
    - **ANCHOR-CI Program:** In July 2026, DHS and CISA launched the Alliance of National Councils for Homeland Operational Resilience – Critical Infrastructure (ANCHOR-CI). This initiative replaces the previously disbanded Critical Infrastructure Partnership Advisory Council (CIPAC) to restore formal government-to-industry channels for discussing physical and cyber threats across critical infrastructure.
    - **Commercial Facilities Subsector Engagement:** CISA collaborates with private-sector owners and operators across eight subsectors—including Entertainment and Media, Gaming, Lodging, Outdoor Events, Public Assembly, Real Estate, Retail, and Sports Leagues—using voluntary frameworks outlined in the Commercial Facilities Sector-Specific Plan. The Roundtable is part of the Commercial Facilities Sector Coordinating Council.
    - **Training and Resource Guides:** DHS and CISA distribute threat awareness and mitigation tools, such as the Public Venue Security Resources Guide, Suspicious Activity Reporting (SAR) channels, and active-shooter/surveillance-detection training courses (e.g., IS-907.A and AWR-940).

Recommendations

Strengthen Preparedness and Information Sharing: Policymakers and law enforcement agencies must advance efforts to counter potential physical and cyber threats, especially to critical infrastructure. The real estate industry remains an important partner in these efforts.

- In addition to civil unrest, organized retail crime, and violent attacks on properties across the U.S., real estate continues to face a variety of cyber and physical threats, such as:
    - Disruptive and destructive cyber operations against strategic targets, including an increased interest in control systems and operational technology;
    - Cyber-enabled espionage and intellectual property theft;
    - Improvised explosive devices (IEDs);
    - Attacks against U.S. citizens and interests abroad and similar attacks in the homeland;
    - Tenant fraud; and
    - Unmanned aircraft system (UAS) attacks against hardened and soft targets.
- Through a Cybersecurity Information Sharing and Collaboration Agreement with DHS's CISA, the RE-ISAC engages in operational efforts to better coordinate activities supporting the detection, prevention, and mitigation of cybersecurity, communications reliability, and related data threats to critical infrastructure.
- RER supports the *WIMWIG Act* introduced to reauthorize and make updates to CISA 2015.
- RER remains focused on measures that businesses can take—such as creating resilient infrastructure that is resistant to physical damage and cyber breaches—to better prepare for potential threats.