

Thursday, May 7, 2009

House Meets At...	Votes Predicted At...
10:00 a.m. For Legislative Business Five "One-minutes" Per Side	Last vote: 2:00 – 3:00 p.m.

ANY ANTICIPATED MEMBER ABSENCES FOR VOTES TODAY SHOULD BE REPORTED IMMEDIATELY TO THE OFFICE OF THE MAJORITY WHIP AT 226-3210.

Floor Schedule and Procedure

- **H. Res. 406 – Rule to provide for further consideration of H.R. 1728 – Mortgage Reform and Anti-Predatory Lending Act (Rep. Cardoza – Rules):** The structured rule provides for further consideration of H.R. 1728. The rule provides that no general debate shall be in order under the rule. The rule further provides that the amendments made in order may be offered only in the order printed in the report from the Committee on Rules accompanying the resolution (*a list of the amendments is also located in the "Bill Summary & Key Issues" section of today's Daily WhipLine*). These amendments may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. The rule also provides for one motion to recommit the bill with or without instructions. Debate on the rule will be managed by Rep. Cardoza, and consideration will proceed as follows:
 - One hour of debate on the rule.
 - Possible vote on a Democratic Motion ordering the previous question. **Democrats are urged to VOTE YES.**
 - Vote on adoption of the rule. **Democrats are urged to VOTE YES.**
- **Complete consideration of H.R. 1728 – Mortgage Reform and Anti-Predatory Lending Act (Rep. Miller (NC) – Financial Services):** Pursuant to the rule, further consideration of the bill will proceed as follows:
 - Debate and possible votes on amendments to the bill.
 - Possible debate and vote on Republican motion to recommit the bill.
 - Vote on final passage of the bill. **Democrats are urged to VOTE YES.**
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- **Postponed Suspension Vote:**

1. **H.Res. 14** - Recognizing the importance of the Border Patrol in combating human smuggling and commending the Department of Justice for increasing the rate of human smuggler prosecutions (Rep. Issa – Judiciary)

Bill Summary & Key Issues

H.R. 1728, THE MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT OF 2009

H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act of 2009 is aimed at curbing abusive and predatory lending – a major factor in the nation’s highest home foreclosure rate in 25 years. The bill would outlaw many of the egregious industry practices that marked the subprime lending boom, and it would prevent borrowers from deliberately misstating their income to qualify for a loan.

The legislation, sponsored by Reps. Brad Miller (D-NC), Mel Watt (D-NC), and Barney Frank (D-MA), was approved in the Financial Services Committee by a vote of 49- 21.

The bill would ensure that mortgage lenders make loans that benefit the consumer and prohibit them from steering borrowers into higher cost loans. It would establish a simple standard for all home loans: institutions must ensure that borrowers can repay the loans they are sold. For mortgage refinancing, the bill requires that all loans provide a net tangible benefit to the consumer. Also, for the first time ever, it would make the secondary mortgage market responsible for complying with these standards when they buy loans and turn them into securities.

Under the measure, lenders and the secondary mortgage market who don’t comply with these standards would be held accountable by consumers for rescission of the loan and the consumer’s costs for rescission, including attorney’s fees. They would also have the option to rework a loan to conform to the bill’s standards within 90 days of receiving notice from the consumer.

In addition, the bill encourages the market to move back toward making fixed rate, fully documented loans. During the housing boom, mortgage lenders moved away from commonsense underwriting practices, giving rise to risky, exotic mortgages and practices such as “no doc” lending and allowing loans with “negative amortization” features.

The legislation would also:

- **Prevent Predatory and Abusive Lending Practices:** Statistics show that many homeowners in the current mortgage crisis received more expensive loans than they qualified for. This is often the result of a predatory practice known as “steering,” in which a broker or bank loan officer is compensated for directing applicants toward more costly mortgages. H.R. 1728 would ban yield spread premiums and other abusive compensation structures that create conflicts of interest or reward originators that “steer” borrowers. The bill would

also require originators to disclose to consumers the compensation they receive from the transaction.

- **Hold Creditors Responsible for the Loans they Originate:** The bill would require new federal rules to be written to require creditors to retain an economic interest in a material portion (at least 5 percent) of the credit risk of each loan that the creditor transfers, sells, or conveys to a third party. Federal banking agencies would have the authority to make exceptions to the bill's risk retention provisions, including form and amount.
- **Protect Tenants who Rent Homes that go into Foreclosure:** Renters can also be affected if the homes that they rent go into foreclosure. This legislation will provide protections for renters so that they receive proper notification and are given time to relocate before the home they rent is foreclosed.

