

EXTENSIONS OF REMARKS

MORTGAGE CHOICE ACT OF 2013

SPEECH OF

HON. KEITH ELLISON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 2014

Mr. ELLISON. Mr. Speaker, as I stated during the hearing and the mark up on The Mortgage Choice Act of 2013 (H.R. 3211), there are serious concerns about steering consumers into buying title insurance with hidden commissions and inflated costs.

I bought two homes in my life. Like most homebuyers, I was asked to sign a bunch of papers with lots of fees such as origination charges, appraisal fees, scoring fees, recording charges, tax service fee and title insurance. Like most consumers, I chose my title insurance provider based on referral: I did not comparison shop.

For most of us, title insurance is the most expensive of the closing cost fees—sometimes running in the thousands of dollars. These fees are poorly understood by homebuyers. This can lead to paying higher fees than is necessary or appropriate.

When Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, we required the newly created Consumer Financial Protection Bureau (CFPB) to do a better job at protecting consumers when buying a home.

We know that the housing finance system had too much predatory and discriminatory lending. African Americans and Latinos were frequently charged much higher interest rates than they qualified for. Homeowners were refinanced into high fee and interest rates they could not afford. The result was more than five million foreclosures and a colossal loss of wealth.

In response to the new law, the CFPB wrote rules to protect people buying homes from products which would strip their wealth. One of those rules defined a Qualified Mortgage (QM) standard which was established in Dodd-Frank. As part of that QM standard, the CFPB established a “points and fees” bright line limit for mortgages that qualified under the Ability to Repay provision.

The CFPB established a limit on “points and fees”—which account for a loan’s origination costs—that exceed 3 percent of the loan amount—although it can be up to 8 percent for lower cost homes. Because of concerns that the affiliated title insurance system was leading to higher costs for borrowers in a market based on reverse competition, the CFPB wisely chose to require title insurance charges from affiliated title agents be within the points and fees cap.

H.R. 3211 reverses the CFPB’s decision.

By excluding affiliated title insurance firms from within the points and fees cap, H.R. 3211 restores an incentive to overcharge homebuyers.

We know how hard it is to get people into homes. Homebuyers need to save thousands

of dollars for a downpayment. So why should we make it easier to let them get overcharged as much as a thousand or more dollars on title insurance? Some say that as much as half or more of a title insurance premium goes to the referral agent. Why would we want to preserve this practice of overpricing title insurance to fund referral commissions?

At the Financial Services hearing that included this bill, I requested that we hear from independent land title agents as well as from groups like the Consumer Federation of America, the Center for Responsible Lending, Americans for Financial Reform and its 100 affiliates and the AFL-CIO.

I requested that the National Association of Independent Land Title Agents be invited to testify. I have heard concerns directly from title agents in my state that some referral sources ask to share ownership of their business. Since title insurance is based on referrals, when realtors, homebuilders and mortgage brokers refuse to provide referrals to a title agent firm, the firm may not be able to survive financially. Unfortunately, these independent unaffiliated title agents were not invited to testify nor was there another hearing on the bill.

Many organizations opposed the bill including the AFL-CIO, Alliance for a Just Society, Americans for Financial Reform, Center for Economic Justice, Center for Responsible Lending, Connecticut Fair Housing Center, Consumer Action, Consumer Federation of America, Consumers Union, Empire Justice Center, Home Defenders League, The Leadership Conference on Civil and Human Rights, NAACP, National Association of Consumer Advocates, National Association of Independent Land Title Agents, National Consumer Law Center (on behalf of its low income clients), National Council of La Raza, National Fair Housing Alliance, New Economic Project, Public Citizen, Woodstock Institute and Center for Responsible Lending.

These concerns about hidden referral commissions are not hypothetical. Last month, the Consumer Financial Protection Bureau (CFPB) fined RealtySouth, the largest real estate firm in Alabama for violations of the Real Estate Settlement and Practices Act (RESPA). RealtySouth improperly steered consumers to its affiliated firm, TitleSouth LLC. In addition, The CFPB has taken action against Borders & Borders PLC in Kentucky for funneling kickbacks to shell companies. In June, the CFPB fined Stonebridge Title Services in New Jersey for paying illegal kickbacks to referral sources.

Some who support H.R. 3211 say there are some fixed costs in lending that could result in lower valued mortgages to need to pay loans higher than the Qualified Mortgage guideline of points and fees established by smaller loans. However, the Consumer Financial Protection Bureau already provided for flexible definitions based upon the amount of a borrower’s mortgage:

3 percentage cap on a loan balance at \$100,000 or greater,

5 percentage cap on a loan balance from \$20,000.00 to \$60,000, or

8 percentage cap on loan balances of less than \$12,500¹.

