Floor Statement of Ranking Member Spencer Bachus on H.R. 3221, the Housing and Economic Recovery Act of 2008

July 23, 2008

Mr. Speaker, I rise in opposition to this legislation.

I do so reluctantly, because there are provisions in this bill that I strongly support. The bill strengthens the GSEs' capital requirements and enhances the government's receivership authority if they get into trouble -- significant improvements over the current regulatory regime. Even more important, the legislation contains a measure I introduced more than a year ago to create a comprehensive system for the licensing and registration of mortgage originators. This will do more to protect consumers and prevent many of the abuses that caused the subprime crisis in the first place than just about any other reform we could make.

The problem, Mr. Speaker, is that rather than bringing a clean bill to the floor to improve GSE regulation, modernize FHA, and crack down on rogue elements in the mortgage industry, the Majority has brought us something else entirely. The bill before us today includes provisions that would actually undermine GSE safety and soundness and fiscal discipline, by diverting billions of dollars from Fannie Mae and Freddie Mac and from homeowners and taxpayers to pay for three big new government programs. And it does so at a time when we should instead be doing everything within our power to stabilize the GSEs and our housing markets to avoid the need for an even bigger taxpayer bail-out down the road.

Mr. Speaker, the most troubling aspect of this legislation remains the affordable housing fund, which would siphon $9 billion from the GSEs over a ten-year period to fund state and local housing initiatives. One of the primary beneficiaries of these funds will be political advocacy groups across the country that claim as some part of their mission the promotion of affordable housing. When the affordable housing fund was first included in GSE reform legislation that the House considered in May of last year, Fannie and Freddie's combined market capitalization stood at $106 billion. Today, their market capitalization is roughly $20 billion. One year and $86 billion in lost market capitalization later, a plan to divert billions of dollars from the GSEs to fund another expensive government housing program is not just bad public policy - it is dangerously irresponsible.

Also irresponsible are the provisions in this bill authorizing $300 billion in new FHA loan guarantees that would have the effect of bailing out lenders and investors seeking to offload their riskiest loans on an FHA already close to being overwhelmed by the larger role it is being asked to play in the mortgage market. Many of us on this side of aisle have questioned the fairness of asking the 110 million Americans who are paying their mortgages on time, renting, or own their homes outright to subsidize those who made different choices during the run-up in housing prices. The version of this legislation that the House approved last May at least had the virtue of being honest: it would have required taxpayers to foot the bill directly for this ill-conceived government program. The version that we are considering today purports to protect taxpayers by imposing the costs of the bail-out on the GSEs through the affordable housing fund. But as we have found out over the past couple of days, that's the same thing as asking taxpayers to foot the bill.

On this point, don't take my word for it. In an editorial last week, the Washington Post made the exact same argument, and I quote:

The bill would fund the bailout through a fee on Fannie and Freddie, possibly $531 million in 2009, the CBO says. This is rather circuitous, given that government backing subsidizes Fannie and Freddie indirectly (and that they may soon be borrowing directly from the Treasury). And it contradicts the purpose of the mortgage bailout, which is to shore up housing prices: Fannie and Freddie will pass the fee along to their customers, thus decreasing housing liquidity and depressing the residential real estate market.

The editorial concludes by asking the question: "Wouldn't it be simpler, and safer, to let a new regulator address the GSEs' capital needs before plunging them ever deeper into the housing quagmire?" Mr. Speaker, I couldn't agree more.

In addition to asking taxpayers to bail out the GSEs and lenders and investors seeking to rid their portfolios of their most toxic mortgages, this bill goes one step further. It establishes yet a third government program, this one a 4 billion dollar grant program - paid for by taxpayers - to fund the purchase of foreclosed properties by states and localities. This is nothing more than a bail-out of investors and real estate speculators who made risky investments but who will now be able to dump foreclosed properties onto state and local governments. This approach invites more - not fewer - foreclosures, by providing incentives to lenders to foreclose on properties rather than attempt to work with struggling homeowners to keep them in their houses. Besides, setting the government up as landlord is not my idea of a wise use of taxpayer dollars. What in the world it is doing in a bill purportedly designed to avert foreclosures and assist troubled homeowners is anybody's guess.

This legislation, unfortunately, contains yet another irresponsible provision from the Senate-passed bill, one that imposes a one-year moratorium on FHA's authority to engage in risk-based pricing. At a time when we are asking FHA to play a greater role in assisting troubled homeowners seeking to refinance into more affordable mortgages, barring the agency from pricing its product according to risk would be a serious mistake. Not only will this moratorium prevent FHA from serving more homeowners, it will lead to higher mortgage costs for everyone, as FHA is forced to raise its upfront and annual premiums to compensate for its inability to charge premiums based on risk.

This legislation presents us with extremely difficult choices. It includes long needed reforms of FHA and the GSEs, but adds costly and unnecessary programs that make it impossible for many of us to support it.

- It takes money from the GSEs when they are already in trouble;
- It creates two big new government housing programs even though an abundance of housing programs already exist;
- It places a moratorium on risk-based pricing.

If that weren't enough, the bill now includes a proposal to support the GSEs with direct government investment of taxpayers' dollars in the common stock of Fannie and Freddie.

When the Treasury proposals were announced last week, we were told they were essential to avoid a catastrophic failure of Fannie and Freddie and the turmoil in global capital markets.

Confusingly, at the same time we were told they must have this blank-check authority, we were assured it would never be used. We were told it must be voted on immediately, even though the Federal Reserve had agreed to provide liquidity in the event of an emergency if there was one.

Those assurances notwithstanding, giving unlimited authority to a government agency for unprecedented action is a serious matter in a system based on checks and balances. Deciding this issue without hearings within a one-week time span with virtually no deliberation is a surrender of Congressional responsibility. Congress did not do that with Chrysler, Lockheed or Conrail, which all were extensively studied and debated before action was taken.

It is likely that the concept of "If you build it they will come" applies here. If we give this authority, it will be used; and used I believe not only to provide liquidity, but to purchase an equity stake in these private, stockholder-owned companies.

Even a small government investment in Fannie and Freddie is incremental nationalization, a path our government should not go down without serious consideration of the consequences. We should hesitate to saddle taxpayers with losses in tough times that should be absorbed by those who took the risks and reaped the profits when times were good.

By raising concerns, those of us who questioned a rush to judgment on a blank check request were able to delay its consideration last week and allow time for at least some thought and analysis. As a result, even Senator Dodd has now acknowledged that the blank check needs to be examined "very carefully."

Mr. Speaker, we can do better than this bill, and given the high stakes, we must do better. We should reject this legislation, and immediately substitute it with a clean bill that reforms the GSEs, modernizes FHA and increases the Treasury lending authority by a set amount.

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