MORTGAGE BANKERS ASSOCIATION,
Washington, DC, May 5, 2009.

Hon. NANCY PELOSI,
Speaker of the House, U.S. House of Representatives, Washington, DC.

Hon. JOHN BOEHNER,
Republican Leader, U.S. House of Representatives, Washington, DC.

DEAR SPEAKER PELOSI AND LEADER BOEHNER: On behalf of the 2,400 members of the Mortgage Bankers Association (MBA), we are writing with regard to H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act, a bill the House is scheduled to consider later this week.

Congress is facing a once-in-a-generation opportunity to improve the mortgage lending process. If carefully crafted, improved regulation is the best path to restoring investor and consumer confidence in the nation's lending and financial markets and assuring the availability and affordability of sustainable mortgage credit for years to come. At the same time, if regulatory solutions are not well conceived, they risk exacerbating the current credit crisis.

While we applaud the comprehensive nature of H.R. 1728, we believe this legislation misses the opportunity to replace the uneven patchwork of state mortgage lending laws with a truly national standard that protects all consumers, regardless of where they live.

MBA is also concerned with the bill's requirement that lenders retain at least five percent of the credit risk presented, by non-qualified mortgages. While this provision was improved by the Financial Services Committee, it will still make it highly problematic for many lenders to operate, particularly smaller non-depositories that lend on lines of credit. It will also necessitate that larger lenders markedly increase their capital requirements. Both results will narrow choices, lessen credit, and force an inefficient use of capital at the worst possible time for our economy.

Finally, MBA believes the bill's definition of ''qualified mortgage'' is far too limited and will result in the unavailability of sound credit options to many borrowers and the denial of credit to far too many others. We urge the House to expand the definition and to provide a bright line safe harbor so that if creditors act properly, they will not be dogged by lawsuits that increase borrower costs.

MBA would like to commend the House for the priority it has given to reforming our mortgage lending process. It is imperative that we continue to work together to stabilize the markets, help keep families in their homes and strengthen regulation of our industry to prevent future relapses.

Sincerely,

JOHN A. COURSON,
President and Chief Executive Officer.

DAVID G. KITTLE, CMB
Chairman.

I would like to read from that letter signed by John Courson, president and chief executive officer, and David G. Kittle, chairman, and these are people who are in the business, and they say this bill will ''narrow choices, lessen credit, and force an inefficient use of capital at the worst possible time for our economy.''

□ 1115

So the argument that I'd make is that evidently the Fed—their rules were not accused of this. They were seen by the industry and by consumer groups as the right thing to do. We're worried about it.

So we'll give the gentleman full credit. The Democrats get full credit for bringing the bill to the floor today. I don't know who's going to vote for it and I don't know who's going to vote against it, but what I will say is let the facts of the case be very evident—narrow choices, lessening credit, and a force of an inefficient use of capital at the worst possible time for our economy.

Republicans are for balance. We are not for and would not support something that would be described by the industry as bad for consumers.

I reserve the balance of my time.

Ms. PINGREE of Maine. I reserve the balance of my time.

Mr. SESSIONS. I want to thank not only the gentlewoman for extending the time, but also the gentleman, Mr. FRANK, for engaging in this issue.

Mr. Speaker, testifying to the Financial Services Subcommittee on behalf of a coalition of consumers, advocacy groups, and labor organizations from across the country, Margaret Saunders of the National Consumer Law Center, called this bill ''convoluted and virtually impossible as a mechanism to solve the current problem.'' Convoluted and virtually impossible as a mechanism to solve the current problem.

We need to go back to the drawing table and remove many of the political provisions which will only cause further damage in the marketplace. It will further damage a fragile mortgage market that is in need of greater certainty, not more uncertainty.

This afternoon in the Rules Committee, my friends on the other side of the aisle will have an opportunity to allow for quality changes to the underlying legislation, opportunities for Members of this body to hear debate and vote on amendments. I encourage an open rule, which will be an open and honest discussion just like we've had here on the floor today, on the discussions that the House will handle tomorrow.

With respect to the 50-plus amendments to the legislation that were submitted to the Rules Committee yesterday morning, we'd like to see them all be made in order. Congress has an opportunity to provide for quality, meaningful returns, and to help the current mortgage lending process, and it is my hope that my Democrat colleague friends will allow for that process.

With that, I oppose this rule and look forward to a better rule tomorrow. As always, I think that a better rule tomorrow, an open rule, will yield not only the intended results, but will help the American people to know what we intend to do with this legislation.

I yield back the balance of my time.

Ms. PINGREE of Maine. First, I once again want to thank Mr. MILLER and Mr. WAMP, my colleagues, for their excellent work on this bill, and to Chairman FRANK for his work as well and for being here on the floor with us today for some very lively and important debate that clearly emphasized the importance of this bill, how long we have waited for this reform, and the damage that has been done by not having this reform for this considerable length of time.

By ensuring borrowers only secure loans that they can afford, this legislation will give Americans the best opportunity to purchase and maintain a home.

This legislation is about accountability. It will reward people who play by the rules and guarantee hard consequences for those individuals and institutions that do not. It's good for borrowers, it's good for lenders, and it is very good for our economy as a whole.

I urge a ''yes'' vote on the previous question, and on the rule.

I yield back the balance of my time, and move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WATT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1728, and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT

The SPEAKER pro tempore (Ms. PINGREE of Maine). Pursuant to House Resolution 400 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1728.

