

RECOGNIZING JAMES R. HART, III
ON HIS APPOINTMENT TO THE
U.S. COAST GUARD ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 22, 2002

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to recognize my constituent, James R. Hart, III of Sandusky, Ohio, who recently accepted his appointment to the U.S. Coast Guard Academy in New London, Connecticut.

Jim will soon graduate from Sandusky High School. During his high school career, he has maintained a superior grade point average, and is a member of the National Honor Society. He is an accomplished athlete, earning varsity letters in basketball and soccer. And, he has clearly demonstrated his leadership ability, serving as co-captain of the basketball and soccer teams.

Jim Hart can be very proud of his many accomplishments. He is a credit to his family, his school, and his community. By accepting his appointment, Jim is accepting a unique challenge.

The Academy is the pinnacle of leadership development for the United States Coast Guard. As a USCG Academy Cadet, he will face a most demanding academic curriculum and physical regimen. He will live, study and prepare in an environment where strong leadership thrives, individual achievement is expected, and personal integrity is demanded.

Mr. Speaker, General John W. Vessey, Jr. once wrote, "The Nation's ability to remain free and at peace depends in no small measure on whether we will continue to inspire our youth to serve."

I am confident that James R. Hart, III has the character and ability to excel at the U.S. Coast Guard Academy. I ask my colleagues to join me in wishing him well as he begins his very important service to our Nation.

ASIAN PACIFIC ISLAND HERITAGE
MONTH

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 22, 2002

Mr. DAVIS of Illinois. Mr. Speaker, May is Asian Pacific American Heritage Month.

The Congress has designated this month as a time to celebrate Americans of Asian and Pacific Island ancestry and their contribution to our culture and history. The theme for 2002 is "Unity in Freedom." Asian Pacific American Heritage Month is a relatively new holiday. President Jimmy Carter signed a Joint Resolution designating an annual celebration in 1978. President George H. W. Bush designated May to be Asian Pacific American Heritage Month in 1990.

However men and women of Asian and Pacific Island heritage have a long and rich story as an integral part of America. Asian Americans, at first mostly from China, were first brought to the United States in large numbers as workers . . . workers on the railroads, workers in the gold fields, workers in the agricultural sector. They were often ruthlessly ex-

ploited. Both the public and private sector sought to increase immigration in the early- and mid-1800s in a search for cheap labor as exemplified in the ratification of the Burlingame Treaty which guaranteed the right of Chinese immigration; but which did not, however, grant the right of naturalization.

Our relations with the nations of Asia during this period is a complex one—one too often based on "gun-boat" diplomacy. The combination of racism and competition for jobs led to ugly anti-Asian riots including such shameful events as the 1877 Chico, California riots and the 1885 Rock Springs, Wyoming riots. However, these events resulted in only a brief pause in the rapacious need for cheap labor, and an increasing number of Asian Pacific people were brought or lured to work in Hawaiian and California agriculture—

These new immigrants were increasingly men and women from Japan and the Philippines, especially after the Spanish American War.

The level of anti-Asian racism came into full focus with the internment of Americans of Japanese ancestry during World War II. On February 19, 1942, soon after the beginning of World War II, Franklin D. Roosevelt signed Executive Order 9066. The evacuation order commenced the round-up of 120,000 Americans of Japanese heritage to one of ten internment camps in California, Idaho, Utah, Arizona, Wyoming, Colorado, and Arkansas. Even though many did not speak Japanese or have close ties to Japan, they were nonetheless regarded as wartime threats. Despite the fact that the U.S. was also at war with Germany and Italy, Americans with ancestors from those countries did not face internment. It took almost half a century for us to acknowledge the enormity of the wrong done to Japanese Americans until Congress passed a measure giving \$20,000 to Japanese Americans who had been interned during the war in 1988. President George H.W. Bush signed it the following year.

Asian Pacific people continued to find their way to the United States and continued to become citizens despite significant legal barriers.

From 1910 to 1940 Angel Island, off California, was used to process mainly Asian immigrants to the United States, earning it the nickname "Ellis Island of the West." With increasing numbers, and growing political awareness the Asian Pacific American community began to assume their rightful place in our democracy. Filipino American farm workers led pioneering struggles for the unionization of agricultural workers. Dalip Singh was elected to U.S. Congress from the agricultural heartland of California.

In 1962 Hawaii sent DANIEL K. INOUE to the U.S. Senate and Spark Matsunaga to the U.S. House. Two years later, PATSY TAKEMOTO MINK of Hawaii was elected to the U.S. House, becoming the first Asian-American woman in Congress. Since then, hundreds of Asian Americans have been elected to state legislatures and municipal positions. In the last quarter of the 20th century America became home to millions of new Americans from the nations of Asia and the Pacific rim including China, India, Pakistan, Vietnam, Cambodia, and Laos. Again the search for workers, especially skilled professionals with training in medicine, computer technology, and other specialties, played an important role. Asian Americans are an important part of our diverse American

people . . . but they are also a diverse group themselves. According to the 2000 census there are 11.9 million U.S. residents who reported themselves as Asian alone or in combination with one or more other races in Census 2000. They make up 4.2% of our population. They consist of 2.7 million U.S. residents who reported they were Chinese alone or in combination with one or more other races or Asian groups, 2.4 million Filipino residents, and 1.9 million Asian Indian residents. There were 874,400 native Hawaiian and other Pacific Islander according to Census 2000. The median income in 2000 of Asian and Pacific Islander households was \$55,525, the highest median income of any racial group.

