Mr. HIMES. Madam Speaker, today when this House passes the Wall Street Reform and Consumer Protection Act, it will take a huge step to the protection of the American citizen, the American taxpayer, and American business. Never again will Wall Street take massive risks with the expectation that they will be bailed out when they fail. Never again will mortgage brokers sell mortgages that they know can't possibly be repaid. Never again will the credit card companies make billions from sowing confusion amongst American consumers.

I have been struck in this debate by how closely what we are doing today mirrors what happened in the 1930s when this Congress created a regulatory structure. The opposition said this would be the end of capitalism, the end of markets. And instead, that reform led to 60 or 70 years of the most intense prosperity the human race has ever seen. Word for word, those charges have been repeated.

They were wrong then, and they are wrong now. What this House does today will be a tremendous step forward for the American people and the American economy.

WHERE ARE THE JOBS?

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, this week I stood with my colleagues to introduce a bill to audit stimulus funds. It is time for Congress to demand answers on behalf of the hardworking taxpayers that we represent.

The misnamed stimulus is one of the largest spending bills in our Nation's history, and it is critical that American taxpayers know the facts. This is the people's money, not the government's money. It is wrong that a well-connected Democrat pollster received $6 million to preserve just three jobs when we could provide jobs for dozens of families. I urge Speaker PELOSI to consider our legislation to ensure full accountability of every dollar spent.

I first sent a letter to the President asking him to implement the recovery panel that the stimulus bill provides. The request went unanswered. Therefore, I introduced a national commission to investigate how many jobs have actually been saved or created. Taxpayers should know, Where's the jobs?

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

JOB CREATION

(Mr. KLEIN of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN of Florida. Mr. Speaker, creating jobs in south Florida is one of my top priorities in these challenging economic times. We must find ways to create good jobs in our community and ensure that our small businesses are growing and expanding in order to provide opportunities for work in our local neighborhoods.

There are great success stories that we can build on. One example is TBC Corporation, which is located in my district in Palm Beach Gardens, Florida.

After working closely with the Business Development Board of Palm Beach County, TBC, a leading national supplier and retailer of auto tires, will expand their headquarters and data center to create 50 new, high-quality jobs in our community.

Congratulations to the management of TBC. These are the business models we must support and encourage, and I look forward to working with other local businesses to continue to create good jobs in south Florida.

□ 0915

RECOGNIZING CAPTAIN SEAN WELCH, USMC

(Mr. WITTMAN asked and was given permission to address the House for 1 minute.)

Mr. WITTMAN. Mr. Speaker, I rise today to recognize those men and women who give so freely to serve this great Nation, men such as Captain Sean Welch, United States Marine Corps.

In November, America celebrated 234 years of having a United States Marine Corps that defends our precious freedoms at home and serves as the world's 911 force around the globe. We are fortunate to have men and women who are willing to answer the call of duty, time and again, especially in the midst of two wars.

This year I had the pleasure of having one of America's finest serve in my office as a Congressional Military Fellow, Captain Sean Welch. It has been a privilege and an honor to work beside Captain Welch, who lives in Quantico, Virginia, part of Virginia's First Congressional District.

As Thucydides once said, ''The society that separates its scholars from its warriors will have its thinking done by cowards and its fighting done by fools.'' Fortunately, with men like Captain Sean Welch serving in our Marine Corps, we don't have to worry about that distinction. He flawlessly balances his operational experience with a heavy intellectual rigor and enthusiasm that was clearly apparent during his year on Capitol Hill. Captain Welch serves as a role model and superb example for society and the marines he leads.

So today, I thank Captain Sean Welch for his leadership, his perpetual service to our Nation, and his exceptional service this year as a Congressional Fellow on Capitol Hill.

WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2009

The SPEAKER pro tempore (Mr. HIMES). Pursuant to House Resolution 964 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4173.

□ 0916

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 further consideration of the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, with Ms. EDWARDS of Maryland in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose on Thursday, December 10, 2009, amendments en bloc offered by the gentleman from Massachusetts (Mr. FRANK) had been disposed of.

AMENDMENT NO. 15 OFFERED BY MR. COHEN

The Acting CHAIR. It is now in order to consider amendment No. 15 printed in House Report 111–370.

Mr. COHEN. Madam Chair, I rise to offer the amendment to the body that is at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. COHEN:

Page 1126, line 6, strike ''subsections'' and insert ''subsection''.

Page 1126, strike lines 15 through 25.

The Acting CHAIR. Pursuant to House Resolution 964, the gentleman from Tennessee (Mr. COHEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. COHEN. I yield myself as much time as I may consume.

I want to thank Chairman FRANK for working with me to include this language in the Wall Street Reform and Consumer Protection Act of 2009.

This amendment would strip a provision permitting the Securities and Exchange Commission to delegate regulation of investment advisers to the Financial Industry Regulatory Authority.

In its present form, the bill would give FINRA sweeping rule-making authority over investment advisers which has been under the sole domain of the governmental regulatory agencies. This far-reaching provision would extend FINRA's jurisdiction to Federally registered investment advisory firms that manage almost 80 percent of all advisory firms' assets under management.

FINRA does not have the necessary expertise or experience with investment advisers or the Investment Advisers Act to do the job, and the SEC is

best positioned to oversee the investment advisers under the Investment Advisers Act.

There is inherent conflict of interest in having a self-regulatory group that funds this agency and has always been on the side of broker dealers. We cannot afford to outsource key regulating functions to self-regulating organizations that act solely in the best interest of their clients.

In a speech earlier this year, SEC Commissioner Luis Aguilar noted his opposition to establishing a self-regulatory organization for investment advisers because the ''SEC should not outsource its mission'' and because the SEC ''is the only securities regulator with the necessary experience in dealing with a principles-based regime.''

I'm concerned that the high level of investor protection provided under the Advisers Act fiduciary duty would be diminished if FINRA were to obtain the additional authority. We should not expend the authority of FINRA to the investment advisory profession.

Again, I urge the passage of this amendment which would keep the SEC as the proper, independent regulator of investment advisers.

I reserve the balance of my time.

Mr. BACHUS. I rise to claim the time in opposition.

Let me say to the gentleman from Tennessee, let me explain the purpose behind the provision which your amendment seeks to strike. And I say that I would be glad to work with the chairman and with the Member at this time, striking the provision that I inserted in the committee that you objected to, and won't ask for a recorded vote.

So let me explain the background behind this amendment, and I think if we can all work together, I think we can make investors safer and make a better system.

If the body will recall, and the chairman, on December 12 of last year, about a year ago, Bernie Madoff was arrested for committing the largest financial fraud in the history of the country. It was a tremendous scam—a $65 million Ponzi scheme which defrauded nonprofits, universities, and pension funds, and wiped out the savings of literally tens of thousands of families and citizens.

Now, to do this, Bernie Madoff operated two separate entities: one was a broker dealer and one was an investment adviser. The fraud occurred with the investor adviser. That is where the fraud occurred.

The investment adviser was registered with the SEC. The investment adviser, Madoff's investor adviser, was subject to examination by the SEC, but I would point out to the chairman of the full committee and the gentleman from Tennessee they never examined the investor adviser. They never examined it.

Madoff operated a broker-dealer in the same premises and under the same name. And it was examined, was subject to examination by the SEC and by FINRA. I was saying let FINRA go ahead and examine the investment advisers, these dual operations where you have both. FINRA inspected the broker-dealer at least every other year, but the fraud didn't occur there; it occurred in the investment adviser.

FINRA lacked the authority to go in and examine the investor adviser. They couldn't examine it. And my provision I put in the committee said let them be able to, as they examine the broker-dealer, let them go in and look at the books of the investment adviser if you're operating a dual operation. Had they had the right, they would have gone in and they would have discovered this fraud. The SEC, which had the right, never did it.

Now, as I said earlier, maybe there's another solution. The SEC has said we don't want FINRA taking over our jurisdiction. What I'd like to say is, let's make sure the SEC starts doing their job. Let's make sure that they start examining these investment advisers. Someone needs to. The average investment adviser is only examined once every 10 years. Bernie Madoff's investment adviser was never examined. It's the kind of gap in regulation that causes disasters. It causes scams, it causes Bernie Madoffs of the world to get along for decades.

That is why I introduced this amendment, the provision, which we're now striking.

Now, going forward, we at least need to look at this. We need to know that there are 500 or 600 of these investment advisers and broker-dealers, dual operations. And we need to make clear that the SEC, somewhere, that they have the authority to examine both investment advisers and broker-dealers. If they want to perform that mission—and I know one thing the chairman has done; he has added more money for the SEC. I think that is part of the answer, but I think this committee, the Congress, as we go forward, needs to make sure they do their job. And there was a monumental failure of the SEC, and if they don't do their job or we find they don't and they have the resources, let's give it to someone else.

I yield back the remainder of my time.

Mr. COHEN. I want to thank the gentleman for working with us on the amendment, and I'd like to yield as much time as he needs to the chairman of the full committee, the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. I thank both of my colleagues. And the ranking member is exactly right in the concerns he has expressed, and that is why at the committee, the chairman of the subcommittee—Mr. KANJORSKI and I tentatively agreed to this—we later heard some questions raised, in particular, someone I think for whom we all had an amount of respect, Denise Floyd Crawford, who's the longtime Texas securities administrator who really goes back four or five Texas administrations in a bipartisan way. And on behalf of the North American Securities Administration Association, she raised some concerns. And they were worried that this might, at some point, be too much of a delegation and therefore—and I appreciate the gentleman's comments—we agree with him that we do want to—our goal is to buff up investor protection.

Clearly, there's a role for FINRA. I think we may have gone a little too far in what we accepted in committee. But we're not talking about getting rid of it altogether. So I appreciate the reasonableness of what the gentleman from Alabama has said. It will be our role next year, if this bill passes, to monitor the SEC. I look forward to oversight hearings to make sure they're using their authority. And particularly, how best to allow the SEC to draw on the resources of FINRA will be high on our agenda.

Mr. BACHUS. Will the gentleman yield?

Mr. FRANK. Yes.

Mr. BACHUS. I appreciate that, and I think that is a logical solution to that. And at this time I will support the gentleman's amendment to strike the provision. And as I said when I brought this provision up, I wanted to highlight the fact that this is how Bernie Madoff, you know, he got away with operating these two operations on the same premises, and we need to do the—the regulators need to do a better job, someone, of being able to look across those operations.

Mr. COHEN. I would just like to thank again the gentleman from Alabama. I know it's difficult for him to work with us on this because he is the champion of the SEC, the Crimson Tide of Alabama.

With that, I would like to urge passage of the amendment.

I yield back the remainder of the time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Tennessee (Mr. COHEN).

The amendment was agreed to.

AMENDMENT NO. 16 OFFERED BY MR. PETERS

The Acting CHAIR. It is now in order to consider amendment No. 16 printed in House Report 111–370.

Mr. PETERS. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. PETERS:

Page 402, after line 18, insert the following subparagraph:

(E) ADDITIONAL AUTHORIZED ASSESSMENTS.—The Corporation is authorized to conduct risk-based assessments on financial companies in such amount and manner and subject to terms and conditions that the Corporation determines, with the concurrence of the Secretary of the Treasury and the Federal Reserve Board, are necessary to pay any shortfall in the Troubled Asset Relief Program established by the Emergency Economic Stabilization Act of 2008 that would add to the deficit or national debt, as identified by the Director of the Office of Management and Budget, in consultation with the

Director of the Congressional Budget Office pursuant to section 134 of such Act (12 U.S.C. § 5239).

The Acting CHAIRMAN. Pursuant to House Resolution 964, the gentleman from Michigan (Mr. PETERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. PETERS. I yield myself such time as I may consume.

Today we are debating legislation that will end the ''too big to fail'' doctrine and provide a mechanism for ensuring that in the future, taxpayers will not be asked to foot the bill to clean up Wall Street's mistakes. My amendment improves this legislation by ensuring that taxpayers are not asked to foot the bill for Wall Street's past mistakes as well.