□ 1120

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1728) to amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to provide certain minimum standards for consumer mortgage loans, and for other purposes, with Mr. ROSS in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from North Carolina (Mr. WATT) and the gentleman from Texas (Mr. NEUGEBAUER) each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. WATT. Thank you, Mr. Chairman. I yield myself 5 minutes.

Mr. Chairman, today could easily be a day toward a celebration for myself, as an original cosponsor of this bill, and Mr. MILLER of North Carolina, my colleague, who also is an original cosponsor of this bill, perhaps leading to a celebration of final passage.

But I approach this day with two rather major concerns about celebrating. First of all, I approach it asking: What if 6 years ago we had passed the legislation that Mr. MILLER and I proposed to the House of Representatives at that time? Isn't it likely that the major meltdown in our credit system would not have occurred, and there's the prospect that had that not occurred, the major economic crisis in which our country finds itself now, trying to dig our way out, may also have been avoided.

So the decisions that we make have consequences. They have had consequences to our credit markets and they have consequences going forward, and have had consequences to our economy.

So this is not a day for celebration. If we pass the bill and the Senate passes the bill and it gets signed into law, we will always wonder what if we had done this when we originally brought forward the bill and dealt with the issue when it should have been dealt with.

Second, my observation is that this has been a very difficult and delicate bill to balance because we have tried to, on the one hand, not to dry up the credit—the money that is out there to be in the market for lenders to make loans to potential homeowners and to current homeowners to refinance while, at the same time, cutting back on the abuses that took place in the marketplace that led to the credit crisis and the economic meltdown that I just described.

Balancing those two interests has been difficult and, unfortunately, those interests were balanced inappropriately in the past because credit obviously was made too readily available to too many people who could not afford to pay it back, who are now in foreclosure proceedings, now in bankruptcies, and we are seeing the negative consequences of an unrestrained market.

So, obviously, the balance was not drawn appropriately in the past, and now we face the argument from a number of my colleagues that, ''Well, we can just leave this alone and let the market take care of itself and we shouldn't be doing anything.'' We're going to hear those arguments throughout today's general debate and, no doubt, on tomorrow when we start dealing with the amendment process.

That's a laissez-faire attitude that I would remind my colleagues is the same laissez-faire attitude that we faced 6 years ago when we first introduced this bill which, I would suggest to you, if we had acted then, we wouldn't be here.

I reserve the balance of my time.

Mr. NEUGEBAUER. I think we will have a good debate today because it is not about not doing nothing, but it's about a difference of opinion of what the right thing to do is, because that's really, bottom line, what the American people want us to do.

They want to have a good mortgage and they want the right to have a mortgage that works for them. I think that the Republicans will articulate that we want them to have those choices.

It is now my pleasure to yield 3 minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. I thank the gentleman. A day of celebration for this bill? I don't think so. The gentleman from the other side of the aisle indicated that we are going to be advocating laissez-faire and do-nothing reform. I don't think so as well. And if you look back at the track record at committee, our side of the aisle, Republicans offered a number of amendments time and time again to try to improve this bill incrementally.

If I remember correctly, the chairman and yourself voted against every single one of those amendments which would have improved that bill.

Today is a day of uncertainty. It's uncertainty for the American family; the American worker, who can't pay their bills, uncertain whether they're going to pay their mortgage or their rent. They're uncertain whether they're going to have a job next week.

It's a day of uncertainty for small businesses, whether they're going to be able to make payroll. It's uncertainty for the American public as they look at the wanton spending and debt that's coming out of this Capitol of Washington, D.C.

It's a day of uncertainty for investors and Wall Street and business as they look at the rules being changed constantly, almost on a weekly basis, and they don't even know which way to go. And so they don't invest, they don't try to grow the economy, and that's why we're continuing with the recession that we're in right now.

This underlying bill has a number of flaws in it. It has the right intent, and that's why we tried to amend it and make it better. But the flaws are egregious, and that's why I cannot support it.

The idea, for example, that banks should have skin in the game is something that we all agree on. How they're doing in it the bill, unfortunately, is problematic in two areas: First of all, that the rules constantly change even as we go forward in the bill itself; secondly, the point that the language in the bill basically says that the other side of the aisle, the Democrats, don't care that they effectively would be crowding out part of the market that we need to grow.

The small banks who may not be able to retain such a large portion on their balance sheet. They even testified in committee to that effect, that they don't know how this would apply to them and whether or not they might not be able to offer as many loans as they did in the past.

So point two was that we have heard testimony that language like this would make it harder for people to get home loans and refinance. The first point was that it's changing the rules constantly.

In the original draft of the bill, you said that we should set it all out in detail, that we should have 5 percent skin in the game and other criteria that was in there. But, at the last minute, they change it and say, ''No. Maybe under certain circumstances the regulators can change that.''

Well, which is it? Wall Street, the investors want to know which way we're going to go. Is it this parameter or that parameter? That's, again, why our side of the aisle, as the ranking member indicated, we didn't have ''no ideas,'' or ''no solutions''; we had a solution to it.

A number of us said let's strike that language. Let's turn it to the regulators. Let's actually do a little study here and see whether or not if we do these things, as some of us suggest, might actually do more harm than good.

Not only as we suggest, but some of the experts suggested as well. As a matter of fact, the Fed basically said there would be unforeseen consequences if we go through with some of the language that we have in here.

So it's not just this side of the aisle. It's not just us. It's the experts and Fed that say this bill is problematic and can cause real harm to the problem and the economy going forward.

Mr. WATT. Mr. Chairman, I yield 5 minutes to the lead sponsor of this bill, the gentleman from North Carolina (Mr. MILLER).

