

Prepared Remarks, Ranking Member Spencer Bachus, Floor Consideration of H. R. 3915

November 15, 2007

Mr. Chairman, I rise in support of H. R. 3915, the "Mortgage Reform and Anti-Predatory Lending Act of 2007," legislation to combat abusive practices and improve oversight of the mortgage industry.

Some have asked me why a conservative Republican would support increased regulation of subprime lending practices. The answer is that we have a choice between curing problems after they have caused severe damage to our economy, our families, and our reputation in the world or taking preventive action in advance to ensure the problems do not occur. Benjamin Franklin told us, "an ounce of prevention is worth a pound of cure," and that is as true today as it was when our country was being founded and as applicable to economic matters as it is to medicine.

The fallout from the current problems in the mortgage market has been widespread and has claimed many victims, including those who faithfully paid their mortgages and now see their home values declining; those in the construction industry and other housing-related industries who have lost their jobs; investors (including those saving for retirement through their pension funds) who have seen the value of their portfolios decline; anyone trying to sell a home; and those living in neighborhoods dotted with boarded up or abandoned homes on properties that have undergone foreclosure.

In response to these very real problems, we are already seeing proposals for a variety of actions. Some are very ill-advised. We have seen proposals for government subsidies, having Fannie and Freddie and the other GSEs take a greater role in subprime lending, harmful bankruptcy changes, and other efforts.

Treasury Secretary Henry Paulson called the housing downturn "the most significant current risk to the U.S. economy." Last week Federal Reserve Chairman Ben Bernanke said the situation will get worse before it gets better. Many believe that faulty mortgage lending practices have precipitated this credit crisis, and that the situation will get worse before it gets better. For this reason, I believe a legislative remedy is not only appropriate, but our duty as members of Congress.

Mr. Chairman, the Financial Services Committee has a long tradition of coming together to address serious issues in national financial services markets. That spirit of cooperation has been much in evidence during the past few weeks. During that time, Chairman Frank and I, along with other members of this Committee and our staffs, engaged in constructive negotiations aimed at producing an agreement on subprime lending legislation. These conversations resulted in consensus legislation which, though not perfect, will achieve two very important goals: implementing reforms that will protect consumers from predatory lending practices, and preserving working Americans' access to consumer credit.

Mr. Chairman, I'd like to highlight three separate elements of the bill. First, it includes a requirement that mortgage originators determine before extending credit if a borrower has a reasonable ability to repay it. This common-sense standard will discourage lenders from making bad loans without reducing the availability of mortgages to creditworthy

borrowers. Reputable lenders should have no difficulty meeting such a standard, which has been previously adopted by Federal banking agencies in regulatory guidance applicable to all insured depository institutions.

Second, the bill will better protect homeowners from predatory lending practices all too commonplace today without causing unnecessary litigation. Thanks to the Manager's Amendment adopted in Committee, the bill restricts the availability of damages, reduces the duration of statutes of limitations, and expressly prohibits class action lawsuits. The legislation also gives all lenders and securitizers a unilateral right to cure loans that fall outside the bill's safe harbors, thereby avoiding litigation entirely.

Third, the bill includes licensing and registration provisions based upon the bill I introduced with a number of other Committee Republicans last July. A recurrent theme during our Committee's hearings on subprime lending has been the lack of effective supervision and oversight of mortgage originators. In too many cases rogue brokers or other mortgage professionals have moved from state to state, victimizing borrowers with impunity. The licensing and registration provisions target the abusive practices which brought in this crisis and will encourage greater professionalism and accountability within the industry.

Let me commend Chairman Frank for his willingness to work with Republicans to achieve a legislative product that honors the Financial Services Committee's best traditions. While H.R. 3915 is not a perfect bill - no bill ever is - it has been significantly improved through our negotiations.

In closing, let me say that it has always been my view that when faced with serious issues like this one, Congress has both the privilege and the responsibility of rising above partisanship and acting in the public's interest. With this legislation today, I believe we have done just that.

Mr. Chairman, I reserve the balance of my time.