My amendment will firmly establish that the financial industry—not taxpayers—will be responsible for making up any TARP shortfalls, and the TARP program will not add to our deficits or our national debt.

□ 0930

Section 134 of the Emergency Economic Stabilization Act of 2008 requires the President to identify a mechanism for recovering any shortfalls in TARP funds after 5 years so as not to increase the budget deficit or national debt. However, the mechanism for recouping any shortfall is not identified.

H.R. 4173 already empowers the FDIC to make risk-based assessments on the Nation's largest and most systemically risky financial institutions that will be used to create a Systemic Dissolution Fund used to seize and unwind any failed nonbank financial institution in the future, ensuring that there will be no more ad hoc bailouts of too-big-to-fail institutions.

My amendment would give the FDIC authority to make additional assessments to these same large firms, whose excessive risk-taking caused the current financial crisis, and use those assessments to pay off any TARP shortfalls and ensure that the taxpayers are made whole.

My amendment gives the American taxpayer certainty that all TARP funds will be recouped from the large financial companies that caused this financial crisis. It will allow Congress to show that we have a plan in place for the recoupment of any shortfall, consistent with the promises made during the debate over the Emergency Economic Stabilization Act. It will also ensure that the American public understands that we are not turning the page on TARP, but instead we have a clear and decisive plan for making sure that taxpayers are made whole.

Madam Chair, I reserve the balance of my time.

Mr. HENSARLING. I rise to claim time in opposition.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. HENSARLING. I yield myself as much time as I may consume. I rise in opposition to the gentleman's amendment.

If this body really cares about protecting the taxpayer against losses in TARP, they will have an opportunity to show it later today, and that is, vote to end the TARP program. Now we could have a debate about what TARP was, but the more relevant debate is what TARP is. And today, TARP is nothing more than $700 billion of walking-around money for the administration. It's a $700 billion revolving bailout fund to advance the administration's political, social and economic agenda.

And if you're concerned about protecting the taxpayer, why would you have a provision that further raids TARP for yet more taxpayer-funded foreclosure mitigation programs which have proven to be abject failures? You spend more taxpayer money on these programs, and foreclosure rates continue to climb and climb and climb. So if you're really serious about protecting taxpayers, put your vote where your sentiment is and vote later today to simply end the TARP program and end the bailouts. But given that the whole reason for being for this bill is a perpetual Wall Street bailout, I suspect, unfortunately, that will not occur.

The second point I would make, Madam Chair, is some of the companies that received funds under the capital purchase program have now repaid them back with interest. So now we are in the position to tax companies that have proven successful and paid back their funds, tax them for failing companies that didn't pay back theirs. Chrysler and GM received funds under TARP and Ford didn't. So under this, I suppose that we could assess Ford a tax to pay for losses the taxpayers will incur on GM and Chrysler. And we know that GM and Chrysler were defined as ''financial institutions'' under the TARP statute; therefore, Ford could be taxed under the gentleman's amendment. Is that smart? Is that fair? The answer is no.

This is yet another tax to go on capital. You can't have capitalism without capital. And so we have a $150 billion tax for the revolving bailout fund; we have an unlimited tax by the new czar to ban and ration consumer credit products that could touch small businesses throughout our Nation. Every time you increase the cost of taxes on capital, you get less lending, you get less credit, more expensive credit. And less credit is fewer jobs.

I would think at a time when our Nation has the highest unemployment rate in a generation that this is an institution that would be trying to create more jobs, trying to create more capital, trying to have small businesses access pools of capital, and all we do is see more legislation and more amendments to make capital less available and more expensive to our small businesses.

This amendment must be rejected.

I reserve the balance of my time.

Mr. PETERS. Madam Chair, I would like to yield 1½ minutes to the gentleman from Michigan (Mr. SCHAUER).

Mr. SCHAUER. Madam Chair, I rise in strong support of the Peters of Michigan amendment and the underlying legislation to reform our financial regulatory system.

For many years, we were told that what is good for Wall Street is good for Main Street, that the benefits are somehow supposed to trickle down. But the only thing the people of Michigan have seen is their hopes and dreams trickle out of reach. Wall Street's collapse has left my State with a 15 percent unemployment rate.

Last fall, Wall Street said they needed to borrow $700 billion from taxpayers to paper over their losses. Michiganders were forced to open up their wallets to support big Wall Street banks. Unfortunately, these big banks have decided to stop lending to Michigan homeowners and Michigan businesses. Employers can't get loans they need to bring people back to work.

This week, the Treasury said that TARP has performed better than expected, but they still expect to lose taxpayer dollars. We still do not have a guarantee that the bailed-out financial industry will actually repay taxpayers for their loans.

Mr. PETERS has offered an excellent amendment to ensure American taxpayers will get their money back and that those that created this mess will pick up the tab. This amendment enables the FDIC to make additional assessments on the Nation's largest, most systemically risky financial institutions to pay back this TARP money. This amendment finally puts in place a plan for Wall Street to pay back its loan. This is common sense. Those institutions responsible for the collapse should at least be forced to repay their loans.

Mr. HENSARLING. I continue to reserve my time.

Mr. PETERS. Madam Chair, I would like to yield 1½ minutes to the gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. Madam Chair, with today's action, the House will enact the most significant reform of our Nation's financial system since the Great Depression. These are not decisions we take lightly, but the prolonged recession and the near collapse of the financial market in the fall of 2008 have compelled us to respond.

It will also end the era of taxpayer-funded bailouts. Madam Chairwoman, this amendment offered by my friend and colleague, Mr. PETERS of Michigan, seeks to build on this legislation and will authorize the FDIC to make further assessments on the financial industry to ensure every penny of the TARP loans made to the banks is repaid and help reduce our Nation's debt and burden on the taxpayers.

I urge adoption of the amendment, Madam Chairwoman.

Mr. HENSARLING. I continue to reserve.

The Acting CHAIR. The gentleman from Michigan has 30 seconds remaining.

Mr. PETERS. Madam Chair, the amendment before us is a commonsense attempt to make sure that we recoup to the taxpayers the money that has been loaned to the financial industry. The gentleman from Texas mentions we should just end TARP, but that doesn't relieve us of the fact that we've got $140 billion that needs to be paid back so that it's not a liability on the taxpayers.

This is a way in which we can recoup the money from the financial institutions, the very institutions that were responsible for bringing this financial meltdown to our country and the problems that have impacted my State and States all across this country. This is a commonsense approach, and I urge adoption.

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

Mr. HENSARLING. Madam Chair, what is common sense is to terminate TARP—stop it before it can spend again. And I hear all this wonderful rhetoric about, well, somehow we are going to tax Wall Street for all of this. But look at the TARP program. Look at the taxpayer-funded foreclosure mitigation plans, all of which have been abject failures, where the taxpayer receives zero—zero—of his money back.

And so this, again, is just one more way to assess a greater tax, a greater cost on capital when small businesses have seen their credit lines shrunk, withdrawn. Jobs are being lost all over the Nation. And so here is one more idea to, frankly, keep TARP going. And, again, if people want to put their vote where their sentiment is, they will have an opportunity to do it later today. It's a fundamental difference between the two approaches; and that is, our friends on the other side of the aisle still want a perpetual bailout.

As I have said earlier, if there was truth in advertising, the bill before us would be named the ''Permanent Wall Street Bailout and Increase Job Losses Through Credit Rationing Act of 2009.''

The best way to protect the taxpayer is to end TARP and stop the grab for other programs, not to increase taxes, yet again, on capital that is vitally needed for our small businesses in order to create more jobs.

The Acting CHAIR. All time has expired.

The question is on the amendment offered by the gentleman from Michigan (Mr. PETERS).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. HENSARLING. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan will be postponed.

AMENDMENT NO. 17 OFFERED BY MR. WATT

The Acting CHAIR. It is now in order to consider amendment No. 17 printed in House Report 111–370.

Mr. WATT. I rise to offer the amendment.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. WATT:

Page 772, strike line 12 and all that follows through page 773, line 22, and insert the following:

(1) IN GENERAL.—The Director and the Agency may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments, over a motor vehicle dealer that is primarily engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(2) CERTAIN ACTIVITIES EXCEPTED.—Paragraph (1) shall not apply to—

(A) any motor vehicle dealer to the extent that such motor vehicle dealer engages in any financial activity other than extending credit or leasing exclusively for the purpose of enabling a consumer to purchase, lease, rent, repair, refurbish, maintain, or service a motor vehicle from that motor vehicle dealer; or

(B) any credit transaction involving a person who operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(i) the extension of retail credit or retail leases is provided directly to consumers; and

(ii) the contracts governing such extensions of retail credit or retail leases are not assigned to a third party finance or leasing source, except on a de minimis basis.

The Acting CHAIR. Pursuant to House Resolution 964, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. WATT. Madam Chair, I yield myself 3½ minutes.

Madam Chair, let me say at the outset it is my intention at the end of a short discussion to ask unanimous consent to withdraw the amendment, but I thought it would be enlightening to colleagues and to whoever else might be listening at this time in the morning to talk about some of the practical problems that you have even when there's broad agreement on an issue.

And I will describe the process. Both Mr. CAMPBELL, who is a member of the committee, and I agree that automobile dealers ought to be exempt in their primary duties from the CFPA, the Consumer Financial Protection Agency supervision and what have you. There was broad bipartisan and philosophical agreement on that general proposition in the committee when Mr. CAMPBELL offered his amendment, and there was broad agreement that there were some practical problems with the way the amendment was written; and the chairman delegated to me and to Mr. CAMPBELL the responsibility to try to find the right language. We set about trying to do that, and we have been diligently trying to do that.

Then the practical problems intervened. Other people get their fingers in the pot and suggest different issues that need to be resolved. Mr. CAMPBELL and I, on a Friday night, with him in California and me in North Carolina on our cell phones, have a conversation, and we are right at the verge of reaching an agreement, we think, and we are quibbling about words. Then he gets called away to the USC football game the next day, and I get called away the following day to the Carolina Panthers football game. And then we are right up against the deadline.

Then we find out that the chairman has offered a manager's amendment that deals with part of the problem, but not all of it. We both submitted amendments to the Rules Committee. Mr. CAMPBELL withdraws his amendment, mine is still standing, and we are still talking about the amendment.

And then the automobile dealers, because they don't like my amendment, decide that they need to lobby against it and make it sound as if I'm opposed to what I was in favor of all along.

□ 0945

So we've been at this for a long time.

And finally, yesterday, Mr. CAMPBELL and I sat down and talked again and decided that we should not allow the perfect to be the enemy of the good. What we have in the bill with the manager's amendment substantially advances the process. We are not the end of the process anyway. The Senate is going to have to deal with this. And both of us are still intent on the philosophy that automobile dealers ought to be exempt from CFPA. We agree on that. And so here we are, and we thought it would be helpful to have this dialogue.

With that, I reserve the balance of my time.

Mr. CAMPBELL. Madam Chair, I rise to claim the time in opposition.

The Acting CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. CAMPBELL. I yield myself such time as I may consume.

You know, maybe I shouldn't have gone to that USC football game because they lost, and so that was rather depressing. I don't know how the Carolina Panthers did, but——

Mr. WATT. They lost, too.

Mr. CAMPBELL. They lost, too. All right. Well, then, both of us didn't have a particularly good weekend.

But as the gentleman from North Carolina (Mr. WATT) described, we've had discussions on this thing, and he has been very helpful and worked very constructively on this. In fact, the language that is in the bill now reflects a number of suggestions that the gentleman from North Carolina made which clarified some things that were, frankly, confusing and conflicting in the bill. So I appreciate Mr. WATT's constructive work on this and all that he has done with this.

And yes, he's right, sometimes these things get very complicated and you

sit down and you try and figure out, well, what exactly does this say and are we saying the right thing? But I think we now have reached agreement that what is in the bill is the right thing.

