

U.S. Senator; Saxby Chambliss; Bob Casey, Jr.; Jeff Sessions; Richard Burr; Chris Coons; Ron Wyden; Mark Pryor; Scott P. Brown; Tom Carper; Robert Menendez; Claire McCaskill; Richard Blumenthal; Mike Enzi; Lindsey Graham; Roy Blunt; John Hoeven; Thad Cochran; Mike Crapo; John Barrasso; Max Baucus; Jeanne Shaheen; Kent Conrad; Joe Lieberman; Sheldon Whitehouse; Daniel K. Akaka; E. Benjamin Nelson; John Boozman; Mark Udall; Bernard Sanders; Michael F. Bennet; Debbie Stabenow; Jon Tester; Herb Kohl; Jeffrey A. Merkley; James E. Risch; Mark Begich.

Mr. ISAKSON. These 39 Senators wrote specifically to these regulators to express their concern with the possible effects of the proposed regulation that the regulators were proposing on qualified residential mortgages. I am pleased to say that a few days ago the six regulators extended the comment period from June 20 now to August 1. I have not talked to them, but I hope it is because they have been listening to speeches, they have been reading the comments, they have been seeing the testimony, and they understand, if left uncorrected, and if put in place, the current rule on qualified residential mortgages will be a second hit to what is already a very fragile U.S. housing market.

Just last week, the reports for the most recent month in terms of residential home sales saw the beginning of a second dip in residential housing. This morning the Wall Street Journal reported 40 percent of the homes in America that contain a second mortgage or an equity line of credit are now under water—40 percent.

One of the reasons they are is because prices are continuing to decline. One of the reasons prices are declining is the buyers are not there. It is a seller's market, we have too many foreclosures, and too many short sales.

The impact of the qualified residential mortgage amendment to Dodd-Frank was an amendment offered by Mrs. HAGAN, Ms. LANDRIEU, and myself—all with experience in housing and knowledge about the marketplace. We put it in because the original Dodd-Frank legislation said mortgage people making mortgages were going to have to hold risk retention of 5 percent in that mortgage, which basically would put most everybody in the mortgage business out of the mortgage business, except a handful of people. We put in the qualified residential mortgage amendment the specific parameters by which a mortgage could be exempt from risk retention, which were a downpayment of at least 20 percent or, if the downpayment was less than that, it had to carry private mortgage insurance to insure the effect of an 80 percent loan; second, qualified ratios that demonstrated the couple could pay back the mortgage under any reasonable assumption; third, the house had to appraise; fourth, the credit worthiness of the individual had to demonstrate they could pay for the mortgage.

Those were all the reasonable underwriting criteria that existed before the financial collapse of mid 2006–2007. The rule that was proposed by the six regulators, on which now they have extended the commentary time, completely avoided and made no mention of the private mortgage insurance requirement and said for a qualified residential mortgage to exempt risk retention, the buyer would have to put down at least 20 percent. Most buyers in America do not have at least 20 percent, and under current economic times and what has happened, they have a lot less than that.

But for years—and I was in the housing business for 33 years—the 90 and 95 percent conventional loans made in this country were the backbone of the loans that helped support the housing market, and those loans required a private mortgage insurance policy on any amount of loan exceeding 80 percent, up to 95 percent. We need the ultimate rule coming back from these regulators, by August 1, to contain that provision so as to exempt from risk retention any mortgage that meets the underwriting criteria, including private mortgage insurance on any amount above 80 percent, and up to 95 percent.

If we do not do it, I want to tell you what will be the outcome, and it is without question. You will remember, Mr. President, when we got into trouble in housing it was because we directed Freddie and Fannie to buy affordable housing loans, which became a consumer of subprime packages that were generated on Wall Street. Subprime packages were loans that had high coupon rates, and they were made to risky borrowers. They were intended to get more people into housing, but they became an abused process.

Because we directed Freddie and Fannie to buy that type of paper, it created a demand for that type of paper, which Wall Street fulfilled. So, in other words, you had a premium pricing on the coupon, which made the security attractive, but the risk was greater because the loans were to people with less good credit.

We have now gone the other way. The pendulum has swung 180 degrees the other way. With the pending rule being circulated, upon which this commentary time has been extended, if it goes into place, you will create 90 and 95 percent loans being priced just like loans that were subprimer priced because very few people will make those loans—only a few large lenders. They will price the interest rate on those loans high because of scarcity. In other words, a borrower borrowing 95 percent or 90 percent with private mortgage insurance will end up paying a premium—a premium in interest rate or discount points—in order to get that loan because there will not be a wide distribution or availability of that type of conventional financing.

The unintended consequence of the rule being proposed—which we, fortu-

nately, have an extension on comment time—would create another ability for lenders with the capacity of risk retention to price a loan at such a rate that it is too high for the average consumer.

The other thing it is going to do is a lot of consumers who cannot get a qualified residential mortgage of 90 or 95 percent will be out of the housing market.

What is the result of that? The result of that is an extension of what the most recent figures demonstrated: lower demand, declining housing prices, and a protracting continuance of the worst housing recession in the history of the United States of America.

So I come to the floor today, first of all, to say thank you to the six regulators for extending the comment period; second, to urge my colleagues to urge the lending institutions, the real estate industry, the consumer interest groups, the housing advocacy groups, to have their input with these regulators on the proposed qualified residential mortgage rule, because if left unamended—as it currently is proposed by the regulators—it will make housing less affordable in America; the access to conventional credit less available in America; it will decline the demand that exists already, which is historically too low; it will protract the continuing decline of housing values in America; and it will cause our economy to continue to slide in an even deeper, deeper depression.

It is critically important what the Senator from Kansas said be recognized: Be sure when you pass a regulation that the unintended consequence does not cause a bigger problem than the problem you are trying to correct.

I admire our regulators. I appreciate the hard job we have given them. I appreciate the fact they have extended the comment time. I hope now they will also listen to the comments being made, come back, and make a qualified residential mortgage rule that includes the provision for private mortgage insurance on loans in excess of 80 percent and no more than 95 percent.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 5:55 p.m., adjourned until Wednesday, June 8, 2011, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

MARGO KITSY BRODIE, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK, VICE ALLYNE R. ROSS, RETIRED.
JESSE M. FURMAN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE ALVIN K. HELLERSTEIN, RETIRED.
SUSIE MORGAN, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA, VICE G. THOMAS PORTEOUS, JR.