Mr. MILLER of North Carolina. The financial industry's explanation for our financial crisis is it was a weird, unpredictable combination of forces, this perfect storm of macroeconomic forces that no one could have seen coming. Who could have known that all this would happen is the way that many economists mock that argument.

Mr. Chairman, I don't claim that I saw the whole financial crisis coming. I didn't know that these mortgages and subprime mortgages made in 2004 and 2006 would be as toxic as they have proven to be for the financial industry. But I knew that they were going to be toxic for homeowners, and I thought that was reason enough to do something.

In 2003, I introduced legislation that would have prohibited many of the practices that have led us to where we are. Mr. WATT joined me then. Two years later, we introduced it again as Miller-Watt-Frank.

So, yes, many on this side of the aisle have been worried about trying to do something about the toxic loans for a long time, perhaps not to protect Wall Street—it's pretty remarkable to hear the minority still defending or worrying about the poor, poor pitiful boys on Wall Street—but to protect consumers, to protect homeowners.

We know what caused this crisis. We know what was in the loans in 2004 to 2006. Subprime loans went in 2003 from being 8 percent of all mortgage loans to 28 percent in 2006. Many people should never have gotten any loan. They didn't qualify for any loan.

Actually, a clear majority of the people who got subprime loans, qualified for prime loans. They put their trust in the wrong person, and their trust was betrayed. Ninety percent of those loans had an adjustable rate, with a quick adjustment after just 2 or 3 years. They were 2/28s or 3/27s.

Typically, the teaser rate hovered around prime. It wasn't much of a bargain in the first place and, in many cases, was above prime, and then would go up with an average typical monthly increase in payment of 30 to 50 percent.

Seventy percent had prepayment penalties locking the borrowers in, 70 percent were originated by brokers that the borrowers thought were looking after their interest. There was a grotesque asymmetry of information. That's what economists call it. What it means is the lenders were writing all the fine print. Their lawyers wrote all that they gave the borrowers to sign and then the borrowers were stuck with it.

They were counting on someone who was actually being paid, the broker who was being paid by the lenders, to get them the worst loan possible, while they were telling the borrowers they're trying to find for them the best loan possible.

Now, throughout that period, we heard the same arguments then that we are still hearing after all that has happened. We're still hearing from the minority in opposition to this bill that all those terms that may look predatory were actually justifiably required to make loans available to people who otherwise would not qualify, to make homeownership available.

This is financial innovation. This is the market at its best. We should celebrate. And we know what really happened during that period.

Americans have heard a great deal about the vulgar compensation on Wall Street in the financial industry: the pay and the bonuses and all the perks, the million dollar-plus redecorations of the CEO offices, the corporate jets, and all the rest. Even after all of that, more than 40 percent of corporate profits in America were in the financial industry.

Mr. Chairman, their margins weren't really that tight. They really didn't have to put all those terms in mortgages in order to make them. The terms that appear predatory on their face really were predatory. They were not about making loans available to people who otherwise couldn't get credit. They were about making as much money as they could as quickly as they could make it.

We still hear the same arguments, the same parroted arguments from a discredited industry we have heard for years. We have heard letters from the mortgage bankers held up and read aloud as if they were brought down on stone tablets from Mount Sinai. We have heard the concerns of the Wall Street boys. Like everybody in America still believes what they have to say.

It is very clear that the members of the minority's view of the role of government is that government should hold the American people while industry goes through their pockets.

The mortgages that got us in this mess were shameful. It is shameful that this Congress, that this government ever allowed those mortgages to happen. This bill will begin to put an end to it, to make sure it never happens again. It limits the upfront costs that strip equity from mortgages. It prohibits a prepayment penalty that traps people in bad mortgages so they couldn't get out of them. It forbids compensation to brokers that creates the conflict of interest that many brokers betrayed the trust of borrowers.

The CHAIR. The time of the gentleman has expired.

Mr. WATT. I yield the gentleman an additional 2 minutes.

Mr. MILLER of North Carolina. The arguments on the other side remain the same that they have been: ''Oh, this will narrow choices for consumers,'' like they are really protecting the rights of consumers to pick mortgages like that. Like borrowers came into brokers or mortgage companies and said, ''You know, can you get me an adjustable rate loan that goes up after 2 or 3 years and the monthly payment goes up 30 to 40 percent, with a prepayment penalty so it's harder for me to get out and have to pay something to get out, with an initial rate that's probably only about prime in the first place? And because I'm paying more at a higher interest rate than I qualify for, how about paying some extra money to the broker?''

Mr. Chairman, no one asked for these loans. They were duped into taking these loans.

Ned Gramlich, a member of the Federal Reserve Board's Board of Governors said that, ''For all its work, subprime lending actually made sense and helped people get loans, but the practices were indefensible.'' He asked the rhetorical question, ''Why is it that the most complicated loans, the most complex loan terms, end up in loans to the most unsophisticated borrowers?''

□ 1130

He said the question answers itself: They were duped into taking these mortgages. This bill will keep that from happening again. It should never have happened before. This will keep it from happening again.

I reserve the balance of my time.

Mr. NEUGEBAUER. Mr. Chairman, it is my pleasure now to yield 5 minutes to the gentleman from Texas (Mr. HENSARLING), who has been a strong advocate of making sure that Americans have plenty of opportunities and plenty of choices when they look at their financial products.

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is a very, very serious topic. Unfortunately, it is being addressed with a very, very disappointing bill.