There is broad agreement, as the gentleman from North Carolina suggested, with myself, with him, and broad agreement in this House that automobile dealers, in the normal course of their business, do not lend money and are not financial institutions and should not be subject to the additional regulation of the CFPA. If, however, they do lend money and act like financial institutions, then they will be subject. That is what this bill says. It is the right thing to say, and I think we have reached a good conclusion on this.

I thank the gentleman from North Carolina very much for his very good and constructive work on this.

Madam Chair, I reserve the balance of my time.

Mr. WATT. Madam Chair, I yield 1 minute to the Chair of the committee.

Mr. FRANK of Massachusetts. Madam Chair, I am very appreciative that two of the most constructive members of the committee, the gentleman from North Carolina and the gentleman from California, have been working together on this.

We have a mix here of policy difference, but then also some technical questions. Clearly, there was a difference on whether or not auto dealers should get some kind of exemption. The majority of the committee felt that the auto dealer situation was such—I would think particularly because of the stresses they have unfairly been recently subjected to by the chaos of the auto industry—that they did deserve some.

Once that question was resolved—I was in the minority on that, but it was resolved that they did—there were then technical issues about how to work it out. I am very pleased that two of our most thoughtful members are continuing a collaboration on this.

The manager's amendment had some improvement in this situation that was mutually agreed to, and there is room, I believe, for further conversation and refinement. And so I just want to express, first, my appreciation, and secondly, my willingness, to the extent my role as Chair of the committee would be relevant, to try to effectuate what they work out.

Mr. CAMPBELL. Madam Chair, I continue to reserve.

Mr. WATT. Madam Chair, I will just say in closing that one of the other wonderful things that has come out of this is that prior to this, Mr. CAMPBELL and I had never really had an opportunity to roll up our sleeves and work on issues together. It has been a joy to work with him, and he has been very constructive.

I want to just reserve myself enough time to ask unanimous consent to withdraw the amendment, but I don't want to do that before he has the last word.

Mr. CAMPBELL. And I have enjoyed working with you as well. I am glad that we are able to be where we are on this and look forward to working in the future as the bill moves forward.

Madam Chair, I yield back the balance of my time.

Mr. WATT. Madam Chair, I ask unanimous consent to withdraw the amendment.

The Acting CHAIR. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT NO. 18 OFFERED BY MR. KANJORSKI

The Acting CHAIR. It is now in order to consider amendment No. 18 printed in House Report 111–370.

Mr. KANJORSKI. I have an amendment at the desk as the designee of the gentleman from Massachusetts.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. KANJORSKI:

Strike section 6005 and redesignate the subsequent sections in subtitle B of title V and conform the table of contents in section 2 accordingly.

The Acting CHAIR. Pursuant to House Resolution 964, the gentleman from Pennsylvania (Mr. KANJORSKI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. KANJORSKI. Madam Chair, I rise in support of this amendment.

Nationally Recognized Statistical Rating Organizations are those credit rating agencies that are registered with the Securities and Exchange Commission and, therefore, regulated. Most often, the phrase is shortened to its initials, NRSRO; however, in formal contracts and statutes, the words are spelled out and each word matters. Unfortunately, an amendment to change one of these words was inadvertently accepted during the markup. We switched out the word ''recognized'' for the word ''registered.'' If enacted into law, such a change would put thousands of contracts in default and upset numerous Federal and State laws, rules, and regulations.

Although well intended, such a seemingly minuscule change could have disastrous unintended consequences. We must not put contracts in default or undermine other laws and regulations. Therefore, I urge my colleagues to support this amendment and reinstate the correct word in this important legislation.

I reserve the balance of my time.

Mr. GARRETT of New Jersey. Madam Chair, I rise to claim time in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. GARRETT of New Jersey. I yield myself 4 minutes.

I thank the gentleman from Pennsylvania for his amendment, but more than that, I should say I thank the gentleman for addressing this larger issue of CRAs for a number of months. I have claimed time in opposition just on the amendment because I think we can probably work this out in a different way.

The gentleman and I worked for a long time trying to address the issue of the credit rating agencies because both of us realize that when you lay out the reasons why we are in this financial mess that we're in right now, we may disagree on this point or that point as to exactly how we got here, but both of us, I believe, came to the conclusion that CRAs played a huge, huge part to bring us to where we are today with this financial mess. And the reason it did was because so many people failed to exercise what we would call proper market discipline when they made their investments, whether that was a small investor, a middle-size investor, or even the so-called ''knowledgeable'' investors on Wall Street failed to use what, in normal times, they would inherently have inside of them to say, What is the proper decisionmaking that I should make before I make this investment or that investment? What risks should I take here or there? And why was that, though, is the question.

Well, we looked at a whole bunch of things and we tried to come up with changes to the regulations of CRAs, the credit rating agencies, and we made a lot of changes that were improvements. But I think we came down to one point, that there was too much reliance upon credit rating agencies. Just because a CRA came out and said that on this particular security or this particular financial product that was rated AAA, regardless of what was actually in the package, regardless of the fact that maybe it was just a compilation of subprime mortgages with no likelihood whatsoever that they would ever be paid off, they got the AAA's seal of approval, and people invested in it. And, of course, the rest is history.

We look at it, one of the reasons why we think they got the seal of approval and then why investors looked at that and said that was okay was because they had the seal of approval from the Federal Government. The CRAs were listed as NRSROs, Nationally Recognized Statistical Rating Organizations. So the investor, large or small, sophisticated or not, said, Well, if the Federal Government is going to put its imprimatur on these organizations, on these CRAs by saying they are nationally recognized, if the Federal Government is going to put its stamp of approval, let's say their Good Housekeeping Seal of Approval on these entities, then they must be okay and the decisions they are making must be okay. So that is what led to their decisions.

That is why, in committee, Ranking Member BACHUS proposed a change to this. He changed it from ''nationally recognized'' to ''nationally registered,'' merely that these entities were registered. No seal of approval, no stamp of the Good Housekeeping Seal of Approval, just that they had gone through

the motions and had simply registered with the government as being a nationally registered statistical rating organization. That is why I think it made good sense to take away that seal of approval, and that is why I also believe that this legislation, this amendment in committee passed in a bipartisan manner out of committee.

Now, I recognize that I am actually on the floor now, oddly enough, defending the actions of the committee here to a change. And I understand the potential problems, but I would suggest that perhaps other things could be done other than just stripping this out and going back to the way it was before. I would suggest that we leave it as ''nationally registered statistical rating organizations,'' and as we go forward through the process, if we find—maybe it's minutia, maybe it's not, as far as some States' regulations or other Federal regulations that refer to this. I bet you there is a better, simpler way to just correspond this back for existing contracts and what have you, and I would look forward to working with the chairman and the other committee's chairman to solve those problems in the future.

Mr. KANJORSKI. Madam Chair, I yield such time as he may require to the chairman.

Mr. FRANK of Massachusetts. First, I would say to my friend from New Jersey, I very much agree with what he said about credit rating agencies. For the record, I would like to make an assertion I know he agrees with, that when he talks about our agreement on the CRAs and the role of the CRAs, we are talking about the credit rating agencies, not the Community Reinvestment Act, the other CRA with which we deal. Sometimes people don't pay full attention, so I don't want to get anybody too agitated.

Yes, he is exactly right. He and I, in fact, collaborated on the legislation to remove the statutory assertion. And I think he is also correct, we fully agree—I think there is virtually unanimity on it—with the purpose he articulated, tell the average investor to pay attention on your own, don't rely on the rating agencies, don't subcontract your judgment to them.

Frankly, I am frustrated. I would hope that people out in the economy would take advantage of the full legal rights they have to create some buy side rating agencies. I think that would be very helpful. We checked. There are no obstacles to doing it. I had some frustration that we weren't able to do more. I think we have done as much as anybody could think of. I've seen some newspaper articles that said, Why didn't you do more? But they were, not surprisingly, absent of any suggestion. So, yes, I think it would be better if we had buy side rating agencies. In the interim, we have at least told people, use your own judgment.

But as the gentleman acknowledged—and I think we can work this out—going forward, the problem we got was from a number of States and private institutions that have imbedded in their statutes the old language. And I am pleased the gentleman said let's work together. I think it would mean meeting with various State agencies and the pension funds to see if there is some legislative fix we could adopt short of going back to the old name, because I agree with him as to the purpose of changing the name so that we can alleviate this problem there.

So with that, I would be willing to say there is no need for the amendment, given that we have an agreement. We will ask our hardworking and very creative staffs that can often work very well together to meet with those who have raised this issue to see if there is something else we could do that would meet their concern so they wouldn't have to all amend their statutes, et cetera. And with that, I think we have come to a conceptual agreement. And as is often the case, we, the Members, will come to a conceptual agreement and the staff will do all the hard work of making it a reality.

Mr. KANJORSKI. Madam Chair, I reserve the balance of my time.

The Acting CHAIR. The gentleman from New Jersey has 1 minute remaining.

Mr. GARRETT of New Jersey. I appreciate the chairman's comments and look forward to seeing how this can be dealt with if this bill eventually does pass and goes over to the Senate and into the conference.

Mr. FRANK of Massachusetts. Would the gentleman yield?

Mr. GARRETT of New Jersey. Yes.

Mr. FRANK of Massachusetts. I would just say no one can dictate to anyone, but if there were to be a ''no'' on the voice vote, I think that would be a reasonable end to this particular discussion and we could then continue on the level we talked about.

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Mr. GARRETT of New Jersey. There is that comment, and also there is the understanding that we are not talking about the other CRA. Although, if we could make a UC, and if we could put that as being a cause—no, I guess we can't do that. That's a bridge too far.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI).

The amendment was rejected.

AMENDMENT NO. 19 OFFERED BY MR. MARSHALL

The Acting CHAIR. It is now in order to consider amendment No. 19 printed in House Report 111–370.

Mr. MARSHALL. I rise as the designee of the gentleman from Michigan (Mr. CONYERS).

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 19 offered by Mr. MARSHALL:

At the end of the bill, insert the following (and make such technical and conforming changes as may be appropriate):

TITLE VII—PREVENTION OF MORTGAGE FORECLOSURES

Subtitle A—Modification of Residential Mortgages

SEC. 9001. DEFINITION.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (43) the following (and make such technical and conforming changes as may be appropriate):

''(43A) The term 'qualified loan modification' means a loan modification agreement made in accordance with the guidelines of the Obama Administration's Homeowner Affordability and Stability Plan as implemented March 4, 2009, that—

''(A) reduces the debtor's payment (including principal and interest, and payments for real estate taxes, hazard insurance, mortgage insurance premium, homeowners' association dues, ground rent, and special assessments) on a loan secured by a senior security interest in the principal residence of the debtor, to a percentage of the debtor's income in accordance with such guidelines, without any period of negative amortization or under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal amount of such loan;

''(B) requires no fees or charges to be paid by the debtor in order to obtain such modification; and

''(C) permits the debtor to continue to make payments under the modification agreement notwithstanding the filing of a case under this title, as if such case had not been filed.''.

SEC. 9002. ELIGIBILITY FOR RELIEF.

Section 109 of title 11, United States Code, is amended—

(1) by adding at the end of subsection (e) the following: ''For purposes of this subsection, the computation of debts shall not include the secured or unsecured portions of—

''(1) debts secured by the debtor's principal residence if the value of such residence as of the date of the order for relief under chapter 13 is less than the applicable maximum amount of noncontingent, liquidated, secured debts specified in this subsection; or

''(2) debts secured or formerly secured by what was the debtor's principal residence that was sold in foreclosure or that the debtor surrendered to the creditor if the value of such real property as of the date of the order for relief under chapter 13 was less than the applicable maximum amount of noncontingent, liquidated, secured debts specified in this subsection.'', and

(2) by adding at the end of subsection (h) the following:

''(5) Notwithstanding the 180-day period specified in paragraph (1), with respect to a debtor in a case under chapter 13 who submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure on the debtor's principal residence, the requirements of paragraph (1) shall be considered to be satisfied if the debtor satisfies such requirements not later than the expiration of the 30-day period beginning on the date of the filing of the petition.''.

