

[From the Los Angeles Times, Apr. 21, 1997]

#### KIRKPATRICK: THE THREAT WILL REMAIN

Ratifying the Chemical Weapons Convention will not prevent the manufacture or use of chemical weapons because the convention is neither verifiable nor enforceable. Proponents attempt to dismiss the many loopholes in the treaty with the assertion that nothing is perfect. But perfection is not the question.

Proponents also seek to minimize the fact that the rogue states and countries with the most highly developed programs either have not signed or have not ratified the treaty—Syria, Iraq, North Korea, Libya have not signed at all. Russia, which has the most chemical weapons, has not ratified, and China has not completed the ratification process. Of course, signing will not prevent signatories from breaking their promises not to produce noxious gases, as Russia has recently broken a promise to the United States.

Will U.S. ratification make the world safer? Did the Maginot line make France safer? To the contrary. It created a comforting illusion that lulled France into a false sense of security and facilitated Hitler's conquest.

The world is less dangerous today than during most of my lifetime. I cherish this sense of lessened threat. But we are not so safe that we can afford to create a false sense of security by pretending that we have eliminated the threat of chemical weapons. President Clinton said, "We will have banished poison gas from the Earth." It will not be so. We had better do some hard thinking about how to defend ourselves and the world against the poison gases that have been and will be produced.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

#### SENIOR CITIZEN HOME EQUITY PROTECTION ACT

The PRESIDING OFFICER. The Banking Committee is discharged from S. 562, and under the previous order the Senate can proceed to consider that bill.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 562) to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage.

#### PRIVILEGE OF THE FLOOR

Mr. D'AMATO. Mr. President, I ask unanimous consent that Lehn Benjamin be admitted to the floor for the purposes of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I rise today to support the legislation known as the Senior Citizens Home Equity Protection Act. Now, that is legal jargon for saying that we have a real problem, one that is, on a daily basis, getting worse and worse, one that is exposing our most vulnerable homeowner population—our senior citizens—to very, very serious abuses.

Let me, if I might, just explain to you the problem without going through

all of the intricacies of this legislation, which I might add is supported and cosponsored by approximately 25 of my colleagues. The bill's cosponsors are about equally divided, Republicans and Democrats, and include just about the entire Banking Committee.

Who are these people who are being scammed, who are being victimized? They are our parents, our grandparents, our senior citizens. They are elderly homeowners in America who are being induced by some people who masquerade as estate planners. This is not an attack on estate planners. This is not an attack on those financial consultants who give people advice. This is an attempt to stop thieves, con artists and swindlers, masquerading as helpers to the elderly, but who are nothing more than rip-off artists.

What do they do? Congress, through HUD, has initiated a program of reverse mortgages whereby many seniors who are cash poor and who have equity in their homes, people who have paid off their homes, and find themselves without the ability to pay their taxes, to keep up their home, or to take care of their daily needs, people have utilized reverse mortgages whereby they can go to the bank. They might have \$100,000 value in their home and may receive a \$50,000 mortgage which they may take out on a monthly basis or they may take out the entire amount and thereby budget for themselves their needs.

Now who is a typical borrower of this reverse mortgage plan? What is the profile? They are 76 years old. They are with less means than a typical elderly home owner. Their annual income is \$10,400 per annum. One-quarter of them have incomes of less than \$7,700. Mr. President, 78 percent of the total income that they have comes from Social Security.

What do the scam artists do? Today, because of the availability of so much credit information and information with respect to the lives of every citizen, they solicit those people who are elderly, who own their own home. Many of them are living alone. Sixty percent of these people that use the HUD reverse mortgage program need to use it because they do not want to be forced to sell their homes and leave their communities. That is where their friends and neighbors and relatives live. Sixty percent are females living alone, 12 percent are males living alone. So, fully over 70 percent are elderly who are living alone.

So they get a profile on these people and they literally go door-to-door and say, "We are in the business of financial consulting. If you would like, we could help you obtain a mortgage, a reverse mortgage, one you do not have to pay back. Only when you eventually sell your home or if you pass away, will the proceeds come due, and we can get you \$50,000 or \$60,000 or \$70,000." For this advice, they often charge these people 10 percent of the mortgage loan amount. Most times they never tell

them that there will be any kind of a fee, nor do they advise them that this information is available free, or that HUD will make this available, or send them the information.

So literally, because they know of this program, they are able to go out and take as much as 10 percent for a \$50,000 mortgage for information that is available at no cost, and literally do nothing but relieve the people of their money.

