

107TH CONGRESS
1ST SESSION

H. R. 3424

To amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2001

Mr. CALVERT (for himself, Mr. KANJORSKI, Mr. LATOURETTE, Ms. WATERS, Mr. LEWIS of California, Mr. SHERMAN, Mr. CANTOR, Mr. FORD, Mr. HOBSON, Mr. SANDLIN, Mr. SAXTON, Mr. ANDREWS, Mr. REYNOLDS, Mr. BARCIA, Mr. WAMP, Ms. BALDWIN, Mr. ISAKSON, Mr. TOWNS, Mr. RILEY, Mr. DEUTSCH, Mrs. JO ANN DAVIS of Virginia, Mr. RODRIGUEZ, Mrs. BONO, Mr. PASCRELL, Mr. STUMP, Mr. ROTHMAN, Mr. KINGSTON, Ms. MCKINNEY, Mr. FOLEY, Mr. HOLDEN, Mr. GREEN of Texas, Ms. DEGETTE, and Mrs. CAPITO) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Community Choice in
3 Real Estate Act”.

4 **SEC. 2. CLARIFICATION THAT REAL ESTATE BROKERAGE**
5 **AND MANAGEMENT ACTIVITIES ARE NOT**
6 **BANKING OR FINANCIAL ACTIVITIES.**

7 (a) BANK HOLDING COMPANY ACT OF 1956.—Sec-
8 tion 4(k) of the Bank Holding Company Act of 1956 (12
9 U.S.C. 1843(k)) is amended by adding at the end the fol-
10 lowing new paragraph:

11 “(8) REAL ESTATE BROKERAGE AND REAL ES-
12 TATE MANAGEMENT ACTIVITIES.—

13 “(A) IN GENERAL.—The Board may not
14 determine that real estate brokerage activity or
15 real estate management activity is an activity
16 that is financial in nature, is incidental to any
17 financial activity, or is complementary to a fi-
18 nancial activity.

19 “(B) REAL ESTATE BROKERAGE ACTIVITY
20 DEFINED.—For purposes of this paragraph, the
21 term ‘real estate brokerage activity’ means any
22 activity that involves offering or providing real
23 estate brokerage services to the public,
24 including—

25 “(i) acting as an agent for a buyer,
26 seller, lessor, or lessee of real property;

1 “(ii) listing or advertising real prop-
2 erty for sale, purchase, lease, rental, or ex-
3 change;

4 “(iii) providing advice in connection
5 with sale, purchase, lease, rental, or ex-
6 change of real property;

7 “(iv) bringing together parties inter-
8 ested in the sale, purchase, lease, rental, or
9 exchange of real property;

10 “(v) negotiating, on behalf of any
11 party, any portion of a contract relating to
12 the sale, purchase, lease, rental, or ex-
13 change of real property (other than in con-
14 nection with providing financing with re-
15 spect to any such transaction);

16 “(vi) engaging in any activity for
17 which a person engaged in the activity is
18 required to be registered or licensed as a
19 real estate agent or broker under any ap-
20 plicable law; and

21 “(vii) offering to engage in any activ-
22 ity, or act in any capacity, described in
23 clause (i), (ii), (iii), (iv), (v), or (vi).

24 “(C) REAL ESTATE MANAGEMENT ACTIV-
25 ITY DEFINED.—For purposes of this paragraph,

1 the term ‘real estate management activity’
2 means any activity that involves offering or pro-
3 viding real estate management services to the
4 public, including—

5 “(i) procuring any tenant or lessee for
6 any real property;

7 “(ii) negotiating leases of real prop-
8 erty;

9 “(iii) maintaining security deposits on
10 behalf of any tenant or lessor of real prop-
11 erty (other than as a depository institution
12 for any person providing real estate man-
13 agement services for any tenant or lessor
14 of real property);

15 “(iv) billing and collecting rental pay-
16 ments with respect to real property or pro-
17 viding periodic accounting for such pay-
18 ments;

19 “(v) making principal, interest, insur-
20 ance, tax, or utility payments with respect
21 to real property (other than as a deposi-
22 tory institution or other financial institu-
23 tion on behalf of, and at the direction of,
24 an account holder at the institution);

1 “(vi) overseeing the inspection, main-
 2 tenance, and upkeep of real property, gen-
 3 erally; and

4 “(vii) offering to engage in any activ-
 5 ity, or act in any capacity, described in
 6 clause (i), (ii), (iii), (iv), (v), or (vi).

7 “(D) EXCEPTION FOR COMPANY PROP-
 8 ERTY.—This paragraph shall not apply to an
 9 activity of a bank holding company or any affil-
 10 iate of such company that directly relates to
 11 managing any real property owned by such
 12 company or affiliate, or the purchase, sale, or
 13 lease of property owned, or to be used or occu-
 14 pied, by such company or affiliate.”.

15 (b) REVISED STATUTES OF THE UNITED STATES.—
 16 Section 5136A(b) of the Revised Statutes of the United
 17 States (12 U.S.C. 24a(b)) is amended by adding at the
 18 end the following new paragraph:

19 “(4) REAL ESTATE BROKERAGE AND REAL ES-
 20 TATE MANAGEMENT ACTIVITIES.—

21 “(A) IN GENERAL.—The Secretary may
 22 not determine that real estate brokerage activ-
 23 ity or real estate management activity is an ac-
 24 tivity that is financial in nature, is incidental to

1 any financial activity, or is complementary to a
2 financial activity.

3 “(B) DEFINITIONS.—For purposes of this
4 paragraph, the terms ‘real estate brokerage ac-
5 tivity’ and ‘real estate management activity’
6 have the same meanings as in section 4(k)(8) of
7 the Bank Holding Company Act of 1956.

8 “(C) EXCEPTION FOR COMPANY PROP-
9 erty.—This paragraph shall not apply to an
10 activity of a national bank, or a subsidiary of
11 a national bank, that directly relates to man-
12 aging any real property owned by such bank or
13 subsidiary, or the purchase, sale, or lease of
14 property owned, or to be owned, by such bank
15 or subsidiary.”.

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