SEC. 9003. PROHIBITING CLAIMS ARISING FROM VIOLATIONS OF THE TRUTH IN LENDING ACT.

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8) by striking ''or'' at the end,

(2) in paragraph (9) by striking the period at the end and inserting ''; or'', and

(3) by adding at the end the following:

''(10) the claim for a loan secured by a security interest in the debtor's principal residence is subject to a remedy for rescission

under the Truth in Lending Act notwithstanding the prior entry of a foreclosure judgment, except that nothing in this paragraph shall be construed to modify, impair, or supersede any other right of the debtor.''.

SEC. 9004. AUTHORITY TO MODIFY CERTAIN MORTGAGES.

Section 1322 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (11) as paragraph (12),

(B) in paragraph (10) by striking ''and'' at the end, and

(C) by inserting after paragraph (10) the following:

''(11) notwithstanding paragraph (2), with respect to a claim for a loan originated before the effective date of this paragraph and secured by a security interest in the debtor's principal residence that is the subject of a notice that a foreclosure may be commenced with respect to such loan, modify the rights of the holder of such claim (and the rights of the holder of any claim secured by a subordinate security interest in such residence)—

''(A) by providing for payment of the amount of the allowed secured claim as determined under section 506(a)(1);

''(B) if any applicable rate of interest is adjustable under the terms of such loan by prohibiting, reducing, or delaying adjustments to such rate of interest applicable on and after the date of filing of the plan;

''(C) by modifying the terms and conditions of such loan—

''(i) to extend the repayment period for a period that is no longer than the longer of 40 years (reduced by the period for which such loan has been outstanding) or the remaining term of such loan, beginning on the date of the order for relief under this chapter; and

''(ii) to provide for the payment of interest accruing after the date of the order for relief under this chapter at a fixed annual rate equal to the currently applicable average prime offer rate as of the date of the order for relief under this chapter, corresponding to the repayment term determined under the preceding paragraph, as published by the Federal Financial Institutions Examination Council in its table entitled 'Average Prime Offer Rates—Fixed', plus a reasonable premium for risk; and

''(D) by providing for payments of such modified loan directly to the holder of the claim or, at the discretion of the court, through the trustee during the term of the plan; and'', and

(2) by adding at the end the following:

''(g) A claim may be reduced under subsection (b)(11)(A) only on the condition that if the debtor sells the principal residence securing such claim, before completing all payments under the plan (or, if applicable, before receiving a discharge under section 1328(b)) and receives net proceeds from the sale of such residence, then the debtor agrees to pay to such holder not later than 15 days after receiving such proceeds—

''(1) if such residence is sold in the 1st year occurring after the effective date of the plan, 90 percent of the amount of the difference between the sales price and the amount of such claim as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection;

''(2) if such residence is sold in the 2d year occurring after the effective date of the plan, 70 percent of the amount of the difference between the sales price and the amount of such claim as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection;

''(3) if such residence is sold in the 3d year occurring after the effective date of the plan, 50 percent of the amount of the difference between the sales price and the amount of such claim as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection;

''(4) if such residence is sold in the 4th year occurring after the effective date of the plan, 30 percent of the amount of the difference between the sales price and the amount of such claim as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection; and

''(5) if such residence is sold in the 5th year occurring after the effective date of the plan, 10 percent of the amount of the difference between the sales price and the amount of such claim as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection.

''(h) With respect to a claim of the kind described in subsection (b)(11), the plan may not contain a modification under the authority of subsection (b)(11)—

''(1) in a case commenced under this chapter after the expiration of the 30-day period beginning on the effective date of this subsection, unless—

''(A) the debtor certifies that the debtor—

''(i) not less than 30 days before the commencement of the case, contacted the holder of such claim (or the entity collecting payments on behalf of such holder) regarding modification of the loan that is the subject of such claim;

''(ii) provided the holder of the claim (or the entity collecting payments on behalf of such holder) a written statement of the debtor's current income, expenses, and debt substantially conforming with the schedules required under section 521(a) or such other form as is promulgated by the Judicial Conference of the United States for such purpose; and

''(iii) considered any qualified loan modification offered to the debtor by the holder of the claim (or the entity collecting payments on behalf of such holder); or

''(B) a foreclosure sale is scheduled to occur on a date in the 30-day period beginning on the date the case is commenced;

''(2) in any other case pending under this chapter, unless the debtor certifies that the debtor attempted to contact the holder of such claim (or the entity collecting payments on behalf of such holder) regarding modification of the loan that is the subject of such claim, before—

''(A) filing a plan under section 1321 that contains a modification under the authority of subsection (b)(11); or

''(B) modifying a plan under section 1323 or 1329 to contain a modification under the authority of subsection (b)(11).

''(i) In determining the holder's allowed secured claim under section 506(a)(1) for purposes of subsection (b)(11)(A), the value of the debtor's principal residence shall be the fair market value of such residence on the date such value is determined and, if the issue of value is contested, the court shall determine such value in accordance with the appraisal rules used by the Federal Housing Administration.''.

SEC. 9005. COMBATING EXCESSIVE FEES.

Section 1322(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking ''and'' at the end,

(2) in paragraph (2) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

''(3) the debtor, the debtor's property, and property of the estate are not liable for a fee, cost, or charge that is incurred while the case is pending and arises from a debt that is secured by the debtor's principal residence except to the extent that—

''(A) the holder of the claim for such debt files with the court and serves on the trustee, the debtor, and the debtor's attorney (annually or, in order to permit filing consistent with clause (ii), at such more frequent periodicity as the court determines necessary) notice of such fee, cost, or charge before the earlier of—

''(i) 1 year after such fee, cost, or charge is incurred; or

''(ii) 60 days before the closing of the case; and

''(B) such fee, cost, or charge—

''(i) is lawful under applicable nonbankruptcy law, reasonable, and provided for in the applicable security agreement; and

''(ii) is secured by property the value of which is greater than the amount of such claim, including such fee, cost, or charge;

''(4) the failure of a party to give notice described in paragraph (3) shall be deemed a waiver of any claim for fees, costs, or charges described in paragraph (3) for all purposes, and any attempt to collect such fees, costs, or charges shall constitute a violation of section 524(a)(2) or, if the violation occurs before the date of discharge, of section 362(a); and

''(5) a plan may provide for the waiver of any prepayment penalty on a claim secured by the debtor's principal residence.''.

SEC. 9006. CONFIRMATION OF PLAN.

(a) Section 1325(a) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1) strike ''subsection (b)'' and insert ''subsections (b) and (d)''.

(2) in paragraph (5)—

(A) by inserting ''except as otherwise provided in section 1322(b)(11),'' after ''(5)'', and

(B) in subparagraph (B)(iii)(I) by inserting ''(including payments of a claim modified under section 1322(b)(11))'' after ''payments'' the 1st place it appears,

(3) in paragraph (8) by striking ''and'' at the end,

(4) in paragraph (9) by striking the period at the end and inserting a semicolon, and

(5) by inserting after paragraph (9) the following:

''(10) notwithstanding subclause (I) of paragraph (5)(B)(i), whenever the plan modifies a claim in accordance with section 1322(b)(11), the holder of a claim whose rights are modified pursuant to section 1322(b)(11) shall retain the lien until the later of—

''(A) the payment of such holder's allowed secured claim; or

''(B) completion of all payments under the plan (or, if applicable, receipt of a discharge under section 1328(b)); and

''(11) whenever the plan modifies a claim in accordance with section 1322(b)(11), the court finds that such modification is in good faith (Lack of good faith exists if the debtor has no need for relief under this paragraph because the debtor can pay all of his or her debts and any future payment increases on such debts without difficulty for the foreseeable future, including the positive amortization of mortgage debt. In determining whether a reduction of the principal amount of the loan resulting from a modification

made under the authority of section 1322(b)(11) is made in good faith, the court shall consider whether the holder of such claim (or the entity collecting payments on behalf of such holder) has offered to the debtor a qualified loan modification that would enable the debtor to pay such debts and such loan without reducing such principal amount.) and does not find that the debtor has been convicted of obtaining by actual fraud the extension, renewal, or refinancing of credit that gives rise to a modified claim.''.

(b) Section 1325 of title 11, United States Code, is amended by adding at the end the following (and make such technical and conforming changes as may be appropriate):

''(d) Notwithstanding section 1322(b)(11)(C)(ii), the court, on request of the debtor or the holder of a claim secured by a senior security interest in the debtor's principal residence, may confirm a plan proposing a reduction in the interest rate on the loan secured by such security interest and that does not reduce the principal, provided the total monthly mortgage payment is reduced to a percentage of the debtor's income in accordance with the guidelines of the Obama Administration's Homeowner Affordability and Stability Plan as implemented March 4, 2009, if, taking into account the debtor's financial situation, after allowance of expenses that would be permitted for a debtor under this chapter subject to paragraph (3) of subsection (b), regardless of whether the debtor is otherwise subject to such paragraph, and taking into account additional debts and fees that are to be paid in this chapter and thereafter, the debtor would be able to prevent foreclosure and pay a fully amortizing 30-year loan at such reduced interest rate without such reduction in principal.''.

SEC. 9007. DISCHARGE.

Section 1328(a) of title 11, United States Code, is amended—

(1) by inserting ''(other than payments to holders of claims whose rights are modified under section 1322(b)(11))'' after ''paid'', and

(2) in paragraph (1) by inserting ''or, to the extent of the unpaid portion of an allowed secured claim, provided for in section 1322(b)(11)'' after ''1322(b)(5)''.

SEC. 9008. STANDING TRUSTEE FEES.

(a) AMENDMENT TO TITLE 28.—Section 586(e)(1)(B)(i) of title 28, United States Code, is amended—

(1) by inserting ''(I) except as provided in subparagraph (II)'' after ''(i)'',

(2) by striking ''or'' at the end and inserting ''and'', and

(3) by adding at the end the following:

''(II) 4 percent with respect to payments received under section 1322(b)(11) of title 11 by the individual as a result of the operation of section 1322(b)(11)(D) of title 11, unless the bankruptcy court waives all fees with respect to such payments based on a determination that such individual has income less than 150 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and payment of such fees would render the debtor's plan infeasible.''.

(b) CONFORMING PROVISION.—The amendments made by this section shall apply to any trustee to whom the provisions of section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554; 100 Stat. 3121) apply.

SEC. 9009. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this subtitle shall apply with respect to cases commenced under title 11 of the United States Code before, on, or after the date of the enactment of this Act.

(2) LIMITATION.—Paragraph (1) shall not apply with respect to cases closed under title 11 of the United States Code as of the date of the enactment of this Act that are neither pending on appeal in, nor appealable to, any court of the United States.

SEC. 9010. GAO STUDY.

The Comptroller General shall carry out a study, and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, not later than 2 years after the date of the enactment of this Act a report containing—

(1) the results of such study of—

(A) the number of debtors who filed, during the 1-year period beginning on the date of the enactment of this Act, cases under chapter 13 of title 11 of the United States Code for the purpose of restructuring their principal residence mortgages,

(B) the number of mortgages restructured under the amendments made by this subtitle that subsequently resulted in default and foreclosure,

(C) a comparison between the effectiveness of mortgages restructured under non-judicial voluntary mortgage modification programs and mortgages restructured under the amendments made by this subtitle,

(D) the number of cases presented to the bankruptcy courts where mortgages were restructured under the amendments made by this subtitle that were appealed,

(E) the number of cases presented to the bankruptcy courts where mortgages were restructured under the amendments made by this subtitle that were overturned on appeal, and

(F) the number of bankruptcy judges disciplined as a result of actions taken to restructure mortgages under the amendments made by this subtitle, and

(2) a recommendation as to whether such amendments should be amended to include a sunset clause.