Here is, Mr. President, an advertisement. They are not happy just going door-to-door or by telemarketing themselves. They are now franchising, franchising, this kind of thievery. Here is an advertisement called "America's Trust, Inc.—Tap into a totally new market of opportunity. Duplicate the system that allowed us to expand by 400 percent in 60 days." It goes on to say if you want to become one of our door-to-door solicitors or one of our telemarketers, why, you can earn a 3-percent commission, and, by the way, you can do literally dozens of these referrals on a weekly basis and we will give to you a 3-percent commission, because they give them 3 percent and they keep 7 percent. And this poor homeowner is paying money for a service that virtually gives them nothing, but just refers them to a Government program. That is wrong.

Mr. President, that is why we are seeking to pass this legislation that would stop unscrupulous high-pressure middle men from preying on elderly homeowners by exploiting the reverse mortgage program.

I have explained to you what the problem is. The bill will put an immediate stop to the practice of predators taking advantage of senior citizens. HUD's Federal Housing Administration Conversion Mortgage Program, known as HECM, is a reverse mortgage program. It allows seniors age 62 and older to borrow against the equity in their homes. It is a great program; it has assisted approximately 20,000 people. But, again, we find the masquerader coming and preying on the elderly. The average person is 76 years old and has an average income of \$10,400. These homeowners are tracked down and enticed to apply for a reverse mortgage and conned into paying thousands of dollars for this service, which HUD provides for free. They are totally unregulated companies, often changing names and locations.

The following are true examples: One 75-year-old woman who resides in southern California read a brochure about reverse mortgages at a senior citizens center. She contacted the so-called information service, one of these scam artists, who met with her and referred her to a lender. The FHA-approved lender then handled the loan for her. She was surprised and shocked to learn that she now had to pay \$5,200 to the so-called information service for that referral. That is just wrong.

Another elderly woman, also in California, was called by a telemarketer

who persuaded her to apply for the HUD reverse mortgage program. This person called himself an estate planner. She paid the planner \$5,500 just for the referral—no other services. She paid a 10-percent fee just for them saying, "Here, call HUD."

Here is another heartbreaking story. A 91-year-old California widow with cataracts was solicited for a reverse mortgage. While she originally refused, she said she was eventually worn down and agreed. Due to her cataracts, she was unable to read the mortgage documents, and nobody explained to her what she was signing, and she ended up paying a 10-percent fee. She states that she would not have applied for the mortgage had she known she would be paying a 10-percent fee.

This is what goes on and on and on. There are stories about people who are literally coerced, because of their age, to invest their mortgage proceeds in annuities they had no real reason to want or need. These practices must be stopped. This bill will provide HUD the ability to issue an immediate interim order, setting rules and regulations so that legitimate estate planners can continue, and those high-jinx artists who are abusing and defrauding—and actually franchising—what is left of senior citizens' assets will be precluded from doing so.

HUD—and I have spoken to Secretary Cuomo who, within an hour of the final passage of this legislation, will enact those rules and regulations that will prevent these scam artists from dealing with FHA-approved lenders. They will no longer be permitted to do that. The lender will be precluded from working with anyone who is receiving these types of commissions. Now, HUD has attempted to do this. The court system has said, no, you must follow proper rulemaking procedures. That is why we are here. That is why it is a situation of some exigency, because every day, every hour, we have more and more seniors who are potentially being victimized. So it is an urgent question of time.

Mr. D'AMATO. Mr. President, I ask unanimous consent that Senator McCAIN and Senator DOMENICI be added as cosponsors to S. 562.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I simply want to say that no one has worked harder in bringing this matter to light and sponsoring this legislation than Senator BRYAN. He has pointed out that there are 12 million elderly homeowners who own their homes free and clear, and what has taken place is that they have become targets of these people who masquerade as estate planners. There are tens of thousands of older homeowners who are house-rich but cash-poor and have successfully utilized this program. But we have to see to it that we keep these scam artists from moving in further. The success of the reverse mortgage program has

opened the door to scam artists that are moving into our communities.

To date, fortunately, this has not become a situation that is widespread. Hopefully, we will be educating people by speaking to them today and telling them to watch out. But, more importantly, we should see to it that they have the protections afforded by this legislation. Let me also say that the State of Nevada has many senior citizens who are potential targets. Obviously, the Senator from Nevada is very concerned.

Mr. President, one who has worked tirelessly in this matter has been Senator DODD. I yield the floor to my friend and colleague, Senator DODD.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague from New York. Let me begin these brief remarks by commending our colleague, the chairman of the Banking and Housing Committee, Senator D'AMATO, for pushing this as effectively and expeditiously as he has. We know it is hard to get on the agenda here with all the other matters we have to consider. The fact that we are considering this legislation as quickly as we are is a credit to him and also to the leadership of the majority leader, Senator LOTT, and the Democratic leader, Senator DASCHLE. It is non-controversial because all of our colleagues, I think, recognize what is being done to senior citizens.