I heard several of my colleagues on the other side of the aisle say this is all about protecting consumers. It is a piece of legislation, Mr. Chairman, which will protect them right out of their homes. I don't think that is the type of protection that the consumers or America are looking for.

What this bill will do, if this Chamber passes this and ultimately if it is signed into law, it means the Federal Government will functionally be taking away homeownership opportunities from the American people. It will cause an increase in interest rates for people as they seek to either buy a home or keep the homes they have. It changes the rules to where once again those who follow the rules will end up having to bail out those who do not.

Now, in the previous debate on the rule I heard the distinguished chairman of the full committee and others give us a history lesson about the cause, and it is important to learn the lessons of history. They were a whole lot less focused upon how this bill will impact the future.

But if we actually look at our history lesson, there is no cause that looms larger—looms larger—in the mortgage crisis meltdown than the abuses of the government-sponsored enterprises, Fannie and Freddie, where government gave them a functional monopoly to go out, make profits that could not be achieved in a competitive market, and told them to finance loans to people who could not afford them.

The demand for the subprime mortgage skyrocketed when Fannie and Freddie, the government-sponsored enterprises, demanded them. Many on the other side of the aisle wanted to roll the dice. Yes, the dice were rolled, and the American people lost.

This is called the Mortgage Reform and Anti-Predatory Lending Act. There can be no mortgage reform, Mr. Chairman, without reforming Fannie and Freddie. And for those who claim that this has already been accomplished, well, now that they have been effectively nationalized, when their market share of new mortgages has gone from 50 percent to almost 90 percent, when the taxpayers are on the hook for hundreds and hundreds and hundreds of billions of dollars, which makes the bailout of AIG look cheap, I don't think this is reform, Mr. Chairman.

With respect to the title of ''anti-predatory lending,'' the bill is almost completely silent on predatory borrowing. How can we take this as a serious piece of legislation, when we know that FinCEN, the Financial Crimes Enforcement Network, has said that over half of the mortgage fraud took place with borrowers, those who lied about their income, they lied about their wealth, they lied about their occupancy; yet, the bill is almost completely silent. It only says, oh, by the way, if you are caught defrauding your lender, we are not going to allow you to sue him.

Otherwise, there is a complete explosion of liability exposure on the lender side. And we know what happens in lawsuit abuse, Mr. Chairman. It gets poked into the price of every single mortgage. People will pay higher mortgages.

Right now, the plaintiffs' trial attorneys, I have no doubt, are licking their chops over this legislation. We have such nebulous terms as ''net tangible benefit,'' ''reasonable ability to repay.'' Well, what is the net tangible benefit? If somebody wants to refinance their home and update their kitchen, is that a net tangible benefit? Maybe it is. How about if they want to refinance their home to put in a swimming pool? Is that not a net tangible benefit?

If there is somebody on the other side of the aisle who would answer those questions, I would be happy to yield time.

Well, seeing none, I think that buttresses my point, Mr. Chairman, that nobody knows how to define these terms.

So, ultimately what we are going to have are fewer mortgages being made. This is Uncle Sam telling you, with a couple of exceptions, if you can't qualify for a 30-year fixed mortgage, then we are going to deny you the homeownership opportunity in America, because we are smarter than you. We know better than you. We have to protect you from yourself.

If we want true protection, we need effective disclosure. Mortgage fraud needs to be treated equally on the borrower's side and the lender's side. And at a time of a national credit crisis, we need to be finding ways to help the American families with more credit for their needs, not less.

This bill needs to be rejected.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, I hope folks are watching and listening. We had a debate on credit cards. You heard the debate last week. Now you know who is on the side of the consumer and who is dealing in gibberish.

Secondly, we have a debate today on the Anti-Predatory Lending Act. There is no doubt about this. To insinuate that the primary problem is with those who borrow the money is outlandish and cannot be backed up with any data whatsoever. So I rise in strong support of H.R. 1728, which would curb the abusive and predatory lending that led directly to the subprime mortgage crisis and the recession we now face.

I want to thank Chairman FRANK for his hard work on this legislation. In my county of Passaic, New Jersey, one out of every 21 homes is in foreclosure.

□ 1145

In my hometown of Paterson, New Jersey, 2,700 mortgages are currently in default; that is one out of seven. And to hear the other side—or many on the other side, that is—is outlandish. You cannot support what you're talking about. My district office receives dozens of calls every day from my constituents who cannot pay their skyrocketing mortgages and fear imminent eviction.

For years, as the housing bubble grew, unscrupulous brokers, in a quest for higher commissions and higher profits, preyed on the American Dream of homeowners by signing borrowers, many of them unqualified, up for risky, adjustable rate, subprime mortgages. That is what we are talking about today. That is what we are going to correct.

Subprime, high-interest and high-fee mortgage lending grew from 8 percent of the total mortgage lending in 2003 to 28 percent in 2006. Additionally, of the subprime mortgages originating in just 2004 to 2006——

The CHAIR. The gentleman's time has expired.

Mr. WATT. I yield the gentleman an additional 30 seconds.

Mr. PASCRELL.—in those 2 years, Mr. Chairman, 90 percent came with an exploding adjustable interest rate. How do you blame that on the borrowers? Seventy percent came with a prepayment penalty. How can you blame that on the borrowers? Seventy-five percent included no escrow for taxes and insurance, and over 40 percent were approved without fully documented income. They didn't ask it. They didn't even ask it. They are responsible to lenders.

By 2007, according to the Joint Economic Committee, these subprime mortgages were being foreclosed at the rate of 10 times more than fixed rate mortgages.