Since the average mortgage origination fees are below one percent according to the Center for Responsible Lending, the caps set by the QM are appropriate. I have not seen any compelling evidence that shows that lenders will not make loans if the title premiums charged by their affiliates are included in the points and fees cap. Lenders are free to make loans outside the ability to repay rules as well.

I have also heard the proponents of H.R. 3211 arguing that the availability of affiliate service providers helps reduce the overall cost of obtaining a mortgage loan. I question their evidence. The 2010 Harris Interactive study paid by the National Association of Realtors is suspect. In that study, more than 70 percent of buyers “did not know” what an affiliate service provider provided or what benefit it allegedly gave.

By contrast, in 2013, The National Association of Independent Land Title Agents (NAILTA) commissioned the first-ever national settlement preference survey of American real estate consumers.¹¹ More than 900 consumers participated in the nationwide survey. The results include:

93 percent of American real estate consumers surveyed said it was important that title insurance agents remain a neutral third party in the performance of title insurance-related services.

62 percent of American real estate consumers surveyed said that a title agency cannot remain objective if it is partially owned by a bank, real estate firm, mortgage company or homebuilder.

Only 1 percent of American real estate consumers surveyed prefer a “one stop shop”.

For all the efficiencies that proponents assert existed prior to this new rule that provided a disincentive to refer homebuyers to controlled/affiliated title firms, settlement costs—exclusive of inflation—continue to rise. I believe the CFPB’s rule could actually lower title insurance premiums and increase homeownership for Americans.

I have concerns about a market where people assert that half or more the cost of the product is a referral fee unlinked to the product itself. Consumers and independent title insurance agents say that title insurance premiums can provide remuneration to the referral source based on the capture rate such as lower desk rental fees, bonuses, gifts or higher commissions. This should not be permitted.

I urge Members to stand with homebuyers who want to understand all the fees they are charged.

I urge Members to support a market free of pressures for referral commissions.

I urge Members to vote no on H.R. 3211.

ENDNOTES

¹http://files.consumerfinance.gov/f/201401_cfpb_atr_qm_small-entity-compliance-guide.pdf

¹¹<http://origin.library.constantcontact.com/download/get/file/1102880907824-107/Executive+Summary+10-17-2013.pdf>

• This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CENTER FOR
RESPONSIBLE LENDING,
June 9, 2013.

DEAR MEMBER OF CONGRESS: We are writing to urge you to oppose H.R. 3211. This bill reintroduces some of the higher fees borrowers faced in the lead up to the mortgage crisis; fees that the new mortgage rules were designed to prevent. Specifically, this bill creates a loophole that would allow loans with higher costs to the borrower to improperly meet the Qualified Mortgage (QM) standard established in the Dodd-Frank Wall Street Reform and Consumer Protection Act. Congress should refrain from weakening the QM standard and reject this bill.

H.R. 3211 would allow many more risky, high-cost loans to qualify as QM loans by creating exceptions to the points and fees threshold. These exceptions would exclude fees paid to certain title companies affiliated with the lender. The points and fees definition is designed to include all compensation received by the lender. It is a reasonable standard that provides basic protections for homebuyers.

The title insurance market is a broken market. In 2007, a GAO report concluded that borrowers "have little or no influence over the price of title insurance but have little choice but to purchase it." As a result, the fees are grossly inflated—recent studies have found that between 5 and 11 cents is paid out in claims for each \$1 of premiums. Almost the entirety of a title insurance premium (approximately 70%) goes to commissions, not insurance coverage. In contrast, loss ratios for health insurance are minimally 80% and ratios for auto insurance fluctuate between 50% and 70%. Borrowers already pay inflated title insurance costs. Including affiliated title insurance fees in the QM defined points and fees cap will not solve all the problems in the market but the rule provides important market pressure to control costs.

The current QM protections represent an appropriate step to directly address recent problems for borrowers without impacting access to credit. Creating a title insurance loophole in the statute would eliminate one important protection to keep costs to borrowers from escalating further.

We welcome the opportunity to engage in a discussion for a comprehensive fix to the flaws in the current title insurance market. However, incentivizing an already overpriced market to further raise rates for borrowers is no solution.

The Center for Responsible Lending urges Congress to reject H.R. 3211—which will neither benefit consumers nor expand access to credit.