Senator D'AMATO has rightfully pointed out the tremendous work done by RICHARD BRYAN, our colleague from Nevada, who has been deeply involved in this issue. Also, Andrew Cuomo, the Secretary of Housing and Urban Development and his staff have done an excellent job on this issue. He has worked hard to prevent scam artists from taking advantage of elderly Americans in these reverse mortgage opportunities. So many people can rightfully sit at the table and take credit for where we are today—about to pass critical legislation that will help our senior citizens.

Mr. President, everyone in this country needs a safe and secure place to live; that is a dream as old as the Republic. In recent years, the Department of Housing and Urban Development has developed a number of innovative programs that are helping many more Americans achieve the dream of home ownership. The National Home Ownership Strategy, a public-private partnership of 62 organizations, has helped to increase home ownership to a rate of 65.6 percent, Mr. President. That is the highest rate in 15 years. As an aside, I am very hopeful that we will continue to work on creative ideas, under the leadership of the chairman of the committee, and others, to increase home ownership in more of our disadvantaged areas. We have subsidized rents for years, and there has been real value in that, in providing decent shelter for people. I would like to see us do more to subsidize equity and ownership.

Nothing does more to clean up a street or a neighborhood than people who have an equity interest or financial interest in what happens to the buildings on their block.

I know the chairman and others have expressed a strong interest in this. So maybe we can move even further than we already have, and increase home ownership rates even higher.

The bill we are considering today will help protect homeowners. It will protect senior citizens who have worked hard, struggled to save, and built decent homes for their families. Our senior citizens fought very hard to get their homes. These are people who didn't have the advantages of a lot of new opportunities that banks provide, and that HUD has provided, to get out and make those downpayments on that first home. These are our retired citizens now, who have fought to keep their homes, who held two, three, four jobs to do so, and paid off those mortgages. They are sitting there holding their home free and clear of any debt. And now, as a result of that, financial institutions very creatively are offering the reverse mortgage, which the chairman has talked about, and are saying you can borrow against that equity in order to take care of medical bills, groceries, or heating bills you may have, and other things that come up. It is a very creative idea to be able to reverse a mortgage, in effect, for things that people need.

But what happens, of course, when something like this comes along, there are always the thugs who try to take advantage of people. This is nothing new. They are always out there. They run around and go door to door, literally, Mr. President, where these elderly people live and rip them off, as the chairman pointed out passionately this morning. These are people who have worked hard and done everything right and live alone, in some cases, and their family may be removed and they don't get the kind of advice they should be getting. You can say "caveat emptor, buyer beware; you ought to do a better job." But it is difficult. They are frightened and scared, and some fast-talking salesman comes in with a quick deal and they don't know the difference.

As a result of the chairman's efforts this morning and the unanimous support that I think we are going to have from all of our colleagues here, we are going to slam the door on these scam artists—loan sharks is really what they are. That is simple terminology that most people can understand.

So I am very pleased, Mr. President, to join my colleague from New York, and others, this morning in urging the adoption of this legislation and urging the House, which I hope will move quickly on this, so that we can submit this bill to the President for signature. I know the President strongly supports our efforts here as well.

This is a good example of a Congress working together to take care of a

problem that exists in the country. This legislation will provide our elderly citizens, our seniors, with the security of knowing that the reverse mortgage, which they are taking out for their needs, will not cost them more than it should. So I am delighted to be a cosponsor of this. I commend the chairman again, and others, for their work. I thank the Housing and Urban Development Agency, under the leadership of Andrew Cuomo, for being so supportive. I look forward to the passage of this bill, Mr. President.

I thank my colleague and I yield the floor.

Mr. D'AMATO. Mr. President, let me commend Senator DODD for his leadership in this and say to him that, No. 1, it is absolutely imperative that we see to it that our senior citizens are protected. If you stop and look at the numbers that I have indicated to you, 72 percent of all of these seniors live in their homes alone. For the most part, they are widows or widowers. What targets, what inviting targets they are. They are struggling to keep their homes, and these scam artists come along and say, "We have the way for you to do it." Well, there is a way provided by the reverse mortgage program, without being ripped off for \$5,000 or \$6,000. They are bandits. We are going to make this immoral, horrible practice now illegal. Technically, they have been able to get away with this. This legislation will give to Secretary Cuomo the ability to prevent this. He has said to us that, within 1 hour of Congress giving him that authority, he will exercise that authority. So that is the least we can do.

I ask that Senator HELMS be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Let me say that Senator DODD has mentioned something that I think we can do, and that is we will attempt to do two things. First, where we have struggling communities that are working to upgrade themselves, we can and should be able to make the kind of investment that for not much in the way of dollars will lead to revitalization.