SEC. 9011. REPORT TO CONGRESS.

Not later than 18 months after the date of the enactment of this Act, the Comptroller General, in consultation with the Federal Housing Administration, shall submit to the Congress, a report containing—

(1) a comprehensive review of the effects of the amendments made by this subtitle on bankruptcy courts,

(2) a survey of whether the program should limit the types of homeowners eligible for the program, and

(3) a recommendation on whether such amendments should remain in effect.

Subtitle B—Related Mortgage Modification Provisions

SEC. 9021. ADJUSTMENTS AS A RESULT OF MODIFICATION IN BANKRUPTCY OF HOUSING LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Section 3732 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (2) as subparagraph (A) of paragraph (2), and

(2) by inserting after subparagraph (A) the following new subparagraph:

''(B) In the event that a housing loan guaranteed under this chapter is modified under the authority provided under section 1322(b) of title 11, United States Code, the Secretary may pay the holder of the obligation the unpaid balance of the obligation due as of the date of the filing of the petition under title 11, United States Code, plus accrued interest, but only upon the assignment, transfer, and delivery to the Secretary (in a form and manner satisfactory to the Secretary) of all rights, interest, claims, evidence, and records with respect to the housing loan.''.

(b) MATURITY OF HOUSING LOANS.—Paragraph (1) of section (d) of section 3703 of title 38, United States Code, is amended by inserting ''at the time of origination'' after ''loan''.

(c) IMPLEMENTATION.—The Secretary of Veterans Affairs may implement the amendments made by this section through notice, procedure notice, or administrative notice.

SEC. 9022. PAYMENT OF FHA MORTGAGE INSURANCE BENEFITS.

(a) IN GENERAL.—Subsection (a) of section 204 of the National Housing Act (12 U.S.C. 1710(a)) is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

''(E) MODIFICATION OF MORTGAGE IN BANKRUPTCY.—

''(i) AUTHORITY.—If an order is entered under the authority provided under section 1322(b) of title 11, United States Code, that (a) determines the amount of an allowed secured claim under a mortgage in accordance with section 506(a)(1) of title 11, United States Code, and the amount of such allowed secured claim is less than the amount due under the mortgage as of the date of the filing of the petition under title 11, United States Code, or (b) reduces the interest to be paid under a mortgage in accordance with section 1325 of such title, the Secretary may pay insurance benefits for the mortgage as follows:

''(I) FULL PAYMENT AND ASSIGNMENT.—The Secretary may pay the insurance benefits for the mortgage, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of paragraph (1)(A). The insurance benefits shall be paid in the amount equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid upon the date of the filing of by the mortgagor of the petition under title 11 of the United States Code. Nothing in this Act may be construed to prevent the Secretary from providing insurance under this title for a mortgage that has previously been assigned to the Secretary under this subclause. The decision of whether to utilize the authority under this subclause for payment and assignment shall be at the election of the mortgagee, subject to such terms and conditions as the Secretary may establish.

''(II) ASSIGNMENT OF UNSECURED CLAIM.—The Secretary may make a partial payment of the insurance benefits for any unsecured claim under the mortgage, but only upon the assignment to the Secretary of any unsecured claim of the mortgagee against the mortgagor or others arising out of such order. Such assignment shall be deemed valid irrespective of whether such claim has been or will be discharged under title 11 of the United States Code. The insurance benefits shall be paid in the amount specified in subclause (I) of this clause, as such amount is reduced by the amount of the allowed secured claim. Such allowed secured claim shall continue to be insured under section 203.

''(III) INTEREST PAYMENTS.—The Secretary may make periodic payments, or a one-time payment, of insurance benefits for interest payments that are reduced pursuant to such order, as determined by the Secretary, but

only upon assignment to the Secretary of all rights and interest related to such payments.

''(ii) DELIVERY OF EVIDENCE OF ENTRY OF ORDER.—Notwithstanding any other provision of this paragraph, no insurance benefits may be paid pursuant to this subparagraph for a mortgage before delivery to the Secretary of evidence of the entry of the order issued pursuant to title 11, United States Code, in a form satisfactory to the Secretary.'';

(2) in paragraph (5), in the matter preceding subparagraph (A), by inserting after ''section 520, and'' the following: '', except as provided in paragraph (1)(E),''; and

(3) by adding at the end the following new paragraph:

''(10) LOAN MODIFICATION PROGRAM.—

''(A) AUTHORITY.—The Secretary may carry out a program solely to encourage loan modifications for eligible delinquent mortgages through the payment of insurance benefits and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved by the mortgagee.

''(B) PAYMENT OF BENEFITS AND ASSIGNMENT.—Under the program under this paragraph, the Secretary may pay insurance benefits for a mortgage, in the amount determined in accordance with paragraph (5)(A), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of paragraph (1)(A).

''(C) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, the Secretary may provide insurance under this title for the mortgage. The Secretary may subsequently—

''(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

''(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

''(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

''(D) LOAN SERVICING.—In carrying out the program under this section, the Secretary may require the existing servicer of a mortgage assigned to the Secretary under the program to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage. If the mortgage is resold pursuant to subparagraph (C)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.''.

(b) AMENDMENT TO PARTIAL CLAIM AUTHORITY.—Paragraph (1) of section 230(b) of the National Housing Act (12 U.S.C. 1715u(b)(1)) is amended by striking ''12 of the monthly mortgage payments'' and inserting ''30 percent of the unpaid principal balance of the mortgage''.

(c) IMPLEMENTATION.—The Secretary of Housing and Urban Development may implement the amendments made by this section through notice or mortgagee letter.

SEC. 9023. ADJUSTMENTS AS RESULT OF MODIFICATION OF RURAL SINGLE FAMILY HOUSING LOANS IN BANKRUPTCY.

(a) GUARANTEED RURAL HOUSING LOANS.—Subsection (h) of section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (7)—

(A) in subparagraph (A), by inserting before the period at the end the following: '', unless the maturity date of the loan is modified in a bankruptcy proceeding or at the discretion of the Secretary''; and

(B) in subparagraph (B), by inserting before the semicolon the following: '', unless such rate is modified in a bankruptcy proceeding'';

(2) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(3) by inserting after paragraph (12) the following new paragraph:

''(13) PAYMENT OF GUARANTEE.—In addition to all other authorities to pay a guarantee claim, the Secretary may also pay the guaranteed portion of any losses incurred by the holder of a note or the servicer resulting from a modification of a note by a bankruptcy proceeding.''.

(b) INSURED RURAL HOUSING LOANS.—Subsection (j) of section 517 of the Housing Act of 1949 (42 U.S.C. 1487(j)) is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

''(2) to pay for losses incurred by holders or servicers in the event of a modification pursuant to a bankruptcy proceeding;''.

(c) IMPLEMENTATION.—The Secretary of Agriculture may implement the amendments made by this section through notice, procedure notice, or administrative notice.

The Acting CHAIR. Pursuant to House Resolution 964, the gentleman from Georgia (Mr. MARSHALL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. MARSHALL. Madam Chair, this is an amendment which is identical to a bill passed by the House earlier this year, in March. The bill permits what is referred to as ''cramdown'' in chapter 13 with regard to private home mortgages. It is intended to address this foreclosure crisis without taxpayers having to put money into the deal. It essentially forces the parties to deal with their problems without having vacancies and foreclosures in our neighborhoods.

In that sense, it helps all lenders with real estate portfolios. It helps the individuals whose homes might be foreclosed upon. It actually helps the creditors, who are forced into the chapter 13 process because, in almost every instance, their portfolios are improved by not having as many houses in foreclosure, and in almost every instance, they get better deals in the chapter 13 process than they would in the normal foreclosure process.

We should have done this long ago. It would have helped the housing crisis and, consequently, the economy of the country.

I compliment Mr. MILLER from North Carolina. This was originally his bill. He has been pushing this for several years. I also compliment Ms. ZOE LOFGREN from California, who couldn't be here today because of family matters, because she has been a real stalwart in moving this forward.

I reserve the balance of my time.

Mr. GOODLATTE. I rise to claim time in opposition.

The Acting CHAIR. The gentleman from Virginia is recognized for 5 minutes.

Mr. GOODLATTE. Madam Chair, I yield 1 minute to the gentleman from Texas (Mr. SMITH), the ranking member of the Judiciary Committee.

Mr. SMITH of Texas. I thank the gentleman from Virginia (Mr. GOODLATTE), the deputy ranking member of the Judiciary Committee, for yielding me time.

Madam Chairwoman, those who confront mortgage foreclosures are understandably in difficult situations, but this bankruptcy amendment will only lead to a worse situation for everyone.

The number one cause of foreclosures today is job loss. The number two cause is homes which are mortgaged for more than they are worth. Sending homeowners with these problems into chapter 13 bankruptcy is no solution at all. The jobless do not have the steady incomes that are required to file for a chapter 13 bankruptcy, and those who bet wrong on a rising housing market should honor the mortgages for which they have freely contracted.

Allowing bankruptcy courts to cram down mortgage principal will only lead to higher interest rates and tougher mortgage terms for all future homeowners.

Why should those who have done nothing wrong have to pay that price?

Mr. MARSHALL. I yield myself such time as I may consume.

Madam Chair, let me just make a couple of observations. If, in fact, you are jobless and don't have income, you are not eligible for chapter 13. Consequently, you won't be able to cram down. It is those who do have jobs and who do have income who could survive if they had the opportunity to restructure their debt. They would be eligible. It's only those folks.

As far as increasing the cost of credit is concerned, this bill provides that it is retroactive. It doesn't apply to future credit. Many, many experts have looked at this and have concluded that it will not increase the cost of future credit.

I reserve the balance of my time.

Mr. GOODLATTE. Madam Chair, I recognize myself for 2 minutes.

First, I will say that the gentleman from Georgia may assert that this will benefit creditors, but I know a few creditors who extend home mortgage loans who favor this legislation.

Our country has fallen into a serious economic recession, a recession that has been worsened by the foreclosure crisis. Until we address the rising number of foreclosures, it will be difficult for the economy to recover. Unfortunately, this bankruptcy amendment, which I don't think belongs in this legislation to begin with, not only fails to

solve the foreclosure crisis, but it also will make the crisis deeper, longer, and wider.

Allowing bankruptcy courts to modify home mortgages will have adverse consequences for all while providing little real relief to distressed borrowers. Bankruptcy cramdowns will invariably lead to higher interest rates and to less generous borrowing terms for future borrowers. The gentleman may claim that it won't affect future borrowers, but the fact of the matter is, if this can be done now for this purpose, the advocates of this legislation will likely, in the future, see this made a permanent provision in our bankruptcy laws. It will have the effect of causing interest rates to go up and of causing credit to be less available.

Unemployment has been a driving factor behind most foreclosures, but because individuals without regular incomes may not file for bankruptcy under chapter 13, cramdown will do nothing for those most in need of relief—the unemployed. Additionally, many borrowers walk away from their homes, not because they can't afford their monthly payments, but because their homes are mortgaged for more than they are worth. These borrowers should live with the responsibility of their decisions and not receive bailouts from bankruptcy courts.

Furthermore, we must not forget that cramdown will not only impact lenders but investors as well. These investors often include pension funds, which represent the retirement savings of millions. We should not pass the cost of irresponsible borrowing and lending off on current and future retirees.

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

Mr. GOODLATTE. I yield myself an additional 30 seconds.

Madam Chair, there is no reason to allow mortgage cramdown, with its attendant high cost, considering it will produce only modest results at best.

If we pass this amendment, what message does it send to the 90 percent of homeowners who are making their payments on time? How can we ask them to foot the bill for their neighbors' mortgages? What do homeowners think when they pay back the full amount of the principal they owe while others receive a government reduction in principal?