Sincerely,

KENNETH W. EDWARDS,
VP, *Federal Affairs*.

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, June 9, 2014.

Re NAACP Strong Opposition to H.R. 3211,
the Mortgage Choice Act of 2013

MEMBERS,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the NAACP, our nation's oldest, largest and most widely-recognized grassroots-based civil rights organization, I strongly urge you to oppose H.R. 3211, the Mortgage Choice Act of 2013, which is scheduled to come before you under suspension of the rules later today. This ill-conceived legislation would reopen the door to the higher fees borrowers faced in the lead-up to the recent mortgage crisis; higher fees, which for decades, were sadly targeted at specific demographics in-

cluding African Americans and other racial and ethnic minority homebuyers. As a result, communities of color are still suffering disproportionately from the foreclosure crisis. On behalf of the constituency served and represented by the NAACP, I urge you in the strongest terms possible to vote against H.R. 3211 and to be reminded by our nation's past experiences and not to create the types of incentives to predatory lenders that will repeat the lending abuses which led to the ruination of so many families.

H.R. 3211 would weaken the consumer protections of Qualified Mortgage loans as established by the Dodd-Frank Wall Street Reform and Consumer Protection Act by legislating exceptions to the 3 percent points and fees threshold. These exceptions include exempting title insurance paid to a company affiliated with a lender from counting toward the 3 percent cap. The approach taken in this bill leaves the door open for abuses that were typical in the recent subprime crisis. Our specific concerns about mortgage insurance are based on the fact that lenders have historically steered borrowers to overpriced title insurance. Consumers do not, and essentially cannot, shop for this product, so this is a broken market where competition does not function to drive down prices. One result of this practice is that title insurance prices are vastly inflated. The opaque pricing and sales system for title insurance leaves borrowers without information or leverage to get a better price.

Again, I urge you in the strongest terms possible, to oppose H.R. 3211, the Mortgage Choice Act of 2013, and to vote against it if it does indeed come before you under a suspension of the rules later today. Many of our communities across our nation are still suffering from the foreclosure crisis which continues to decimate too many American families. We need to learn from and correct our past mistakes, not open the door to repeating them. Thank you for considering the concerns of the NAACP. Should you have any questions or comments on the NAACP position, please feel free to contact me at (202) 463-2940.

Sincerely,

HILARY O. SHELTON,
Director, NAACP
Washington Bureau
& Senior Vice President
for Policy and
Advocacy.

OCTOBER 17, 2013.

DEAR MEMBER OF CONGRESS, we are writing to urge you to oppose H.R. 3211 and any Senate companion bill, which reopens the door to the higher fees borrowers faced in the lead up to the mortgage crisis. Specifically, this bill creates loopholes that would allow loans with higher costs to improperly meet the Qualified Mortgage (QM) standard established in the Dodd-Frank Wall Street Reform and Consumer Protection Act. Congress should refrain from weakening the Qualified Mortgage standard and reject this bill. Due to a broken market, title insurance fees are grossly inflated—less than 10 cents is paid out in claims for each \$1 of premiums, and title insurance adds \$1,000 or more to the upfront costs of many mortgages. In other words, almost the entirety of a title insurance premium goes to commissions, not insurance coverage. The QM protections represent appropriate steps to directly address recent problems without impacting access to credit.

The mortgage reforms in Title XIV of Dodd-Frank were put in place as a direct response to the deceptive and unsound mortgage lending practices and products that put borrowers into risky, high-cost loans they could not understand or afford. Many of

these inflated loans were made in communities of color and low-income communities, where the effects of the recent economic collapse are ongoing. The Ability to Repay provision requires all lenders to reasonably determine whether a mortgage is affordable for the borrower. Lenders can demonstrate their compliance with the Ability to Repay requirement by originating loans that meet the bright line tests in the Qualified Mortgage definition. One such bright line is a limit on "points and fees"—which account for a loan's origination costs—that exceed 3 percent of the loan amount. This borrower protection prevents loans with more expensive origination costs from gaining QM status.

H.R. 3211 would weaken the consumer protections of QM loans by legislating exceptions to the 3 percent points and fees threshold. These exceptions include exempting title insurance paid to a company affiliated with a lender from counting toward the 3 percent cap. The approach taken in this bill, which is misleadingly named the Mortgage Choice Act, leaves the door open for abuses that were typical in the recent subprime crisis. During the subprime lending boom, borrowers often paid excessive origination costs; Dodd-Frank's Qualified Mortgage provisions aim at restoring a fair market.

