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**Pass the Community Choice in Real Estate Act  
by Congressman Paul E. Kanjorski**

With the passage of the Gramm-Leach-Bliley Act in 1999, Congress affirmed a long-standing commitment to separating banking and commerce. In this historic statute, we created a framework that permits financial institutions to engage concurrently in banking, securities, and insurance. During our deliberations, many like me also strongly supported maintaining the firewalls separating the financial and commercial sectors.

One main reason for the separation of banking and commerce is the concern that banks are meant to be neutral arbiters of capital. They are supposed to lend without bias, based on financial principles.

In developing Gramm-Leach-Bliley, Congress specifically chose not to include real estate activities as one of the powers given to national banks and financial holding companies because we have always considered real estate brokerage and management to be commercial transactions, and not financial matters. Simply put: Real estate sales and property management are essentially business activities. These activities are qualitatively different from selling and marketing securities or insurance products.

Following the passage of the Gramm-Leach-Bliley Act, however, some financial services entities formally petitioned the Federal Reserve and the Treasury Department for the power to own and operate local real estate brokerage and property management companies. The petition prompted these regulators to propose rules to allow national banks to move into these commercial sectors.

If Congress had intended to define real estate brokerage and property management as financial activities, we would have done so in the law, and not left such a dramatic change to unelected federal regulators. Because of my strong concerns about these proposed regulations, I began working to draft the Community Choice in Real Estate Act, which Congressman Ken Calvert (R-CA) and I have now introduced during several successive sessions of Congress.

The Community Choice in Real Estate Act would prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate

brokerage or real estate management activities. This legislation would remove no existing authority from the Federal Reserve and the Treasury Department. Instead, the bill would simply stipulate that federal regulators do not have the authority to allow these financial institutions to engage in real estate brokerage and management activities, as I thought we made clear in Gramm-Leach-Bliley.

The House has consistently demonstrated its clear, strong, and growing interest in our legislation. Over time, support in the House has grown to 262 cosponsors during the first six months of the 110<sup>th</sup> Congress. H.R. 111 would clearly pass if brought to the House floor today.

In the absence of passing this bill, Congress has already worked regularly to block the implementation of the proposed rules. Since fiscal 2003, we have included language in the annual appropriations bill for the Treasury Department to prevent the use of funds to implement these regulations. This fix, however, is only temporary. We ought to resolve this issue in the 110<sup>th</sup> Congress, not further delay it.

Moreover, the House has already taken action during the 110<sup>th</sup> Congress to strengthen the separation of banking and commerce by addressing the issue of industrial loan companies. In recent years, many have raised concerns about commercial entities like Wal-Mart and Home Depot purchasing or establishing industrial loan companies, which are state-chartered and state-regulated depository institutions with some banking powers.

Earlier this year, the House overwhelmingly passed H.R. 698, the Industrial Bank Holding Company Act, by a vote of 371 to 16. While H.R. 698 is not entirely perfect, it would strengthen the separation of banking and commerce by prohibiting commercial companies from becoming industrial bank holding companies in the future.

It is my hope that the Senate will soon consider H.R. 698 to resolve the banking and commerce issues related to industrial loan companies. It is also my hope that the House will soon act on the precedent set by H.R. 698 by moving H.R. 111, the Community Choice in Real Estate Act, through the Financial Services Committee and onto the House floor.

In sum, Congress must strengthen its commitment to preventing the mixing of banking and commerce by permanently prohibiting national banks from engaging in real estate management and brokerage. Before the end of the year, we need to hold hearings to further bring light to this issue and stress the importance of keeping banking and commerce separate. Now is the time to pass the Community Choice in Real Estate Act.