I have met with people in the community today from Riverhead, Long Island, where a self-help program is attempting to take some of the old homes, in many cases that have been abandoned, and upgrading them. They are doing this on their own initiative. They are doing this without any Federal funds.

It seems to me that through an enlightened program of revolving credit that we could provide a minimal amount of money—not tens of millions—but in some cases \$100,000, or maybe something in the area of several hundreds of thousands of dollars, which communities could use in their own self-help programs to purchase distressed properties, coupled with low-rate mortgages for first-time home buyers. They want to be in a position

where they can say to their communities, "Help us rehabilitate these distressed properties" and then provide young people the opportunity of homeownership that otherwise might not be available.

I am looking forward to working with Senator DODD in this area. Sometimes it is a small program in a community that can grow and develop a pride that can bring about increased support for homeownership in that community.

I am looking forward to working to do that. I think the potential is unlimited. We have an obligation to attempt to do that. We don't need big national organizations that sometimes become counterproductive. They are worried about their own image, and they have lost sight of how to help smaller communities help themselves as opposed to Big-Brother Government coming in and saying, "By the way, we can give them some of these tools."

So I share this with you because I was so impressed by Mrs. Stark, whose husband is the local supervisor in the Town of Riverhead, who said "This is what we are doing, Senator." I said, "You know, we should be part of this to try to provide that opportunity."

We are talking about an important subject, protecting the elderly. We have an obligation to see to it that we protect them, but also to give real opportunities to young families as well.

I look forward to working with my friend and colleague on this.

Mr. D'AMATO. Mr. President, I know of no one else in the majority who seeks to speak to this issue. We would yield back all of our time.

Mr. DODD. On behalf, Mr. President, of Senator SARBANES of this side, we yield back this time as well.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the resolution.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 562

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Citizen Home Equity Protection Act".

#### SEC. 2. DISCLOSURE REQUIREMENTS; PROHIBITION OF FUNDING OF UNNECESSARY OR EXCESSIVE COSTS.

Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) has received full disclosure of all costs to the mortgagor for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services; and";

(2) in paragraph (9)(F), by striking "and";

(3) in paragraph (10), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services."

#### SEC. 3. IMPLEMENTATION.

(a) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by section 2 in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subsection (b).

(b) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, issue final regulations to implement the amendments made by section 2. Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(B) of such section).

#### SECTION 2

Mr. MACK. I would like to engage the chairman of the committee in a colloquy to further define the purpose of section 2 of the Senior Citizen Home Equity Protection Act. Section 2 would authorize new disclosure requirements by amending the existing eligibility requirements of HUD's home equity conversion mortgage [HECM] program. The National Housing Act would be amended to ensure that to be eligible for FHA insurance a home equity conversion mortgage shall have been executed by a mortgagor who has received full disclosure of all costs to the mortgagor for obtaining the mortgage, including any costs of estate planning, financial advice or other related services.

Is it correct that this section would authorize HUD to require HUD-approved housing counseling agencies and FHA-approved lenders offering the HECM program to ask potential borrowers a series of questions aimed at determining if they have been or are about to be charged unnecessary or excessive fees by a service provider?

Mr. D'AMATO. That is absolutely correct. Questions asked should include: has the prospective reverse mortgage recipient made or signed any agreement or contract authorizing any fees to a third party? Does the homeowner have the intention to or made any commitments to a third party to use the reverse mortgage proceeds to purchase any annuities, life insurance policies, or for other investment purposes? Has the homeowner been referred to the HUD-approved housing counseling agency or FHA-approved lender by a third party broker?

Mr. MACK. Is it also the intent of the legislation that any third party broker should be required to inform the homeowner of the availability of information and assistance regarding the HUD home equity conversion mortgage program at little or no cost from HUD, HUD-approved housing counseling agencies and FHA-approved lenders?

Mr. D'AMATO. Yes, that is the intention. S. 562 also includes a requirement for disclosure to the mortgagor of the costs of all services related to obtaining the HECM loan, including estate planning and financial advice. HUD should implement this disclosure requirement in a reasonable manner. HUD will not be required to mandate disclosure of the costs of services of persons such as attorneys or accountants who are in the business of giving professional advice. For fees not required to be included in the mortgagee's good faith estimate under the Real Estate Settlement Procedures Act, mortgagees should be permitted to rely on inquiries made to the mortgagors to determine if mortgagors have received the necessary disclosure of cost.

Mr. MACK. Would the Senator please describe the implementation requirements of S. 562?