The poverty rate of Asian Pacific Islanders in the 2000 census was 10.7%, the lowest poverty rate the Census Bureau has ever measured for this race group. 44% of Asians and Pacific Islanders age 25 and over held a bachelor's degree or higher in 2000. The corresponding rate for all adults 25 and over was 26%. One million Asians and Pacific Islanders held an advanced degree in 2000 (that is, a Master's, Ph.D., M.D., or J.D.), representing a ratio of 1 in 7 Asian Pacific Islanders 25 and over.

There were 913,000 Asian Pacific Islander-owned businesses in the United States in 1997. These businesses employed more than 2.2 million people and generated \$306.9 billion in revenues. They made up 4% of the nation's 20.8 million nonfarm businesses and 30% of all minority-owned firms.

Mr. Speaker, I could go on with statistics describing Americans of Asian and Pacific Island descent . . . but the point is made: Asian Pacific Islanders are integral to our notions of what America is, and what we want America to be.

Mr. Speaker, over the course of our history we have learned to value our diversity. We have learned that our diversity makes us strong. Asian Pacific Americans are an important and irreplaceable part of our diversity. In every aspect of our culture, our economy, our values, our body politic, our creative energy Asian Pacific Americans are an inseparable part.

Mr. Speaker, let us glory in our diversity. Let us all swell with pride at the contributions of Asian Pacific Americans, not just this month, but every month. Let us reach out and embrace one another, secure in the strength of our multi-racial, multi-ethnic society, and understanding the need to further perfect our unity and eliminate every aspect of inequality and inequity.

And let us move forward together, keeping our eyes on the prize of the great American dream, uplifted by the history and contributions of Americans of Asian and Pacific Island descent now woven into our very being as a Nation.

BUILDING THE KIWANIS CLUB OF
BAY CITY FOR 85 YEARS

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 22, 2002

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to the Kiwanis Club of Bay City,

Michigan, as its members prepare to celebrate 85 years of exemplary community service, charitable giving and volunteerism.

The Kiwanis Club of Bay City was chartered on January 27, 1917 as the fifth club in the Michigan District and the 38th internationally. The word "Kiwanis" is a Native American term meaning "self-expression" and the Kiwanis organization has always expressed itself as an active and vibrant community builder since its inception. The notion behind the Kiwanis is that a group of individuals devoted to leading and improving their community can achieve more than any one individual working alone.

Under the leadership of President Donna Tiernan and all officers past and present, the Kiwanis Club of Bay City has truly honored and epitomized the essence of their motto, "We Build," by time and again stepping up to the plate to serve the needs of our community. The club has consistently supported so many programs and projects in Bay County, including the River of Time event, the BaySail program, Special Olympics and the State Police Academy for high school students. Kiwanis of Bay City also supports the Salvation Army, sponsors 4-H Fair awards and hosts an annual Mothers Day event where members donate gifts for needy moms.

In addition, the club has illustrated its significant commitment to young people through a variety of programs, including sponsorship of a \$25,000 Kiwanis Scholarship Program through the Bay Area Community Foundation. One of the club's more enduring projects is its Kiwanis youth baseball team begun in 1932 in the American Legion League and continuing today through the Northeast Little League in Bay City. Such efforts in education and athletics go a long way toward attaining and maintaining the mental and physical well-being of young people throughout our community. Moreover, the volunteer spirit of Kiwanis should be commended and emulated as a benchmark for all who seek to donate their time and talent to the commonweal.

Mr. Speaker, I ask my colleagues to join me in congratulating the Kiwanis Club of Bay City for 85 years of success and in expressing gratitude for all that its members do for the greater community. I am confident the club will continue its efforts to serve others by building and expanding its network of men and women dedicated to improving the lives of all those around them.

MORTGAGE LOAN CONSUMER
PROTECTION ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 22, 2002

Mr. LaFALCE. Mr. Speaker, today, I will be introducing the "Mortgage Loan Consumer Protection Act." This legislation will complement a bill I introduced last year, the Predatory Lending Consumer Protection Act (H.R. 1051), as well as the proposal I outlined in my March 26th letter to the HUD Secretary to end abusive practices in conjunction with the use of yield spread premiums. Combined, these initiatives are designed to establish a pro-consumer benchmark for mortgage reform, either with respect to any possible HUD regulatory action, or to legislation that may be enacted by Congress.

For most Americans, obtaining a mortgage loan is the single biggest financial transaction of their life. Typically, mortgage loan closing costs total thousands of dollars, and the loan itself represents a commitment to repay hundreds of thousands of dollars.