We do need to do everything we can to help solve the foreclosure crisis, but we must avoid measures like cramdown, which punishes the successful, taxes the responsible, and holds no one accountable.

I reserve the balance of my time.

Mr. MARSHALL. I yield myself such time as I may consume.

Madam Chair, to other homeowners, we should say that your home values won't decline as rapidly, because there won't be as many vacancies. We are not asking you to put a dime into the deal. No taxpayer dollars go into the deal at all. To those who cannot afford chapter 13, obviously, some other remedy is called for than this; but for those who can afford a chapter 13, you are helping everybody by filing a chapter 13.

Having spent years in this business, creditors will not be harmed, and the cost of credit will not go up. That is particularly true because, in this bill, it only applies to existing mortgages. It doesn't apply to future mortgages, so it is widely conceded that the cost of credit will not go up. This is truly a win-win.

I was originally opposed. I've been in this business for a long time. I had a change of heart. The change of heart focuses on the crisis that we are in right now. You can go to my Web site. On the front page of the Web site, those who are interested will find a detailed explanation of why this is absolutely the right thing to do.

With that, it seems to me I've responded to everything that the gentleman from Virginia has said.

I reserve the balance of my time.

The Acting CHAIR. The gentleman from Virginia has 1½ minutes remaining.

Mr. GOODLATTE. Madam Chair, I yield 1½ minutes to the gentleman from California (Mr. DANIEL E. LUNGREN), a member of the committee.

Mr. DANIEL E. LUNGREN of California. Madam Chair, this is a prime example of good intentions resulting in bad policy.

My area is one of the areas hit as badly as any with respect to foreclosures. We have not cleared the market yet. We are in deep, deep shape. The last thing we need is to increase the level of uncertainty within the mortgage market, and that's what it does. It may be limited by its terms, but if we do it now, we can do it again.

Some people ask, Why would we not allow cramdown for residential housing?

Looking at this with a case in previous years, Supreme Court Justice Stevens said, The favorable treatment of residential mortgages was intended to encourage the flow of capital into the home lending market.

That is why this exists in the bankruptcy code today, precisely because it allows more people access to purchasing homes, and premiums are not as high as they otherwise would be precisely because you cannot allow cramdown in bankruptcy proceedings now. That's the sole substance of the reason we have this.

We are going to reverse this as a matter of public policy. It is going to create greater uncertainty and thereby increase the premiums in the future for everybody else, and it will deny access to the housing market for those we seek to help.

Mr. MARSHALL. I yield myself such time as I may consume.

Madam Chair, I will simply repeat:

Since this is only applicable to existing mortgages, it will have no effect on the cost of future mortgages. The beauty of it is we will have fewer foreclosures.

So, to the gentleman from California and to those in California who are in neighborhoods which are really struggling with this phenomenon of housing prices collapsing because of all of the vacancies, all of those folks will be helped by this without putting a single dime of taxpayer dollars in the deal. It seems to me that is a complete justification for doing this. We should have done it long ago.

I reserve the balance of my time.

The Acting CHAIR. The gentleman from Virginia has no time remaining, and the gentleman from Georgia has 1½ minutes remaining.

Mr. MARSHALL. Madam Chair, there is a thing called the ''tragedy of the commons.'' It is a theoretical concept that applies in this particular case. It refers to the opening of common areas for grazing. Then those who have sheep come in and overgraze that area, and the effect is not that everybody gets wealthier; it's that everybody gets poorer.

As an individual creditor, I am not interested in having somebody fool around with me in bankruptcy court or something like that. Yet, combined, creditors are advantaged by having fewer foreclosures on the market in a situation like this. Having represented an awful lot of banks, having spent an awful lot of my life as a bankruptcy lawyer, law professor, and commercial litigator, I am absolutely convinced that I was wrong to initially reject this concept. We should have done it a couple of years ago.

If we apply it now, we will catch what appears to be an ongoing wave of foreclosures. It will help the individuals who can rescue their homes. It will lessen the number of foreclosures, consequently helping all other homeowners. No taxpayer dollars are involved, and creditors are assisted by this with no threat whatsoever to an increase in mortgage prices.

We passed this before. We should pass it again. It is appropriate to this particular piece of legislation because the work we are doing right now is prompted as a result of the credit crisis that was caused initially by housing issues. So housing should be addressed as part of fixing the overall financial situation.

Mr. LUCAS. Madam Chair, this amendment will most certainly not help those who it is designed to help. It will drive up the cost of loans, limit the number of loans that can be made, raise interest rates, and increase opportunities for abuse in the bankruptcy system.

I want to focus the House on another important problem that has not been discussed: how the bankruptcy laws and the accounting rules and treatments combine to do potentially substantial and lasting damage to the financial system.

Under existing accounting rules, any bankruptcy loss may be considered an indication of impairment. The term that is used by accountants is ''other than temporarily impaired,'' or ''OTTI.'' I want to make sure that the House understands the consequences of this problem in the real world. Even if a company took a

small bankruptcy loss on one of the residential mortgage-backed securities, RMBS, that it owns, the amount of loss that would be recognized in that company's income statement is a full writedown to deeply depressed market values, not just the amount deemed to be a bankruptcy. Any loss of principal, current or future, requires this treatment no matter what term is used to describe the loss. If a judge can adjust principal, then a significant detrimental impact to the company will automatically follow.

The House must clearly understand that the losses which would be recognized by financial institutions in this situation are far greater than the amount of the bankruptcy losses. Any RMBS holder will have to record these losses in the same manner, and so the threat of bankruptcy ''cramdowns'' casts a huge shadow across the entire financial services industry. For example, if a company owns $5 million in RMBS with a current market value of $2,500,000, and there is a bankruptcy loss per the judge of $50,000 economic loss to the preferred RMBS traunch, the required financial statement loss under existing accounting rules would be $2,500,000. In this example, accounting rules require booking the financial statement loss at 50 times the actual economic loss.

This is a stark, but true, statement of the horrific impact that existing accounting rules are likely to have on the financial services industry in the event this legislation becomes law. It would only take a few of these kinds of losses to destroy the current year operating positions of any company and greatly impact its overall capital position.

This means that the cramdown amendment the House considers today carries with it a virus that threatens to consume significant parts of the financial services industry, particularly any company that is a significant holder of RMBS. The majority either does not understand, or has chosen not to deal with, this significant and looming problem. Likewise, there is a lack of understanding about the major role that accounting rules and treatments play in it, I earnestly hope that our colleagues in the other body will address this issue squarely, and understand that cramdown without accounting reform and strict limitations on the discretion of bankruptcy judges has the potential to create significant and unanticipated collateral damage to our financial system, as well as loss of credibility with financial services industry customers and widespread negative ratings from all rating agencies.

Ms. FUDGE. Madam Chair, one in seven mortgages in the United States is now either delinquent or in foreclosure. This is an all time high. By the close of this year, there will be nearly 3 million homes lost to foreclosure.

This amendment gives homeowners a chance to save their homes. It would allow bankruptcy courts to extend repayment timelines, lower excessive interest rates, and modify mortgages.

It will protect hard-working and honest Americans struggling to keep their homes. As I've witnessed firsthand in my own district, the relentless tide of foreclosures has a crippling and destabilizing effect on the community.

I urge my colleagues to support this amendment.

Mr. ROYCE. Madam Chair, I rise in opposition to this amendment.

Let me briefly read a quote on this issue from Supreme Court Justice John Paul Stevens—who tends to be a left-leaning member of the Court. In 1993, Justice Stevens said:

> At first blush it seems somewhat strange that the Bankruptcy Code should provide less protection to an individual's interest in retaining possession of his or her home than of other assets . . . [but] favorable treatment of residential mortgages was intended to encourage the flow of capital into the home lending market.

As Justice Stevens indicates—there is a reason why the bankruptcy code does not treat residential mortgages like it treats credit cards or auto loans. We want to ensure investment certainty and encourage the flow of capital into this market.

The government makes up the secondary mortgage market right now—there is no private market.

As our housing market continues to struggle through one of the worst shocks in our nation's history, certainty and investment security is essential to a recovery. This amendment prevents that.

I encourage my colleagues to oppose the amendment.

Mr. CONYERS. Madam Chair, I rise in support of this commonsense amendment to give struggling homeowners a fair chance to keep their homes when it makes economic sense.

I am joined today by a diverse bipartisan group of cosponsors, including MIKE TURNER, ZOE LOFGREN, JIM MARSHALL, MAXINE WATERS, STEVE COHEN, BRAD MILLER, BILL DELAHUNT, JERRY NADLER, and MARCIA FUDGE.

This is the same provision the House approved in March as a key component of H.R. 1106, the ''Helping Families Save Their Homes Act.''

As the House considers financial regulatory reform legislation today, we should not forget the problem that started it all—the cataclysm of home mortgage foreclosures.

These foreclosures have pulled the rug out from under our economy, devastating families, neighborhoods, and local governments. And unfortunately, the end to this toxic cycle is nowhere in sight.

In Wayne County, Michigan, which includes Detroit, there are almost 200 foreclosure-related actions every day, even worse than the 138 foreclosures a day back in July.

According to recent data, 14 percent of American homeowners were in foreclosure or had fallen behind in their mortgage payments—up from 10 percent in 2008.

This Wednesday, the Congressional Oversight Panel for TARP released a report in which it projected that there could be up to 13 million foreclosures over the next 5 years.

We have not seen foreclosure numbers like these since the Great Depression.

This amendment will help provide meaningful relief to struggling homeowners, by giving bankruptcy courts the authority to make fair modifications to mortgages, giving families a decent chance to come to terms with their lender on workable payment terms.

The amendment would allow the courts to extend repayment periods, reduce excessive interest rates and fees, and adjust the principal balance of the mortgage to a home's present-day market value.

The amendment also grants authority to the Department of Veterans Affairs, the Federal Housing Administration, and the Rural Housing Service to support fair modification of mortgages, by continuing to honor Federal guarantees for them after they are modified.

This is imminently fair to mortgage lenders. They will still get everything they could reasonably hope to obtain if the home is foreclosed on and sold—more, in fact—and without forcing the family out of house and home.

True, the lenders will not get every dime they might theoretically get on the mortgage paper they now hold. But that is a dangerous pipe dream. And the prospect of rational modification in the courts should serve as a reality check, and help create a healthy incentive for more meaningful voluntary modifications to be done outside of court.

As it is now, lenders and servicers simply do not have enough of an incentive to modify mortgages in a meaningful and realistic way. It is too easy for them to hide their heads in the sand until the damage is done. Voluntary mortgage modification programs, by themselves, simply haven't worked.

There is also a matter of basic equity here. Mortgages on second and third homes and investment properties can all be modified in the courts, as can virtually any other secured claim, including claims secured by yachts, private jets, and commercial real estate worth many millions of dollars.

It is unfathomable to me that a working family does not have the same opportunity to save its home.

I thank the chairman of the Financial Services Committee, BARNEY FRANK, for his support on this important issue.

I also want to thank all of my cosponsors on this amendment—MIKE TURNER, ZOE LOFGREN, JIM MARSHALL, MAXINE WATERS, STEVE COHEN, BRAD MILLER, BILL DELAHUNT, JERRY NADLER, and MARCIA FUDGE.

In the midst of our response to the widespread damage large Wall Street financial institutions caused by their recklessness—including the drain of hundreds of billions of taxpayer dollars to bail them out—we also have a moral obligation to help average working families who are struggling to save their homes.

The Acting CHAIR. The gentleman's time has expired.

The question is on the amendment offered by the gentleman from Georgia (Mr. MARSHALL).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. GOODLATTE. Madam Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia will be postponed.

□ 1015

AMENDMENT NO. 26 OFFERED BY MR. GARRETT OF NEW JERSEY

The Acting CHAIR. It is now in order to consider amendment No. 26 printed in House Report 111–370.