Mr. D'AMATO. I would be pleased to do so. I believe the National Housing Act currently gives HUD the power to protect elderly homeowners seeking home equity conversion mortgage loans, including the authority to regulate or prohibit unnecessary or excessive fees that mortgagors pay to third parties for referrals to HECM lenders and related services. Due to the urgent need to protect elderly homeowners, S. 562 will require HUD initially to implement these provisions through an interim notice in the Federal Register. HUD will also be required to proceed with formal notice and comment rule-making and issue a final rule within 90 days. If needed to meet the 90-day target, HUD may provide an abbreviated public comment period.

Mr. BRYAN. Mr. President, many of our senior citizens are once again being targeted by scam artists. This time, senior citizens are being charged excessive fees by so-called estate planners who provide information on reverse mortgages and charge 8 percent to 10 percent of the loan.

More than 12 million elderly homeowners own their homes free and clear of mortgages. This implies the availability of a potentially large market for home equity conversion programs. Reverse mortgages, one of the hottest financial products of the 1990's for seniors, allow homeowners to tap into the equity in their homes and use that equity as a source of income. They work much like traditional mortgages, only in reverse. Rather than making a payment to your lender each month, the lender pays the homeowner. Depending on the loan, a reverse mortgage becomes due with interest when the homeowner moves, sells the property, or dies.

The reverse mortgage program provides tens of thousands of older homeowners, who are "house-rich, but cash-poor," the opportunity to turn their home equity into spendable cash to deal with major financial setbacks such as home repairs, significant health costs, or basic living needs. Re-

ports of abusive practices should not diminish the value of this product. Rather, we must find a way to protect senior homeowners from scam artists who prey on the vulnerabilities of elderly Americans.

Mr. President, senior citizens across the country are being charged scandalous fees for information that can be obtained free from HUD. According to HUD, many older Americans who sign contracts with estate planning services and are charged large fees are unaware that the same information is available from HUD at no cost. Generally, estate planners fees range from 6 to 10 percent of the loan amount. This translates into \$3,000 to \$5,000 for a \$50,000 loan or \$6,000 to \$10,000 for a \$100,000 loan.

Pauline and Jim Mitchell both 79 years old from Henderson, NV were forced to spend most of their savings when Pauline's mother—who was stricken with Alzheimers—moved in with the Mitchells for 7 years before she passed away last year. When the Mitchells were approached by a door-to-door salesman about obtaining a reverse mortgage to pay off expenses, they were extremely interested. What they did not know, however, was that it would cost them \$4,500. It was not until they received their lump sum check of \$31,000, did they realize that \$4,500 had been taken out—in addition to the normal closing costs. That represents a 12 percent commission above and beyond closing costs—for a service they could get for free if they had contacted HUD or the lender directly. At most, they should have been charged a few hundred dollars referral fee—not \$4,500.

Mickey Kimberlin and her husband James from Las Vegas were charged \$4,000 for information about a reverse mortgage. The Kimberlins were interested in obtaining a reverse mortgage to help pay for mounting family medical bills. When they were contacted by a representative of America's Trust Inc. of San Juan Capistrano in California, they did not realize they would be charged 8.5 percent of the loan.

The Senior Citizen Home Equity Protection Act will protect senior citizens receiving a HUD home equity conversion mortgage from further exploitation by these predator lenders. Our legislation will no longer allow scam artists to hide outrageous reverse mortgage fees. Full disclosure of the costs and the ability of HUD to prevent excessive fees are important and necessary steps to take to protect senior citizens seeking reverse mortgages.

Mr. President, I urge my colleagues to join me in supporting this important legislation to protect our Nation's senior citizens.

Mr. SARBANES. Mr. President, I strongly support the Senior Citizens Home Equity Protection Act and commend Chairman D'AMATO and Secretary Cuomo for identifying this problem and moving so quickly to develop a solution. The act will give HUD the tools it needs to put an end to the un-

ethical practice of charging senior homeowners what has amounted to millions of dollars for information which HUD provides for free on the Home Equity Conversion Mortgage Program.

The Home Equity Conversion Mortgage Program enables seniors, who have built up equity in their home, to borrow that equity to meet medical costs, make repairs on their homes, or meet their daily living expenses. Working with participating lenders, FHA insures this loan, smoothing the way to complete the transaction. Homeowners receive payments from lenders on a monthly basis, in a lump sum, or as a line of credit. The size of the loan depends on the owner's age, the interest rate, and home's value, but the average size of the loan is \$42,465. Lenders recover their loan plus interest from the sale of the home when the owner dies or moves. Typically, the seniors that use this program depend largely on social security, perhaps supplemented by a very modest pension. For them, this program provides an invaluable service.

