

PRIORITY ISSUES IN THE 116TH CONGRESS

By Erin Stackley

The November 2018 election brought some new faces and changes to Congress—the House of Representatives flipped from Republican control to Democrat, while in the U.S. Senate, Republicans picked up a few seats, slightly strengthening their majority (though they are still short of the 60 votes needed to pass most legislation). The result is a divided Congress, and—perhaps more notably—a House of Representatives which are frequently at odds with the White House. With this combination, what—if anything—can we expect to be accomplished in the next two years?

Your position on the “glass half-full vs. half-empty” debate may influence your view of this, but there are some areas where Congress needs to act, which may offer opportunities for bipartisanship and cooperation between Congress and the president. In addition, the executive agencies are still working on promulgating regulations for some existing laws, which will impact their implementation. Here are a few of the priority issues facing commercial real estate that the National Association of REALTORS® is tracking in this Congress:

Tax Cuts and Jobs Act Implementation:

The Tax Cuts and Jobs Act was passed at the end of 2017, but portions of it—especially new programs—are still going through the notice-and-comment rulemaking procedure in the Treasury Department and the IRS. These include final rules for the “Qualified Business Income Deduction,” which allows certain businesses—including sole proprietorships, S corps, LLCs, and partnerships—to deduct up to 20 percent of their income each year, and the Qualified Opportunity Zones (QOZ) program, which provides tax incentives for investing in designated underserved communities. Both of these are promising for real estate professionals and commercial real estate development, but important questions about their application and implementation still need to be answered by the federal agencies.

National Flood Insurance Program (NFIP) Reauthorization:

The NFIP had several short-term reauthorizations in 2018, and ultimately Congress extended it through May 31, 2019. Congress will need to act by then to reauthorize it. In a best-case scenario, it will be a long-term reauthorization which includes reforms to improve the program (such as improved mapping technology) and make it more

responsive to the needs of commercial properties within flood zones. The top priority is to keep the program going with no lapses, as a lapse presents problems for sales and development of properties within flood zones.

Terrorism Risk Insurance Program

Reauthorization: The federal Terrorism Risk Insurance Program was created following the terrorist attacks of September 11, 2001. Terrorism insurance became scarce and unaffordable, so Congress created a federal backstop which brought down costs and increased availability. Terrorism risk insurance is a requirement to get financing for many commercial developments, making it vital that this program not lapse, as that throws some commercial loans into technical default and delays financing for new developments. It was last extended in 2015, through the end of 2020, so it will fall to this Congress to handle the next reauthorization.

Infrastructure: The need for a large-scale infrastructure spending bill is one thing everyone in Washington D.C. can agree on; the state of the country’s infrastructure, and the negative impact that has on the economic viability of some communities is well-documented. This



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issue is complex though, with needs that vary from improved roads, to broadband access, to disaster mitigation, to planning for future infrastructure needs (such as autonomous vehicle lanes). Further complicating the issue is how to pay for a large-scale spending bill. Despite that, this issue presents rare bipartisan agreement, and there is hope that progress can be made in this Congress.

As the 116th Congress settles in, there will be a clearer picture of the dynamics at play between the two chambers, as well as the White House, and how each plan to advance their legislative agendas. NAR will track these and any new issues that arise and will continue to advocate for commercial real estate both Congress and the federal agencies. ♥

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