Mr. GARRETT of New Jersey. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 26 offered by Mr. GARRETT of New Jersey:

Page 1041, beginning on line 15, strike paragraph (5) and insert the following:

(5) in subsection (e), by striking paragraph (1) and inserting the following new paragraph (1):

''(1) VOLUNTARY WITHDRAWAL.—A nationally recognized statistical rating organization may, upon such terms and conditions as the Commission may establish as necessary in the public interest or for the protection of investors, withdraw from registration by furnishing a written notice of withdrawal to the Commission, provided that such nationally recognized statistical rating organization certifies that it received less than $250,000,000 during its last full fiscal year in net revenue for providing credit ratings on securities and money market instruments issued in the United States.'';

The Acting CHAIR. Pursuant to House Resolution 964, the gentleman from New Jersey (Mr. GARRETT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. GARRETT of New Jersey. Madam Chair, I was just at the microphone a moment ago and speaking about the recognition that I think we have from both sides of the aisle that the CRAs, credit rating agencies, were part and parcel to the causes of the financial situation that we find ourselves in right now.

During the time, I raised two out of probably three significant points on this and what we try to need to do when it comes to reform. I mentioned the fact that we need to reduce investors' reliance upon rating agencies. I mentioned, also, that we need to encourage investor due diligence, which sort of goes with it, if you are going to reduce reliance and they have to be more due diligent.

The third point I didn't raise was that we need to have increased competition between the credit rating agencies. Unfortunately, if you look at the bill before us, actually, title V of the bill includes a number of provisions that will basically exacerbate the current problems within the industry and, as I said on the floor yesterday, that actually make it harder, make it more difficult for investors to actually get the information that they need in order to make those decisions that they have to before they invest.

If you go back a couple of years, actually, if you go back 3 years, we passed the credit rating agency reform legislation—and it was about 3 years ago. The main focus of that reform back then was to do what? It was to try to increase competition between the various rating agencies. There are only about three major ones, but we were going to try to make smaller ones to get into the market with more competition. Maybe we could eliminate some of the problems I have already stated.

That was just 3 years ago, and the reason then that I voted just a short time ago this year against the legislation that came out of committee, that was going to try to reform the CRAs, was because it did the exact opposite. It would basically decrease the competition in the industry. I think we need more competition.

The reason that the legislation that came out of the committee, I thought, would decrease competition is because, well, it would have imposed a whole bunch of new liability on the CRAs, and it would just basically discourage them to get into the industry at all. That's maybe one of the reasons why in the committee's language there was a provision in it that says we are not going to let you out. Once you are an NRSRO, once you are registered, or recognized I should say, we are not going to let you out of it. They realize with all of this additional registration, with all this additional liability, no one would want to be a CRA anymore.

The amendment that we have before us recognizes that problem, that we want to have competition, but if you have all of these additional rules, regulations, and liabilities on them, they are all going to flee. We believe that we can come to a proverbial middle ground on this. That is to say, allow those CRAs, credit rating agencies that are of the smaller size, that is net revenues of $250 million or less in a year, to be able to retain the ability to deregister. That's what the legislation does before us.

With that, I will reserve the balance of my time.

Mr. KANJORSKI. I claim the time in opposition.

The Acting CHAIR. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. KANJORSKI. Madam Chairman, under current law, credit rating agencies operate under a voluntary system of registration with the United States Securities and Exchange Commission. We changed that with a provision in the manager's amendment that would require all rating agencies with appropriate exemptions to register with the Commission.

The gentleman from New Jersey's amendment inserts a voluntary withdrawal from registration with the Commission for those rating agencies who earn less than $250 million of net revenue. This amendment would have the effect of allowing the smallest of rating agencies, now registered as Nationally Recognized Statistical Rating Organizations, to opt out of the system at some time in the future.

The proposal would also maintain the close supervision of the largest rating agencies, the ones most likely to issue the ratings used by investors.

Based on that, Madam Chairman, I have no opposition to this amendment.

I yield back the balance of my time.

Mr. GARRETT of New Jersey. I will just close by saying that I thank the gentleman for his support of the legislation, or no opposition to the amendment. I appreciate the very many, many months of working together on this issue and other issues as well.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New Jersey (Mr. GARRETT).

The amendment was agreed to.

The Acting CHAIR. The Chair understands that amendments 29, 30, and 31 will not be offered.

AMENDMENT NO. 32 OFFERED BY MS. SCHAKOWSKY

The Acting CHAIR. It is now in order to consider amendment No. 32 printed in House Report 111–370.

Ms. SCHAKOWSKY. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 32 offered by Ms. SCHAKOWSKY:

Page 825, after line 12, insert the following new section:

SEC. 4413. TREATMENT OF REVERSE MORTGAGES.

(a) IN GENERAL.—The Director shall examine the practices of covered persons in connection with any reverse mortgage transaction (as defined in section 103(bb) of the Truth in Lending Act (15 U.S.C. 1602)) and shall prescribe regulations identifying any acts or practices as unlawful, unfair, deceptive, or abusive in connection with a reverse mortgage transaction or the offering of a reverse mortgage.

(b) REGULATIONS.—In prescribing regulations under subsection (a), the Director shall ensure that such regulations shall—

(1) include requirements for—

(A) the purpose of preventing unlawful, unfair, deceptive or abusive acts and practices in connection with a reverse mortgage transaction; and

(B) the purpose of providing timely, appropriate, and effective disclosure to consumers in connection with a reverse mortgage transaction that are consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title;

(2) with respect to the requirements under paragraph (1), be consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title; and

(3) provide for an integrated disclosure standard and model disclosures for reverse mortgage transactions, consistent with section 4302(d), that combines the relevant disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.) and the Real Estate Settlement Procedures Act, with the disclosures required to be provided to consumers for Home Equity Conversion Mortgages under section 255 of the National Housing Act.

(c) CONSULTATION.—In connection with the issuance of any regulations under this section, the Director shall consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, and the Department of Housing and Urban Development, as appropriate, to ensure that any proposed regulation—

(1) imposes substantially similar requirements on all covered persons; and

(2) is consistent with prudential, consumer protection, civil rights, market or systemic objectives administered by such agencies or supervisors.

(d) DEADLINE FOR RULEMAKING.—The Director shall commence the rulemaking required under subsection (a) not later than 12 months after the date of the enactment of this Act.

The Acting CHAIR. Pursuant to House Resolution 964, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois.

Ms. SCHAKOWSKY. Madam Chairman, I yield myself as much time as I may consume.

I want to thank Representative TITUS for joining me in offering this important amendment to make sure that the new Consumer Financial Protection Agency has authority to regulate reverse mortgages. It is a proposal that is supported by the AARP.

Reverse mortgages are unique mortgage products that allow homeowners over age 62 to borrow against their homes to receive either cash or a line of credit. The loan is paid back when the homeowner dies or sells the home. In the past 3 years, more than 335,000 federally insured reverse mortgages have been issued to seniors.

Unfortunately, all is not well in the reverse mortgage market. An October report by the National Consumer Law Center found many of the abusive practices that were common in the subprime lending market before its collapse are also common in reverse mortgage transactions. Those practices include high fees, incentives for brokers that are harmful to borrowers, and lenders steering consumers to products that are more costly than necessary. Also, securitization, as in the subprime market, is becoming more common for reverse mortgages.

Unfortunately, the complexity of the loans and the age of the typical borrower have made the reverse mortgage market ripe for scam artists. We have to make sure that seniors who use reverse mortgages are protected against unlawful and unfair practices.

The amendment I am offering seeks to correct an oversight in the CFPA provisions of the bill. The bill, as written, gives the CFPA authority over a number of consumer statutes, but a majority of reverse mortgages today are FHA insured home equity conversion mortgages, which are primarily regulated by HUD under the National Housing Act statute. Therefore, as currently written, reverse mortgages may not clearly fall within the CFPA's authority.

My amendment would clarify that the CFPA director has oversight and regulatory authority over lenders and brokers that issue reverse mortgages and directs the agency to consult with HUD as it develops regulations.

My amendment would also require CFPA to begin a rulemaking within 1 year of the bill's enactment in order to develop regulations that will make sure that reverse mortgage transactions are not unfair, deceptive, or abusive.

I urge my colleagues to support this amendment.

I reserve the balance of my time.

Mr. GARRETT of New Jersey. I claim time in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. GARRETT of New Jersey. I yield myself 3 minutes.

Madam Chair, I guess here is an example of the old saying, ''Here we go again.'' The CFPA, an entity that we have already discussed both today and yesterday, is an idea of contracting consumer choice, putting limitations on the consumers' ability to buy products that they need and want, and all the time, but at the same time, causing a cost to the overall system of credit and jobs in this country.

The additional cost to the CFPA has already been examined by outside organizations and has been seen to have a negative impact for this country to grow ourselves out of the economic morass that we find ourselves in today.

Experts have said, and we have yet to hear anyone from the other side of the aisle refute these studies, nor, for that matter, when we asked the other side of the aisle earlier, from the gentleman from North Carolina, I believe, do they have any studies to refute these or to present the case that actually would go in the opposite direction, they said no or had no answer.

Experts have shown that the CFPA alone would add a cost of credit to the system between 1.25 or 1.4 to 1.6, as I always say, about 1.5 percentage points to the cost of credit in this country. What does that mean? Even in the case of reverse mortgages, I guess it would apply that you would say that the cost of your credit, if you have a 6 percent loan now would go up to around 7, 7.5 percent. Just the act of borrowing will be made harder by the cost of the underlying bill.

Now we see here with this amendment, if the CFPA was not omnipotent enough with their power to reach in basically every single corner of the economy of this country, now we are going to let them go even a little built further.

Now I say all that with the understanding that reverse mortgages sometimes in the past have a history in certain cases—not all, certainly—of causing problems for our seniors, and that is certainly something that regulators need to and have the ability to take a look at. But this certainly is not the answer. This is crafted in such a way that would broaden the CFPA powers and hurt credit.

One other point on this as well. When you are hurting the credit markets of this country, you are also hurting the opportunity to grow this economy with regard to jobs. I think that same study, as well, gave us a number around 4.3 percent reduction in the increase of jobs. What does that mean to you and me? Well, with unemployment around 10 percent, that means that we could be looking at an additional million people in this country who will not be able to get jobs.

How does that help seniors? Seniors who may be working or not working, seniors who have people or other people in their families that are working, how does it help any senior or help anyone in this country if we are going to put more impediments and roadblocks in the way to this country growing again, to getting credit down again and getting unemployment back down from the 10 percent that we find ourselves in today?

I stand opposed to this amendment and opposed to putting additional powers in the Federal Government and the CFPA and within the authorities that they have already.

I reserve the balance of my time.

Ms. SCHAKOWSKY. May I inquire how many minutes I have left?

The Acting CHAIR. The gentlewoman from Illinois has 2½ minutes remaining.

Ms. SCHAKOWSKY. At this time I would like to yield 1 minute to the chairman of the committee, BARNEY FRANK.

Mr. FRANK of Massachusetts. Madam Chair, we keep hearing about these studies. They were commissioned by organizations ideologically opposed to this. Surprise, surprise, they got back the answers they wanted. I haven't seen them. No one has produced them. They are not worth anything. They are simply quantifications of ideology which are entitled to no weight.

I understand that there are people who do not like consumer regulation. What we learn is that in its absence, abuses can proliferate that become systemic problems, but it's especially relevant when we are dealing with the elderly.

We know there are people who preyed on older people. There are people eligible for this program in their eighties who had lives of hard work that did not include sophisticated involvement with financial instruments. There have been problems of abuse.

We, in fact, adopted, I think, without any opposition, a piece of legislation that said you cannot be the one that sells somebody a reverse mortgage and then becomes his or her investment adviser, because of abuses. Protecting the elderly against abuse shouldn't be controversial.

Mr. GARRETT of New Jersey. Does the gentlewoman have other speakers?