The initial demonstration program was authorized in the 1987 Home and Community Development Act, which I supported. Many of the roughly 20,000 reverse mortgages made to date have been made to low- and moderate-income seniors who have been able to build up equity in their homes over the years but now live on fixed, restricted incomes. This program enables them to turn a valuable but nonliquid asset into cash payments to supplement their resources. Clearly this is an important program that contributes significantly to the quality of life for our senior citizens. It is unthinkable that this important Federal program and the people it is intended to serve are being exploited by certain estate planning agencies who charge seniors 6-10 percent off the top of this loan—which, on the average \$42,000 loan, can amount to over \$4,000. This is tantamount to taking away the equity that seniors worked so hard to put into their homes over the years. In fact, HUD reports that some of these operators pressure seniors into taking out their equity in lump sums, just so the estate planner can collect their fee up front. A little over 77 percent of householders age 65 and older are homeowners—or 15.7 million senior Americans. The companies involved in this practice claimed to have done close to a thousand of these deals and have the potential to do much more harm if this is not addressed.

As a nation we have long encouraged and recognized the value of home ownership—the stability it creates in communities, the asset it becomes to the owner, and the security it provides over time. I have long supported programs that increase home ownership among low- and moderate-income people, such as the Home Investment Partnership Program and affordable housing goals for Government sponsored enterprises, such as Fannie Mae. It is the

low- and moderate-income senior homeowners to whom the reverse mortgage program is so important.

In Maryland, we are making a special effort to increase the home ownership rates in low-income communities because there is no better way to start climbing the ladder of economic opportunity. A few weeks ago, HouseBaltimore, a partnership between the city of Baltimore, the Baltimore Empowerment Zone, and Fannie Mae announced that they have increased the number of low- and moderate-income homeowners in the city of Baltimore by 6,000 over the last 3 years. Earlier this month, the city of Baltimore was awarded a home ownership zone grant of over \$5 million. The zone will create 322 new home ownership opportunities, 242 newly constructed units, and 80 rehabilitated units. These so-called estate planners undermine these efforts by taking a portion of this valuable asset away from senior Americans.

Again, I want to thank Senator D'AMATO and my colleagues on the Banking Committee for their responsiveness and willingness to undertake this effort, enabling HUD to take swift action and stop this practice. We need to continue to ensure all of our citizens live in decent, safe homes.

Mr. GRAMS. Mr. President, I rise today in support of the Senior Citizens Home Equity Protection Act. This bill will help protect low-income seniors from being gouged by people who are charging them massive and unnecessary referral fees when they receive a reverse mortgage through the Federal Home Equity Conversion Mortgage Insurance Demonstration Program.

The Home Equity Conversion Mortgage Insurance Demonstration Program is a Federal program to benefit low- to moderate-income seniors that was authorized by section 417 of the Housing and Community Development Act of 1987.

HECM provides an FHA guarantee for a special type of home equity loan for homeowners who are 62 years of age or older. HECM permits a senior citizen to borrow against the equity of his or her home. The senior receives cash through a reverse mortgage by either: First, a lump sum payment, second, a lifetime guaranteed monthly payment, third, a line of credit, or fourth a combination of monthly payment and line of credit. The HECM loan is repaid after the senior citizen passes away by his or her estate.

Since the program's inception, approximately 20,000 loans have been closed. HECM is a good program, because it permits low-income seniors who are homeowners to be able to conveniently tap into their home equity. The median age of the participants is 76 years old and the median income level is approximately \$10,000 a year.

Unfortunately, a few companies are calling up seniors to let them know about the availability of HECM and then charging them a referral fee of 8 to 10 percent of the total loan. This is

a scam, as the senior could contact a lender or HUD directly and not have to pay such a fee.

The Senior Citizens Home Equity Protection Act responds to this problem. This bill amends section 255 of the National Housing Act to permit HUD, which manages this Federal program, to define and prohibit excessive referral fees for the HECM program.

I am proud to be a cosponsor of this bill, and I commend Senator D'AMATO for bringing this bill before us today.

Mr. President, I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, I am an original cosponsor of the Senior Citizen Home Equity Protection Act because I do not believe we can sit idly by while senior citizens are charged excessive and unnecessary fees for seeking to access the equity in their homes. It is an unconscionable practice.

The Senior Citizen Home Equity Protection Act provides basic consumer protections for working people in their senior years who want to obtain a reverse mortgage so that they may live with a level of economic security. Reverse mortgages benefit people who have worked their entire lives, have managed to buy their own homes, but who do not have much extra income to live on after they retire.

Under a reverse mortgage, the owner of the home gives a lender a mortgage on the home. The homeowner receives either a lump sum of money or monthly payments in return. The funds do not have to be repaid until the home is sold or the homeowner dies. The FHA's Home Equity Conversion Mortgage Program guarantees these reverse mortgages.