The majority of mortgage lenders, brokers, and settlement service providers do a commendable job in helping borrowers through the mortgage loan process, and in providing a good mortgage product. Yet, by loan closing, too many borrowers conclude that the mortgage process is far too confusing than it needs to be. And, too many borrowers close mortgage loans without any clear sense of whether their fees and rates are truly competitive.

The basic Federal law governing mortgage loan settlements is the Real Estate Settlement Procedures Act, also known as RESPA, first enacted in 1974. The "Mortgage Loan Consumer Protection Act" being introduced today modernizes RESPA, in a manner designed to make the mortgage loan process more understandable, more fair, and more competitive.

This legislation would improve and update RESPA by: simplifying and improving the accuracy of mortgage loan disclosures; expanding protections against junk fees and unearned closing costs; enhancing escrow account protections; and creating critically needed enforcement provisions for existing RESPA requirements. A number of provisions in this bill are identical to or derived from recommendations made in a 1998 joint report by HUD and the Federal Reserve Board on reform of the mortgage loan process.

First, the bill simplifies and improves the accuracy of mortgage loan disclosures. A near universal complaint about the current HUD mortgage disclosure forms is that they are far too confusing. Section 2(b) of my legislation would address this problem by directing HUD to revise the HUD-1 Settlement Statement to clearly segregate and provide totals for the following three different types of costs that are paid at settlement: "Closing Costs" (defined as all costs necessary to obtain the loan), "Prepaid Costs" (such as prepaid interest and escrow items), and "All Other Costs Paid at Closing"—that is, everything else.

This would be a dramatic improvement over the current HUD-1 statement, which neither arranges items in a logical order, nor provides totals for these three key types of costs. A clear delineation and a single total for all Closing Costs would be particularly helpful to borrowers analyzing loans, e.g., for the purpose of evaluating whether or not to refinance.

Section 2(c) of the bill directs HUD to harmonize the terms and forms used in the HUD-1 Statement and the Good Faith Estimate (GFE). As a result, the same three types of costs and totals as provided in the HUD-1 would be presented in the GFE. More importantly, harmonization would allow borrowers to track costs throughout the loan process. This is a critical tool to help borrowers evaluate how actual costs compare to preliminary estimates, and to help borrowers hold service providers accountable with respect to any cost increases.

And, Section 2(a) revises the Truth In Lending Act (TILA) to improve the accuracy of the "Finance Charge" for the purpose of calculating the Annual Percentage Rate (APR) for a mortgage loan. Specifically, it requires that the APR calculation include all of the costs that

are required to be paid in order to obtain the loan. Currently, a number of charges are excluded by statute from the APR calculation for mortgage loans, an anomaly that creates a misleading APR calculation that was singled out for criticism in the 1998 HUD-Fed report. I would also note that with this change the Finance Charge would equal the sum of loan interest payments, plus "Closing Costs" as identified under Section 2(b) of my legislation.

Secondly, the bill would expand protections against unwarranted mortgage closing costs, including markups and junk fees. A common complaint by borrowers is that the final settlement statement is not made available until the borrower sits down at closing. Under current law, borrowers may request this statement one day prior to closing, but most borrowers are not even aware that this right exists. As a result, it is not uncommon for borrowers to discover additional fees and charges that they were not previously aware of until the very last minute. With pressures or even deadlines to close, the borrower often has no option but to complain, but ultimately accept, such costs, whether warranted or not.

Section 3 of my legislation addresses this problem by requiring lenders to make available the HUD-1 Settlement Statement at least 2 calendar days before closing. This gives borrowers an opportunity to challenge fees and charges, at a time in the process when they can be reasonably challenged. This is crafted in a flexible way that should not hold up loan closings.

Section 4 deals with the practice of markups of closing costs, also sometimes referred to as "upcharges." Section 8 of RESPA generally prohibits the payment or receipt of a portion or split of a settlement service charge other than for services rendered. Historically, HUD has interpreted this to apply to markups of third party services. However, a recent court case, *Echeverria v. Chicago Title & Trust Co.*, concluded that Section 8 does not apply in cases where the third party has no involvement in the unearned fee. In October, 2001, HUD responded by issuing a Policy Statement, "clarifying" that Section 8 does apply to markups.

Section 4 of my bill explicitly reaffirms the HUD position that Section 8 applies to markups of the cost of services provided by a separate service provider, even if that separate provider has no involvement in the markup. Section 4 goes further than the HUD Policy Statement, by amending Section 4 of RESPA to require that all fees collected by a lender be disclosed clearly on the HUD-1 as being collected by such lender. This provides additional protections against the practice of disguising markups by rolling them into one single disclosure item.

Section 4 of my bill also addresses the problem of junk fees. Specifically, it provides that Section 8 applies to fees collected by one settlement service provider where "no, nominal, or duplicative" work is done. In this context, duplicative refers to situations where a service provider is collecting a fee that is itemized separately from a fee charged for services by a third party—allegedly for the same type of service, but without any additional goods or services being provided. The purpose of the prohibition of charges where no services are provided is obvious; the inclusion of the phrase "nominal" in addition to "no" services is intended to circumvent a defense against a Section 8 violation that the service