This bill would undermine those rules just as they are about to take effect. Congress passed Dodd-Frank and the Bureau, as directed, has written regulations for Qualified Mortgages and the Ability to Repay requirements. Plans for implementation of the new rules are already underway for the January effective date. Congress should not now second guess a two-year rulemaking process with thoughtful input from a variety of stakeholders with hasty passage of a bill to undermine the protections put in place to prevent the next housing crisis.

There are a number of specific features of the title insurance market which add to our concerns about H.R. 3211

Lenders steer borrowers to overpriced title insurance. Borrowers are responsible for paying title insurance costs, but the price for this product is agreed upon between the lender and the title insurance company. Consumers do not, and essentially cannot, shop for this product, so this is a broken market where competition does not function to drive down prices. The incentives to increase the costs of title insurance paid by borrowers are enhanced when lenders are coordinating with their own affiliates that provide title insurance.

Title insurance prices are vastly inflated. The opaque pricing and sales system for title insurance leaves borrowers without information or leverage to get a better price. As a result, higher prices can be charged with most of the insurance fee going to the sales agent, not to provide coverage for losses. See attached Chart from a GAO study on the title insurance market.

States don't adequately regulate the market. The "file and use" approach employed by many states allows insurers and lenders to push prices up at their own discretion, filing fee hike requests with regulators and then using them with homeowners. There is minimal evaluation as to the appropriateness of fee increases.

Households and communities across the country have yet to recover from the recent subprime lending crisis, and Congress should learn from the past instead of creating incentives to repeat these lending abuses. As a result, the undersigned organizations oppose H.R. 3211 and ask that you not support this bill.

Sincerely,
AFL-CIO, Alliance for a Just Society,
Americans for Financial Reform, Center for

Economic Justice, Center for Responsible Lending, Connecticut Fair Housing Center, Consumer Action, Consumer Federation of America, Consumers Union, Empire Justice Center.

Home Defenders League, The Leadership Conference on Civil and Human Rights, NAACP, National Association of Consumer Advocates, National Consumer Law Center (on behalf of its low income clients), National Council of La Raza, National Fair Housing Alliance, New Economic Project, Public Citizen, Woodstock Institute.

**TIANANMEN 25 YEARS LATER:
FIVE LEADERS WHO WERE THERE**

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 2014

Mr. SMITH of New Jersey. Mr. Speaker, we recently had the 25th anniversary of when the world watched as students from Beijing's Central Academy of Fine Arts unveiled the replica of the Statue of Liberty in Tiananmen Square. It was an amazing sight to behold, this enduring symbol of liberty standing face-to-face with the dictator Mao Zedong's portrait.

It was a moment when we all dreamed that the Tiananmen Square demonstrations would become a triumph for freedom and democracy. Unfortunately, China's Communist leaders sought to hang on to power through force. They sent tanks and soldiers into Beijing to "clear the Square" on the evening of June 3 and June 4.

The beating, the bayonetting, torture, and murder of students and the ubiquitous display of tanks turned the dream of freedom into a bloody nightmare. At a hearing that I recently held, we had five witnesses to this tragic scene in world history so that this time in China will not fade from memory, but will remind us of the longing for freedom that remains within the Chinese people.

We want to remember the extraordinary sacrifice endured by thousands of peaceful Chinese democracy activists. Some may prefer to look past or even trivialize the slaughter of innocents by Chinese soldiers. But the memory of the dead and those arrested, tortured, and exiled requires us to honor them, respect their noble aspirations for fundamental freedoms, and recommit ourselves to the struggle for freedom and human rights in China.

The government of China continues to go to astounding lengths to erase the memory of the Tiananmen demonstrations and their violent suppression. The Internet is censored, citizens holding private discussions or public commemorations are harassed and detained, and we still have no account of those who died, those arrested, those disappeared or those executed.

It is my promise that we will always remember—always remember—Tiananmen as long as the Chinese people cannot discuss its significance openly without harassment or arrest.

When the tanks rolled down the Square on June 4, 1989, all of China suffered—mothers lost sons, fathers lost daughters and China lost an idealistic generation of future leaders.

China's loss has been America's gain. Our witnesses today—exiles and refugees from their native land—have contributed mightily to

the American fabric. Out of tragedy and disillusionment, they have created lives that make America stronger. They are entrepreneurs and pastors, businesspeople and academics, members of the military and civil society leaders.

The Chinese government may call them criminals and hooligans, but one day soon they will be called heroes.