This is a good program for some seniors and one which the Government supports. Unfortunately, there are some who are taking advantage of seniors and charging them excessive fees to complete the reverse mortgage transactions, including fees of up to 10 percent of the loan amount. The way these scams work is that mortgagors will offer to serve as financial advisors to senior citizens and then charge them exorbitant fees for providing the seniors with public information about the HUD reverse mortgage program.

Those seeking a reverse mortgage generally do not have much income to spare. The average borrower is 76 years old and has an annual income of \$10,400. Charging a \$10,000 fee for a \$100,000 reverse mortgage, as is done, is highway robbery.

The Senior Citizen Home Equity Protection Act is not complicated legislation. There are only two provisions. The first provision requires that the senior has received "full disclosure of all costs to the mortgagor for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services." This will provide seniors with the information they need to make sound judgments concerning the value of the services they are receiving.

The second provision provides that the HUD secretary has the authority to impose restrictions to ensure that a lender does not charge excessive, or unwarranted costs to the borrower for providing a reverse mortgage. This is a basic protection that allows HUD to police the bad actors who are ruining reverse mortgages as an option for too many seniors.

HUD tried to address the problem, but a court ruled that the department had to go through its normal procedure to issue a rule governing fees charged by the advisers. Formal rulemaking can take as long as 6 or 7 months. We do not have 6 or 7 months. Every day seniors face the prospect of losing part of the equity in their homes because these scams are allowed to continue. This legislation will put an end to the scams.

I thank Senator D'AMATO for introducing this bill, I am proud to be an original cosponsor, and I urge all my colleagues to join me in supporting the Senior Home Equity Protection Act so that we can quickly enact this simple but crucial legislation.

Mr. FAIRCLOTH. Mr. President, I felt compelled to speak today on behalf of S. 562 which I support as a cosponsor. It is a good bill and apparently long overdue. This legislation provides protections to homeowners who are receiving reverse mortgages by ensuring that there are no unnecessary or excessive costs charged for obtaining the mortgage.

I state that this bill is apparently overdue because of the horrendous stories we have heard about the elderly being charged outrageous fees simply to find out information about the reverse mortgage program. Because the reverse mortgage program is only available to individuals over 62 years of age, these so-called scam artists are preying on older citizens who typically are cash-poor and in need of additional dollars, sometimes for health care costs or home improvements.

A reverse mortgage is a loan that works backwards. It is beneficial for those who are house-rich but cash-poor. Instead of receiving a lump-sum amount that must be repaid in monthly installments, the homeowner gets to borrow money based on the equity in his home and nothing has to be repaid until the owner moves or dies. When the home is sold, the loan, along with the accrued interest, is repaid from the proceeds.

Some of the estate planning companies who provide information on the reverse mortgage have been charging referral fees of up to 10 percent of the amount of the loan that is eventually taken out by the individual. The exorbitant fees being charged are outrageous. These companies have been preying on our country's older citizens, and this practice must be stopped.

Just a few weeks ago, the Secretary of HUD, Andrew Cuomo, attempting to halt these practices, issued a departmental directive preventing lenders

who insure loans through the FHA from dealing with the referral companies. However, just 10 days after the announcement of HUD's directive, a Federal judge here in Washington set the directive aside awaiting further hearing. While some of the mortgage originators have indicated that they have stopped dealing with the estate planning firms by their own initiative, many of us in the Senate want better safeguards.

Senate bill 562 ensures that the practice of charging exorbitant fees in the reverse mortgage program are halted by doing two things. One, the bill requires that all fees and costs associated with the reverse mortgage program be disclosed to the homeowner. Two, the bill gives authority to the Secretary of HUD to ensure that the homeowner does not pay any unnecessary or excessive costs for obtaining the mortgage. This would include any costs of estate planning, financial advice, or other related services. S. 562 does not set prices or products in the reverse mortgage program, it only acts as a safeguard from excessive costs.

I am proud to say that my State is home to the largest servicer of the FHA reverse mortgage. Wendover Funding, a Greensboro based mortgage banker, is the Nation's largest wholesale lender and administrator of these loans. Wendover currently services more than 11,500 reverse mortgages, representing approximately 60 percent of the market. Of these, Wendover has funded more than 400 loans to seniors in North Carolina.

Many believe that FHA's involvement provided much-needed consumer protection to the reverse-mortgage industry. Lenders who make FHA-backed loans have to abide by strict rules on rates and set-up fees and can't charge any hidden fees to make extra money. Unfortunately, some of the estate planning companies who refer the borrowers to the FHA lenders have not had the same restrictions put upon them.

The several unscrupulous companies that have scammed thousands of unnecessary and exorbitant fees from elderly citizens have forced this Congress to act. The protections placed in S. 562 will ensure that senior citizens are no longer taken advantage of when they are looking at this new source of income. Our grandparents, as they face longer years of needed income and want to stay in their homes, will be able to do so and still be protected.