I hope we support this legislation, Mr. Chairman.

Mr. NEUGEBAUER. Mr. Chairman, it is my honor now to yield 3 minutes to the gentleman from Minnesota (Mr. PAULSEN).

Mr. PAULSEN. I thank the gentleman for yielding.

Mr. Chairman, this bill today has the word ''reform'' in it, the Mortgage ''Reform'' Act; but unfortunately, the reform that it is proposing would only further hurt the housing market and leave aspiring homebuyers with less choice, ultimately keeping them out of a new home. In short, this bill will do more harm than good.

Rather than helping revive the economy, this bill will tie the hands of mortgage lenders and will do nothing to jump-start a flailing housing market. How can we expect more people to purchase more homes when we make it harder for them to get the mortgages that they need?

Mr. Chairman, at a recent committee hearing on this bill I asked that very question to the director of consumer affairs at the Federal Reserve and also of the commissioner of banks for the Commonwealth of Massachusetts. Both of these expert testifiers said verbatim, they said unequivocally, that this legislation would in fact reduce the number of mortgages that are available to consumers.

It is time for Congress to do a much better job of considering any unintended consequences of the legislation that it passes. That is why I offered an amendment to this bill that would require the Comptroller General to study the effect that this legislation will certainly have on the financial institutions that provide mortgages.

But the reality is, this legislation here today, it still has too many problems. And the bill will now open up even safe mortgages to litigation by trial lawyers and activist groups. And now hardworking people that want to own a new home are going to have to pay the price in the form of higher mortgage interest rates. So this bill not only gives more opportunities for trial lawyers, it in fact is going to use taxpayer money to subsidize those lawsuits, about $140 million of taxpayer money subsidizing lawsuits.

Finally, this bill is called the Mortgage Reform bill, yet it contains no reform of Freddie Mac or Fannie Mae, which have left the taxpayers on the hook for billions and billions and billions of dollars because of bad mortgage underwriting practices.

We should oppose this legislation. We should get it right. We should do nothing that is going to hurt the availability of mortgages, especially to first-time homebuyers. And hopefully we will move in a direction that is going to help not increase costs, but also make credit more available. So I would urge opposition to the bill.

Mr. WATT. Mr. Chairman, I reserve the balance of my time in an effort to equalize the time.

Mr. NEUGEBAUER. Mr. Chairman, I yield myself 3 minutes.

The example I would use here today, imagine taking your car to the repair shop and saying, you know, my car is not running very well, it is running rough. And immediately the service attendant reaches over, pulls up your hood, and starts taking the engine out. And you stop and you say, wait a minute, what are you doing? And they say we are going to put a new engine in, you said your engine wasn't running correctly. That is before we did any diagnostic work to maybe determine whether it needed new spark plugs, or maybe it needed a new valve, or something like that.

And, really, we have started down a road here. We have had one of the most robust housing finance systems in the world. It has been the envy of the world. It has allowed record levels of homeownership for American families. Yes, it is running a little rough right now and we will need to get to the bottom of that, we need to diagnose what those problems are. The Federal Reserve is going down that road; they have promulgated some new rules. We have said that now people who are going to originate mortgages are going to have to be registered.

But the problem here is that my friends are going down the road here without really determining all the places in the engine that could be causing the engine not to run correctly, they want to put a new engine in there—an untested engine.

Quite honestly, I spent a number of years in the housing business. I built houses, I made mortgage loans, I have borrowed money, I have originated mortgages. And one of the things I know is that not every mortgage fits every situation. A lot of people were able to enjoy the American Dream because they were able to get a mortgage tailored to their financial needs. What this bill does is says, you know what, the government is going to tell you what kind of mortgage you get. And if you don't take the government mortgage, it might not allow you to get the house that you want. It is like, not only is the government going to put a new engine in your car, but, by the way, the government says, scoot over, now we are going to drive.

We have seen, in the last few months, a major government intervention into financial markets, into automobile companies, into insurance companies. Last week, we saw that the Federal Government is going to tell you what kind of credit card you get to have now. And now my colleagues on the other side want to tell you what kind of mortgage you get, which is going to tell you what kind of house you get. That is not the American Dream; that's the Government Dream. Quite honestly, my colleagues are dreaming if they think this is not going to increase the cost of mortgages for families all across the country.

And you know what happens when you increase the cost of the mortgage? It reduces the affordability for those American families. That means many of them have to buy smaller houses, or, in some cases, many people are priced out of the housing market because they can't get the mortgage that meets their needs.

Let's let the American people have a choice to do that. Let's stop and look and give the regulatory measures that have already been proposed by the Federal Reserve time to work. And let's make sure that we are fixing the things that are broken before we throw out the whole engine and leave Americans without the ability to be able to have affordable mortgages and afford the American Dream.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 3 minutes to the Chair of the Capital Markets Subcommittee of Financial Services, the subcommittee that has responsibility for making sure that there is money available, the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Chairman, I rise in support of H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act. This bill aims to significantly reform mortgage lending and better protect borrowers. I have worked on these issues for some time.

On that point, listening to the little debate before me, I am just absolutely amazed. Apparently, my friends on the other side of the aisle think we are rushing to judgment here and acting precipitously on a bill that is not quite ready to be completed or concluded. I would like to call their attention to the record.

I held hearings in the Poconos, in my congressional district, on predatory lending more than 5 years ago. We came back and prepared legislation—I may say bipartisan legislation—in predatory lending 4 years ago. It didn't succeed in passing, but in 2007, we put together and introduced another piece of legislation, a predatory lending bill, that encompasses many of the issues that are encompassed in this bill. That failed to get any action in the Senate, but did pass the House.