The people testifying here today are also our conscience—as are all advocates from freedom and human rights such as Chen Guangcheng and Harry Wu and others in the audience today. There will always be those who want to downplay human rights in relations with China. But the people here today remind us that the people of China suffered for freedom, bled for liberty, and demanded justice, democracy and an end to corruption. These demands were made 25 years ago, and they still fire the imagination of the Chinese people today.

More than ever, the U.S. needs a robust human rights diplomacy with China. We need policies that actively promote human rights, freedom of speech, Internet freedom, and the rule of law. We must support the advocates for peaceful change and the champions of liberty and clearly signal our support for those seeking rights and freedoms for all China's citizens, not only for those seeking to pad the economic bottom-line.

Such leadership is needed now because China is in the midst of a severe crackdown on human rights advocates and freedom of speech. Last year was the worst year, since the 1990s, for arrests and imprisonment of dissidents. More than 230 people have been detained for their human rights advocacy. In the past month Beijing has detained two dozen activists for simply seeking to commemorate the Tiananmen anniversary in private.

And China remains one of the world's worst offenders of human rights overall. It remains the torture capital of the world. Religious freedom abuses continue with impunity. And ethnic minority groups face repression when they peacefully seek rights to their culture and language.

Hundreds of millions of women have been forced to abort their precious babies because of a draconian attempt to limit population growth. China's one-child policy, even if it is slightly modified, is a demographic and human rights disaster. The preference for having boys has led to a gender imbalance and a mass extermination of girls. This is not only a massive gender crime, but a security problem as well. Experts are coming to the conclusion that China's gender imbalance will lead to crime, social instability, worker shortages, sex and bride trafficking, and will make the possibility of war more likely.

Despite the country's stunning economic growth over the past two decades, Beijing's leaders still remain terrified of their own people. China's ruling Communist Party would rather stifle, imprison or even kill its own people than defer to their demands for freedom and rights.

Repression has not dimmed the desires of the Chinese people for freedom and reform. There is an inspiring drive in China to keep fighting for freedom under very difficult and dangerous conditions. As our witnesses today will surely attest, the U.S. must demonstrate clearly and robustly that democratic reforms

and human rights are a critical national interest.

We want to see a more democratic China, one that respects human rights, and is governed by the rule of law, because a more democratic China will be a productive and peaceful partner rather than a strategic and hostile competitor.

This future also should be in China's interests, because there is growing evidence that the most prosperous and stable societies are those that protect religious freedom, the freedom of speech, and the rule of law.

I believe that someday China will be free. The people of China will be able to enjoy all of their God-given rights. And a nation of free Chinese men and women will honor, applaud, and celebrate the heroes of Tiananmen Square and all those who sacrificed so much, and so long, for freedom.

AUTHORIZING THE USE OF ROTUNDA FOR CEREMONY COMMEMORATING 50TH ANNIVERSARY OF ENACTMENT OF THE CIVIL RIGHTS ACT OF 1964

SPEECH OF

HON. SHEILA JACKSON LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 2014

Ms. JACKSON LEE. Mr. Speaker, I rise in strong support of H. Con. Res. 100, which authorizes the use of the Rotunda of the Capitol for a ceremony to commemorate the 50th anniversary of the enactment of the Civil Rights Act of 1964. It is fitting and proper that the Rotunda of the Capitol is the venue for the commemoration for one of the consequential governmental actions since the issuance of the Emancipation Proclamation.

On July 2, 1964, fifty years ago next month, President Lyndon B. Johnson signed the act that profoundly changed our country and brought about the greatest reduction in economic and social inequality among Americans in history.

Mr. Speaker, today it is difficult to imagine there once was a time in our country when blacks and whites could not eat together in public restaurants, use the same public restrooms, stay at the same hotels, or attend the same schools. It is hard to believe today that just 50 years ago, discrimination on the ground of race was a legal and socially accepted practice.

But the Civil Rights Act of 1964 changed that.

The Civil Rights Act outlawed discrimination and segregation in employment, public accommodations, and education on the ground of race, gender, religion, or national origin. This act became the soil from which our country flourished; opportunities were bred and dreams were born.

This change did not happen overnight or by accident. It took hard work and courage and an unwavering faith that America could live up to the true meaning of its creed. Fortunately for our country, there were such men and women who had that faith and courage. People like the Rev. Dr. Martin Luther King, Jr., Whitney Young, Rosa Parks, and JOHN LEWIS are just a few of the many noble leaders who took a stand for freedom and risked their lives