Ms. SCHAKOWSKY. I do.

Mr. GARRETT of New Jersey. I reserve the balance of my time.

Ms. SCHAKOWSKY. Madam Chairman, I yield now to the gentlewoman from Nevada (Ms. TITUS) for the balance of my time.

Ms. TITUS. Madam Chairman, every day seniors are targeted by lending agencies through mailings, phone calls, and TV ads offering reverse mortgages with promises of free money to finance trips, new cars, and gifts in their golden years. While a reverse mortgage may be an appropriate product for some seniors, it's a complex financial instrument which is being aggressively marketed to our most vulnerable in society.

Accordingly, many seniors today find themselves in financial hardship due to unfair and unclear agreements, along with excessive fees that come as a result of reverse mortgages. They have

learned the hard way that the reality of a reverse mortgage is not always as advertised, and now they face severe financial consequences in what is supposed to be their golden years.

The amendment that we are offering today provides needed safeguards for our Nation's seniors by requiring that the new Consumer Financial Protection Agency oversee the reverse mortgage industry to ensure seniors are not exposed to unfair and deceptive practices.

Protecting our seniors from unfair and unclear financial products is long overdue. Reverse mortgages need to be clearly and closely monitored and regulated in an effort to ensure seniors don't lose their home and equity that they have built up through a lifetime of hard work.

I am confident that the amendment, which has the endorsement of AARP, will offer appropriate flexibility and protections for our seniors.

I want to thank my colleague, Representative SCHAKOWSKY, and also the chairman of the committee, for working with me on this important issue.

I urge my colleagues to support the amendment.

□ 1030

Mr. GARRETT of New Jersey. Madam Chair, I yield myself just 20 seconds.

To the chairman's comment with regard to our study, which, as he said, is simply a quantification of ideology, whenever he has an issue like that, I just think that that is an abandonment of originality because any time that we have a study or what have you, he just refers back to ideology.

We would always ask the other side of the aisle, ideological or otherwise, we would be happy to see any study to support anything that is in this bill that will actually not harm our economy nor create hardships for the creation of jobs nor create hardships for creating increases to credit. We would like it, ideological or otherwise.

Madam Speaker, I yield the balance of my time to the gentleman from Texas (Mr. HENSARLING), a man not of ideology alone but a man of facts and figures, a man on the right side of the issue.

Mr. HENSARLING. I thank the gentleman for yielding.

Simply because you are a senior, you shouldn't have to give up your freedom. You shouldn't have to give up your economic liberty.

There are so many reasons to oppose the underlying legislation. It creates a permanent Wall Street bailout authority. At a time where the economic policies of this Congress, of this administration have produced the highest unemployment rate in a generation, they propose legislation that will make credit more expensive, less available, and crush jobs. But now we have an amendment that goes to increase the power of the unelected czar to ban, to ban and ration credit.

You know, ultimately, the American people in the land of the free ought to be able to be free to choose the financial products that they think are best for them. The way to best protect American citizens is with competitive markets that are vigorously enforced for force and fraud but not to take away their essential freedom.

Quit protecting Americans from themselves. Quit assaulting the economic liberties of Americans, especially seniors, in tough economic times who need the money to survive.

We should reject this amendment, reject the job loss, reject the bailout, reject the assault on liberty.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. HENSARLING. Madam Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Illinois will be postponed.

AMENDMENT NO. 33 OFFERED BY MS. KILROY

The Acting CHAIR. It is now in order to consider amendment No. 33 printed in House Report 111–370.

Ms. KILROY. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 33 offered by Ms. KILROY: Page 289, line 10, insert ''only'' after ''Fund''.

The Acting CHAIR. Pursuant to House Resolution 964, the gentlewoman from Ohio (Ms. KILROY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio.

Ms. KILROY. Madam Chair, I yield myself such time as I may consume.

It's been a little over a year since the weight of predatory lending, credit default swaps, murky accounting, and risky bets finally gave way and the American taxpayer was forced to bail out Wall Street and the same financial institutions that set our Nation's economy into the worst crisis since the Depression.

The greed and recklessness of Wall Street has cost Main Street dearly. Millions of jobs, hard-earned life savings were lost, and today American families are still recovering.

We know that we need to take action so that American taxpayers are not put in that position again. And over the past year, Chairman FRANK has held countless hearings, markups, and meetings to help bring to the floor today the most sweeping reform of our Nation's financial regulatory system since the New Deal, and he has done so in a transparent and equitable manner.

H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009, will restore and strengthen our Nation's financial system and provide Americans the confidence that there are rules in place that work for them and protect them, not protect the big banks and hedge funds and mortgage industry, that there will be the oversight, the regulation that should keep this kind of crisis from happening again, that should see an end to the risky practices that led to the taxpayer bailout of Wall Street.

But it will also end the ''too big to fail'' problem by implementing a mechanism for the orderly and controlled liquidation of a failed financial institution. And it's very clear that this is going to be funded by the financial institutions themselves. Not by another bailout, not by the taxpayers, no more TARP.

But sometimes increased clarity and added emphasis is called for. By adding one word only to the language regarding the use of assessments, we promise and we reassure our taxpayers that they will not be bailing out Wall Street again. The dissolution fund will only be funded by those financial institutions and their assessments, not our hard-working taxpayers from our cities and towns and farms.

I urge passage of this amendment.

Madam Chair, I reserve the balance of my time.

Mr. HENSARLING. Madam Chair, I rise to claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. HENSARLING. Madam Chair, I yield myself such time as I may consume.

I was very heartened to hear the gentlewoman from Ohio say, quote, ''no more TARP.'' She'll have an opportunity to vote that way later this afternoon. I hope that many of her colleagues on that side of the aisle will follow her example and put their votes where their sentiment is because, indeed, the motion to recommit today will be to end the TARP program. So I look forward to having great support on the other side of the aisle for that motion to recommit.

The particular amendment before us, though, is one that continues to try to perpetuate the myth that somehow taxpayers will not be called upon for a bailout.

Why do you have a bailout fund? You have a bailout fund to bail somebody out. And if for some reason you actually thought that taxpayers were not going to be on the hook, well, $150 billion imposed upon those who form capital, capital intermediaries, are going to make capital more expensive, less available, choke off more credit to small businesses, and increase the double-digit unemployment rate that the Nation now has under this administration in this Congress's economic policies.

How many more jobs have to be lost? We need to open up credit, not close credit.

Second of all, the people who are telling us, oh, don't worry Mr. Taxpayer, Mrs. Taxpayer, you're never going to be called upon to come and bail out these institutions yet again; we've solved that problem.

Madam Chair, these are the very same people who told us that the taxpayer would never be called upon to bail out the government-sponsored enterprises. Yet a trillion dollars of taxpayer exposure liability later, they were wrong. They've told us that about Social Security—going bankrupt; Medicare—going bankrupt; National Flood Insurance Program, never going to need taxpayer money—insolvent. And the list goes on and on and on.

Now, Madam Chair, I know they mean well. I know they believe it when they say it. But with history as my guide, it is not a credible statement for those on the other side of the aisle to make.

So what are we left with? We are left with a perpetual Wall Street bailout bill. We are left with a bill that will crush job creation at a time when our Nation needs to be creating jobs. We have a bill that assaults the fundamental economic liberties of every American citizen, who now has to receive the permission of their government before they can put a credit card in their wallet or get a mortgage for their home.

The best way to end TARP is to end TARP. And every Member of this body will have the opportunity to do it later this afternoon.

Madam Chair, I reserve the balance of my time.

Ms. KILROY. Madam Chair, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK), chairman of our committee.

Mr. FRANK of Massachusetts. The gentleman from Texas really doesn't have anything to say against this amendment, but his instinct overcomes that, so he has to say negative things. Among them, though, the most outlandish is his continued effort to blame unemployment on President Obama.

President Obama inherited from President Bush a very serious recession. It turns out now the worst since the Great Depression. And it was begun officially by those who certified, the nonpartisan entities that do that, in December of 2007, after many years of Republican rule both in the House and the Senate and in the White House. Unemployment is decreasing now, and you don't go from very bad to perfect. But this effort to evade responsibility for the Republican policies that caused this recession is, as I said, one of the great examples of blame shifting.

I have to say again we suffered a great disease outbreak on January 21, 2009. Mass amnesia hit the Republican Party. The huge deficit, the lack of regulation that had brought about our financial collapse, the millions of jobs lost. The administration with the worst job record recently is the Bush administration. And the Obama recovery is slower than I wish it would be, but it is clearly on the upswing.

Secondly, the gentleman, to win his partisan points, will lash out at anything. Social Security, he announces now, is going bankrupt. Social Security, credited with all the money paid in, is sound for another 25 years or more. Frightening older people by the false claim that Social Security is going bankrupt is an example of partisanship run riot.

What we also have is this reluctance to accept the fact that we have language that says nothing here can go to perpetuate these institutions. He's right. Fannie Mae and Freddie Mac, which the Republican Party——

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. KILROY. I yield 30 seconds to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. In the 12 years of congressional Republican rule, they didn't do a thing about Fannie and Freddie. We did pass the bill the Bush administration asked us for in 2007. It was too late. But learning from that, we have language here that did not previously exist that bans the use of taxpayer funds, that bans the use of any funds to keep an institution going.

So, yes, unlike the Republicans, who did nothing about Fannie and Freddie in that 12 years, never passed a piece of legislation, we passed a piece of legislation and it was too late, but we've learned from it. And there is binding language here that directly contradicts everything the gentleman from Texas says, but he is not easily fazed by that language.

Mr. HENSARLING. Madam Chair, well, if mass amnesia has affected this side of the aisle, apparently it infected that side of the aisle, too.

I might kindly remind the distinguished chairman of the Financial Services Committee, since he points out 2007 is the year that the financial crisis started, it happens to coincide with the year that the Democrats took control of the United States Congress as well.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. HENSARLING. I would be happy to yield to the distinguished chairman.

Mr. FRANK of Massachusetts. Is the gentleman seriously advancing the argument that it was because the Democrats took over in 2007 that that was why we had a recession?

Mr. HENSARLING. Reclaiming my time, I'm simply pointing out if the gentleman is trying to make associations, there may be an association to be made there as well.

What I am asserting is that the economic policies either enacted or threatened by this Congress and this administration are keeping a recovery from happening. This is an economy that, through any historic standard whatsoever, should have already recovered.

But first we have the stimulus program, which we were told would keep us at 8 percent unemployment. Now we know we have double-digit unemployment, 3.6 million jobs lost since the stimulus program was passed.

□ 1045

We have the $600 billion energy tax passed in the House hanging over the economy. We have the over $1 trillion nationalization of our health care system hanging over the economy. And now this is the fourth leg of the stool, and that is a perpetual Wall Street bailout and a further job loss through credit contraction act of 2009. It is the fourth leg of the economic policies that are preventing jobs from being created.

What do we have to show for the economic policies of this administration? That is the first trillion-dollar deficit in our Nation's history. We have an economic plan that will triple the national debt. Nothing would do more to create jobs than to defeat this bill, let TARP expire, and show the Nation that we will pay off this unconscionable debt.

The Acting CHAIR. All time has expired.

The question is on the amendment offered by the gentlewoman from Ohio (Ms. KILROY).

The amendment was agreed to.

The Acting CHAIR. The Committee will rise informally.

The Speaker pro tempore (Mr. DRIEHAUS) assumed the chair.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 4165. An act to extend through December 31, 2010, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits.

H.R. 4217. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

H.R. 4218. An act to amend titles II and XVI of the Social Security Act to prohibit retroactive payments to individuals during periods for which such individuals are prisoners, fugitive felons, or probation or parole violators.

The SPEAKER pro tempore. The Committee will resume its sitting.

WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2009

The Committee resumed its sitting.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 111–370 on which further proceedings were postponed, in the following order:

Amendment No. 12 by Mr. KANJORSKI of Pennsylvania.