I don't know how long we want to wait, in all honesty, on packaging and passing a new mortgage reform and antipredatory lending bill. Yes, we will stop too many loans that are bad from being made. Yes, we will discourage forms of loans that have caused us trouble in our system and have almost brought down our system. This is the beginning of many things that are necessary for this Congress to do to straighten out the economic woes of this country.

The predatory lending problems that we have encountered in my State of Pennsylvania convinced me that we need to update the Federal law, and they convince me of that fact today. I, therefore, previously introduced legislation and have participated. And today, I would like to focus my comments on that part of the bill that is taken from a bill that I prepared over the last 7 years, and that is primarily the appraisal package of this bill.

For the first time, we have established real standards. For the first time, we have geared up and provided payoff statements, we have provided information to the purchaser and to the entire market—and most of all to the lender—that we are not going to have favorite appraisers, we are not going to have preselected appraisers, we are going to have honest, independent appraisers. That is what this bill calls for.

I think that if you take the bill in its entirety—and none of us, including myself, agree with every element or every part of the bill, some of it is quite onerous, quite frankly, but the fact of the matter is what we have done here today for the first time is create a bill that those of us that do not want predatory lending in this country, who want to have fair and honest mortgaging in this country, and want to attend to the economic problems of this country should adopt and pass this bill.

Mr. NEUGEBAUER. Mr. Chairman, it is my pleasure now to yield 5 minutes to the ranking member of the full committee, the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, and Members of the body, this discussion is a discussion that has been going on for 5 or 6 years. In fact, it predates that.

In 1999, this body discussed the fact that Freddie and Fannie were being pushed into making loans without a down payment. And the New York Times, in an article in September, 1999, actually quoted Peter Wallison as saying that you are not requiring a down payment, and now the Clinton administration is pushing Freddie and Fannie to lower the credit standards. And he makes the statement in there that, if they fail, the government will have to step in and bail them out the way it stepped up and bailed out the thrift industry. In 2005, I made another statement that some people considered wild-eyed, and I said that if we don't reform the subprime lending market, we are going to have a similar situation that we faced with subprime lending.

Mr. KANJORSKI, listening to him reminded me that he and I pretty much, I thought, put together a bill—or he said bipartisan legislation, what he was talking about is, we were drafting it, and Chairman FRANK was working on it. And I actually made the statement in 2005, and I will read my statement: ''Uniform standards in the marketplace are essential if the primary and secondary markets are to continue to serve as a vital source of liquidity to make mortgages available to homebuyers with less than perfect credit. I am committed to finding ways to end predatory lending while also preserving and promoting access for all homeowners to affordable credit.'' That was in May of 2005.

Chairman FRANK said—and I think said accurately—earlier on the floor that he and I came awfully close to a consensus in 2005 for a bill. I don't, quite frankly, know what happened. I am reading a Charlotte Observer statement, and I know Mr. MILLER was concerned about putting some things in the bill that even some Democrat legislators objected to and I felt would limit access to credit. It is striking that I look at this House bill, 1728, and I will say this, Mr. MILLER and Mr. WATT, this is essentially what you were advocating back in 2005. But at that time, I thought there was a bipartisan feeling—that I actually submitted in draft form—that didn't contain some of these things. Because I really sincerely believe that you will eliminate many worthy borrowers with this legislation because it is almost a one-size-fits-all.

□ 1200

There's going to be a lot of loans that could be made and people could buy a home, and that's a delicate balance. That's a balance we obviously violated throughout the 1990s by putting people in homes that shouldn't be there. And

Mr. MILLER, I think, and Mr. WATT have argued that if they have to pay a certain price, it just won't work, and many of my Republican colleagues agree to that. And as I said, I submitted draft legislation for consideration, but we couldn't get there.

If you will recall, the other body said they were not going to take a provision on securitization. They weren't going to take it. And here we are today, 4 years later, and we all agree that there needs to be skin in the game, but this legislation before us is not the legislation that Mr. KANJORSKI has talked about that I was ready to move in 2005 or 2006, that Mr. FRANK talked about, and it was essentially the legislation of Mr. WATT. I believe it was wrong then; I believe it's wrong now.

The Acting CHAIR (Mr. PASTOR of Arizona). The time of the gentleman has expired.

Mr. NEUGEBAUER. I yield the gentleman an additional minute.

Mr. BACHUS. Let me tell you what I believe, and I believe Mr. WATT and Mr. MILLER are sincere. According to the Charlotte Observer, we were close to an agreement. I have no idea what happened.

But let's talk about today. Let's talk about today, and let's assume and I assume, and I think I'm right, that we have all been very concerned about this. The legislation today, I think all the testimony in the hearings has been that poor origination standards plagued the mortgage industry and we need origination reform. We did something last year. We started proposing in 2005 registration of all brokers.

The Acting CHAIR. The time of the gentleman has again expired.

Mr. NEUGEBAUER. I yield the gentleman an additional 2 minutes.

Mr. BACHUS. To register all mortgage originators, and that has been a tremendous success. We have got a lot of people committing fraud in starting those loans, and I think we are putting an end to that through legislation.

We need to work on something else, and I think we all agree. I have an amendment that I'm going to the Rules Committee to propose, and I think there are some Democratic amendments. There are now people coming in and promising people they'll work out these foreclosures, and they are defrauding people who are actually going through a foreclosure, which is outrageous; and this bill needs a strong provision on that.