Thank you Mr. President. I urge my colleagues support.

Mr. JOHNSON. Mr. President, I rise today to express my strong support for the Senior Citizen Home Equity Protection Act introduced by Senator D'AMATO, and to thank Chairman D'AMATO for moving so quickly in response to the needs of the Department of Housing and Urban Development in efforts to crack down on the exploitation of our vulnerable low-income senior citizens.

The Senior Citizen Home Equity Protection Act will assure that a home-

owner pursuing a HUD home equity conversion mortgage, or reverse mortgage, is not charged unnecessary or excessive costs for obtaining that mortgage. The median age of reverse mortgage applicants is 76 years. Most of these borrowers are very low-income, Social Security dependents, typically seeking additional funds for basic needs and medical expenses. Information on the program and the application process is provided by HUD free of charge. Yet, some businesses have been convincing seniors of services and counseling required before reverse mortgages can be secured. Many of these middlemen charge up to 10 percent for services that seniors do not realize are unnecessary.

S. 462 clarifies HUD's authority to appropriately restrict unnecessary or excessive costs related to the origination of a reverse mortgage. I believe it necessary to grant this regulatory authority to end fraudulent business activity so that legitimate business interests can be protected and the loan program can remain a viable alternative for seniors to turn to in the financial marketplace.

My State of South Dakota recently remedied State law to allow for participation in HUD's reverse mortgage program, at the urging of the South Dakota AARP and the South Dakota Bankers Association. While we have been fortunate not to have felt the impact of these deceitful businesses in South Dakota, I am a strong supporter of this legislation to prevent the spread to my State, now that seniors can pursue these reverse mortgages.

Senator D'AMATO worked closely with HUD Secretary Cuomo to ensure that seniors can be protected while the viability of the loan program remains intact, and I urge my colleagues to support the Senior Citizen Home Equity Protection Act.

Mr. D'AMATO. Mr. President, I know of no one else in the majority who seeks to speak to this issue. We would yield back all of our time.

Mr. DODD. On behalf, Mr. President, of Senator SARBANES of this side, we yield back this time as well.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### MORNING BUSINESS

The PRESIDING OFFICER. The Senate, under a previous order, will proceed to morning business with Senators permitted to speak for 5 minutes each, with the following exceptions: Senator SMITH of Oregon for 30 minutes, Senator DORGAN for 30 minutes, Senator DASCHLE, or his designee, for 30 minutes, and Senator WELLSTONE for 10 minutes.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

#### BREAST CANCER RESEARCH

Mr. D'AMATO. Mr. President, let me speak, if I might, to an issue of critical national importance—an issue that has plagued the people of the State of New York, most particularly those in Long Island. I am talking about Nassau and Suffolk County, the communities of Long Island. A major county is described legally as a county that has more than 250,000 women, for the purposes of compiling these statistics. And they are dreadful statistics because we are talking about the incidence of breast cancer. Long Island has had an unenviable position of being ranked No. 1 in the incidence rates of breast cancer in years gone by.

It is incredible. As a result, the National Institutes of Health has undertaken a very comprehensive study, one of the first of its kind, which says we will look to see what environmental factors may be contributing to these high rates of breast cancer. They are undertaking that study. Some \$5 million has been allocated. Mr. President, that \$5 million is not enough, even though it is among the most sophisticated studies being undertaken.

Recently, some very real questions have arisen as it relates to what impact there may be as it relates to radioactive materials, radio nuclides, and other materials that may have gained entry into the groundwater system, or that may, as a result of being dispersed in the air, some of these radioactive materials out in Brookhaven, Long Island. What impact has this had, if any?

Indeed, it seems to me, if we were to spend \$5 million, that is not an inconsequential sum. But one of the most comprehensive studies undertaken—this is a study that will take over 5 years; not to complete this study, addressing all concerns, as it relates to the high rate of breast cancer on Long Island, would be wrong. The scientific community will not have completed its chore. And part of that is to be able to say to the public we have examined the situation.

Brookhaven National Lab—and it seems we may have an additional responsibility—has been run under the aegis of the Department of Energy. May I say here and now that it has been run abysmally as it relates to the impact of its operation on the community.

Over the years, there has been a litany of abuses of burying of waste materials, hazardous waste, of creating almost a dump site of indifference to the operation of this lab where, indeed, the water tables have been impacted and have actually had radioactive materials—tritium—discharged; and the reports of leaks, and the reports of these discharges have been systematically withheld from the public. The lab has operated with an indifference to public health—"The public be damned" attitude. I commend the Assistant Secretary for Energy, who has come in to look at what can be done to straighten this fiasco out. The scientists have