AMENDMENTS TO H.R. 1728, THE MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT OF 2009

1. **Frank (MA),** Would add additional prohibitions on mortgage originator conduct within the anti-steering section of the bill; would provide that regulations proposed or issued pursuant to the requirements of Section 106 shall include "model" disclosure forms, and would also provide that the relevant financial regulators (HUD / Fed) may develop "standardized" disclosure forms, and may require their use, when they jointly determine that use of a standardized form would be of substantial benefit to consumers; would require a study into how shared appreciation mortgages could be used to strengthen housing markets and provide opportunities for affordable homeownership; would allow creditors to consider a consumer's good standing with them above other credit history considerations in refinancing of hybrid loans; would require lenders who are subject to the Federal Truth in Lending Act or the Homeowners Equity Protection Act to disclose to borrowers that the anti-deficiency protections of the initial residential mortgage loan may be lost when a non-purchase money loan is received; would require creditors to disclose their policy regarding the acceptance of partial payments for a residential mortgage loan; would modify preemption language in section 208 (b) to include any state that has a law at the time of enactment; would provide disclosure of the total cost of the mortgage over the life of the loan; would require that mortgage disclosures for each billing cycle include contact information for local mortgage counseling agencies or programs approved by the Secretary of HUD or a state housing finance authority; would direct the GAO to analyze the effectiveness of the risk-retention provisions of this bill and make recommendations to Congress as needed; would require a property owner to notify any tenants or potential tenants upon becoming subject to foreclosure, or defaulting on their mortgage loan; would prohibit third parties from charging fees to consumers for mortgage modifications unless these actions result in a benefit to the consumer; would clarify that the Office of Housing Counseling, in providing rules for building of capacity to provide housing counseling services in areas that lack sufficient services, should consider underdeveloped areas that lack basic water

and sewer systems, electricity and safe, sanitary housing; would amend the Office of Housing Counseling homeownership counseling criteria to include flood or other disaster specific insurance in applicable regions; would require energy efficient mortgage loans, pursuant to section 106 of the Energy Policy Act of 1992, to be covered by the Office of Housing Counseling; would ensure adequate distribution of counseling funds for rural areas, including areas with insufficient access to the Internet; would require the Secretary of HUD to establish and make publicly available a national database of mortgage default and foreclosure statistics; would include in the study by the Secretary of HUD into the causes of the default and foreclosure crisis an examination of the role of the Mortgage Electronic Registry System (MERS) in initiating foreclosures; would clarify, in reference to the general prohibition on using broker price opinions to value a mortgage, that such a statutory ban should only apply to loan originations done in conjunction with a mortgage purchase; would require the GAO to conduct a study on current inter-agency efforts by the Treasury Department, Department of Housing and Urban Development, Justice Department, and the Federal Trade Commission to end and prevent mortgage foreclosure rescue scams and loan modification fraud; would establish a multifamily loan modification program for multifamily properties that are delinquent, at risk of default or disinvestment, or in foreclosure to ensure the protection of current and future tenants; and would make a number of technical and conforming changes.

(30 minutes)

2. **Frank (MA)**, Would provide that no funds in this bill for legal assistance or housing counseling grants may be distributed to any organization which has been or which employs an individual who has been convicted for a violation under Federal law relating to an election for Federal office.

(10 minutes)

3. **Bachus, Spencer (AL)**, Would provide assistance to the Neighborhood Reinvestment Corporation for activities, in connection with servicers of residential mortgage loans, to inform borrowers under such loans who are delinquent with respect to payments due under such loans of the dangers of fraudulent activities associated with foreclosure.

(10 minutes)

4. **Perlmutter (CO)**, Would reduce the grace period for renters renting a unit in violation of a mortgage contract when that property is sold to a purchaser who intends to use such property as an owner-occupied unit from 90 days to 30 days. Additionally, creditors may only accelerate debt repayment in certain circumstances.

(10 minutes)

5. **Hensarling (TX)**, Would strike the assignee and securitizer liability provisions from the bill. (10 minutes)

6. **Moore, Dennis (KS)/Kratovil (MD)/Kilroy (OH)**, Would require income to be verified by lenders utilizing IRS tax transcripts or similar methods that verify income by a third party.
(10 minutes)
7. **Price, Tom (GA)**, Would delay the enactment of titles I, II, and III of the bill until the Federal Reserve certifies that they will not reduce the availability of increase the price of credit for qualified mortgages.
(10 minutes)
8. **McNerney (CA)**, Would stipulate that when awarding assistance to HUD-approved housing counseling agencies and/or state housing finance agencies, the Secretary may give priority consideration to entities serving areas with high rates of foreclosure.
(10 minutes)
9. **McHenry (NC)**, Would strike title III from the bill relating to high-cost mortgages.
(10 minutes)
10. **Dahlkemper (PA)**, Would require that benefits of pre-payment of mortgage balances be explained in the consumer education guide produced by HUD.
(10 minutes)
11. **Brown-Waite (FL)**, Would expand the scope of the GAO study required under this act to include an examination of any effects on consumer and small business credit availability and affordability.
(10 minutes)
12. **Titus (NV)/Cardoza (CA)**, Would require that the costs and benefits of each residential mortgage loan offered, discussed or referred to by the originator be clearly presented side by side and that the disclosures for each product have equal prominence. Would require that disclosure be made in writing, the understanding of which will be acknowledged by the signature of the mortgage originator and consumer.
(10 minutes)
13. **Diaz-Balart, Mario (FL)/Wexler (FL)**, Would require the Secretary of HUD to study the effects of the presence of Chinese dry wall on foreclosures and the availability of property insurance for residential structures where Chinese dry wall is present.
(10 minutes)
14. **Weiner (NY)**, Would require Fannie Mae and Freddie Mac to take into account factors such as the health of the local or regional housing market and other factors when determining fee schedules, occupancy and pre-sale guidelines for condominium and cooperative housing mortgages.
(10 minutes)

Quote of the Day

“In America, nobody says you have to keep the circumstances somebody else gives you.”

— Amy Tan

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