But here's what it doesn't do: Chairman FRANK and I supported in the last Congress H.R. 3915. Look at that bill and look at this bill. That included licensing and registration of originators as the first title. That's what I had proposed. The Senator from California proposed a similar thing and introduced it in the Senate. I introduced it in the House. That's now passed. It was approved by a large bipartisan majority.

But H.R. 1728, the bill before us, it strikes a far different balance, and I believe it's one that will undermine the mortgage market at the worst possible time. We are just starting to see preliminary signs of a possible housing recovery. Look at the numbers. Loans are being made. But H.R. 1728, the bill before us, it lacks clarity needed to provide, I think, meaningful protection to consumers. That was the testimony in the hearings from a coalition of consumer advocacy groups and labor groups. It manages to punish both responsible industry participants and worthy borrowers at the same time.

The Acting CHAIR. The time of the gentleman has again expired.

Mr. NEUGEBAUER. I yield the gentleman an additional minute.

Mr. BACHUS. I am going to go fairly quickly, Mr. Chairman.

Rather than focusing on basic underwriting standards we were doing in 2005 and 2006 and in Chairman FRANK's bill last year, we are not doing that anymore. Now, part of that is the Federal Reserve has adopted comprehensive antipredatory lending regulations. Mr. GARRETT mentioned that. And those are going forward, and it's almost like this bill doesn't realize what has happened over the last year or two. It will expose the mortgage financial industry to substantial litigation risk. There was plenty of testimony on that. The cost of these inevitable lawsuits are going to be passed on to consumers.

I actually proposed in my draft an individual right of action if people violated the standards that we were close to agreeing to. Many lenders have said they'll stop offering certain mortgage products that people are taking now. They're successful in paying them back.

The Acting CHAIR. The time of the gentleman has again expired.

Mr. NEUGEBAUER. I yield the gentleman an additional 1 minute.

Mr. BACHUS. Consumer advocates, Federal regulators, Members on both sides of the aisle expressed reservation on the bill before us. Margot Saunders, and I'm going to quote here again, National Consumer Law Center, we worked with her, the gentleman from North Carolina and I, on trying to fashion a bill. She was for the bill last year. She says that this bill is ''convoluted and virtually impossible as a mechanism to solve the current problem.'' Now, she was testifying on behalf of a coalition of consumer advocacy groups.

The administration is working out a plan right now to resolve troubled mortgages, and we shouldn't make it more difficult for worthy borrowers to get home loans while they're doing that. A ''yes'' vote will do exactly that. It will raise the cost of mortgage credit, limit the availability to millions of Americans. It won't give the certainty that our mortgage market needs. It's poorly crafted and ill defined.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. I thank the gentleman for yielding to me.

Mr. Chairman, I rise today in strong support of the Mortgage Reform and Anti-Predatory Lending Act.

According to a recent report, foreclosures in Chicago doubled from 2006 to 2008 and continue today. It was Chicago's 50th Ward, a solidly middle class community where I grew up, that saw the highest increases in foreclosures, 360 percent in just 2 years.

When most people walk into a mortgage closing, they bring with them the hopes and dreams of their futures and those of their children and the full intention of being responsible homeowners. But actions by unscrupulous and downright predatory lenders put many Americans into loans that they couldn't afford, and the consequences are clear.

This bill offers protections for homebuyers that are long overdue. I'm one of many to have worked for years on this issue, including our late and beloved Stephanie Tubbs Jones. We wrote legislation that would stop predatory lending in the mortgage industry, including requiring certification of brokers and enactment of basic consumer protections. And this critical bill builds on those efforts to create standards for lenders and mortgagers.

I'm also pleased that this measure includes Mr. ELLISON's bill to provide additional protection for tenants of foreclosed property. The foreclosure crisis for renters has been mostly a hidden consequence, but in States like Illinois, New York, Nevada, foreclosures on rental properties have represented nearly half of all foreclosures, uprooting families and wreaking havoc on communities.

I want to thank Chairman FRANK and Mr. WATT and Mr. MILLER, and I urge all my colleagues to support swift passage of this measure.

Mr. NEUGEBAUER. Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois, a member of the committee, (Ms. BEAN).

Ms. BEAN. I thank the gentleman for yielding.

Mr. Chairman, I rise today to urge my colleagues to support H.R. 1728.

As an original cosponsor, I want to commend Chairman FRANK for his leadership and also thank Mr. WATT for working with Congressman CASTLE and me to refine the qualified mortgage safe harbor to ensure that traditionally safe, stable loans are included.

Today's bill follows up on the important work this House did early last Congress. Unfortunately, despite the strong bipartisan support of that bill, the Senate failed to act. I am hopeful that this year's bill will more swiftly move through the Senate and to the President's desk for signing into law.

H.R. 1728 brings mortgage lending back to reality. It will ensure that mortgages are fully underwritten, income is properly documented, and borrowers have the ability to make their payments.

The subprime mortgage crisis that we continue to deal with today wouldn't have happened if we had not relaxed bedrock principles of sound lending and underwriting. The bill requires lenders to keep some skin in the game for the loans they originate by requiring them to retain 5 percent of the loan value when they seek to securitize a mortgage in the secondary market. This concept of risk retention was endorsed by the New Dem Coalition as part of our Reg Reform Principles in February of this year, and we're pleased to see it included in the bill.

I'm also pleased that it maintains a provision I wrote last Congress regarding the disclosure of negative amortization loans. Negative amortization occurs when unpaid interest gets added to the principal balance of a loan. Some borrowers enter into products with negative amortization not realizing that they're adding to the cost of their mortgage each month instead of paying principal down. The underlying bill requires lenders to disclose to borrowers if their loans allow the practice and requires credit counseling from a HUD-certified credit counseling agency for first-time borrowers considering such a loan.

All of our constituents want better consumer protections and simpler disclosure of mortgage terms. They want homeownership to mean qualified borrowers make their payments, build equity, and keep their homes.

I urge my colleagues to support it.

Mr. NEUGEBAUER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I don't think that there's any disagreement in this House, and certainly not on our side, that predatory lending is bad, and we have taken steps to do that. The Fed has taken steps to do that. We want to make sure that people have the right choice of mortgage to be able to take a mortgage out that allows them to own a home.

The problem with this bill is that it really starts to mess up the conduit of how mortgages are made. And a little bit of history on that is a mortgage is made in your local bank or a mortgage banking company. It is then sold into the secondary market. Investors buy those mortgages so that those banks and mortgage companies can originate more loans, and that's how we have built this great housing market in this country.

What this bill does is it begins to put liability and uncertainty at a time there's already a tremendous amount of uncertainty in the secondary market. In fact, the secondary market in this country right now is shut down because of uncertainty, and now we want to dump a whole bunch or more of contingent liability and uncertainty on the secondary market to the point where I'm not sure whether we'll ever be able to start that engine.

So what I think what our colleagues are trying to do is to say somehow that Republicans are not against the predatory lending. Of course we're against predatory lending, and steps have been taken. But what we are for is making sure that there is a mortgage market left when this all blows over. Yes, the market has had a hiccup and people are now trying to ascertain what the new rules are going to be. They've seen the government take over banks and get involved in all kinds of businesses. So there is a lot of uncertainty out there. And the question is, was a lot of this a lack of oversight or was it a lack of a bunch of regulations? I would submit in many cases this was a case where there was not appropriate oversight.

The Acting CHAIR. The time of the gentleman has expired.

Mr. NEUGEBAUER. I yield myself an additional minute.

□ 1215

And so now worse, because before we really check and see whether the oversight was being done appropriately, we are going to dump a bunch of regulation on the marketplace, the very fragile marketplace, financial marketplace right now, which was the source of funds for mortgages that allowed many people to have homes.

Now, some of these loans, quote, that were subprime, were not all predatory. And I think one of the things that we have done, we have lumped two things in there. Some of those subprime loans were not to normal underwriting standards but they were tailored so that that person could buy a home. You know what, Mr. Chairman, a number of those people still are in those homes and making those payments.

And now we are going to take this category of a broad blanket, of throwing the big blanket over the whole mortgage market and saying, you know, it was predatory. But that's not the case.

We ought to take thoughtful consideration about what we are doing to this secondary market because we are going to dry up mortgage funds for American families.

I reserve the balance of my time.

Mr. WATT. Mr. Chairman, would you advise how much time remains on each side.

The Acting CHAIR. The gentleman from North Carolina has 9 minutes, and the gentleman from Texas has 3 minutes.

Mr. WATT. Mr. Chairman, I yield 2 minutes to a valued member of the Committee on Financial Services who has been involved in the process throughout, Mr. AL GREEN of Texas.

Mr. AL GREEN of Texas. I thank the chairpersons for the stellar job that they have done. I especially thank you, Mr. FRANK, for the fine work that you have done in leading us.

Mr. Chairman, this is not just a good deal, it really is a great piece of legislation. Because after the exotic products that were placed in the marketplace—3/27s, 3 years of fixed rates, 27 years of variable rates, 2/28s, prepayment penalties that coincided with teaser rates—after these exotic products, this bill is necessary. This bill addresses these exotic products. It makes sure that lenders are making loans to people who can afford the loans, they can afford to pay the loans back. A relationship between borrower and lender was fractured.

This bill seeks to restore that relationship, but it does something else that is exceedingly important, and it was mentioned very briefly. It addresses the concerns of people who are paying their rent. Their rent is paid and they find themselves being evicted because the property they are living in is being foreclosed on.

The foreclosure was no fault of the tenant, yet the tenant now has to move away from the school that the child attends. They have to move from the job where they work, the community that they reside in, simply because the owner was foreclosed on, and the tenant did not have anything to do with the foreclosure.

This bill addresses it. It gives either a fair amount of notice or it allows the tenant to continue with the lease that has been in place. This is a good piece of legislation.

I am going to ask that all of my colleagues please support it. Mr. WATT, I thank you for the fine job you have done. Chairwoman WATERS, I thank you for the fine job that you have done. I beg that that legislation pass.

Mr. NEUGEBAUER. I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentlelady from California, chairwoman of the Housing Subcommittee of Financial Services, Ms. WATERS.

Ms. WATERS. Mr. Chairman, I rise today in strong support of H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act of 2009. I would like to thank Financial Services Committee Chairman BARNEY FRANK for his commitment to bringing this legislation to the House floor.

I would also like to recognize the leadership of Representative MEL WATT and Representative BRAD MILLER, who wrote this bill and who have been working towards reform of predatory lending practices since the last Congress.

I am especially appreciative for them working on concerns that I had about prepayment penalties and the way that they have resolved them, targeting the subprime market and phasing out those even in the prime market.

I am also appreciative for the work that they have done scaling back on any State preemption that was in the bill.

My California attorney general now supports the bill, and we are very appreciative for that.

This bill before us today will ensure that the subprime meltdown, which is causing 6,600 foreclosures each day, reducing the property values of 73 million homeowners, strangling the credit