

The National Association of Realtors®, “The Voice for Real Estate,” is America’s largest trade association, representing 1.2 million members involved in all aspects of the residential and commercial real estate industries.

Oral Testimony Prepared for
Charles McMillan, 2009 NAR President
Before the U.S. House of Representative
Financial Service Committee
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Introduction

Chairman Frank, Ranking Member Bachus, and Members of the Committee, thank you for inviting me to testify today on H.R. 1728: the “Mortgage Reform and Anti-Predatory Lending Act of 2009.”

My name is Charles McMillan, and I am the 2009 President of the National Association of REALTORS®. I have been a REALTOR® for more than 20 years, and am Director of Realty Relations and Broker of Record for Coldwell Banker Residential Brokerage in Dallas-Fort Worth.

I am here to testify on behalf of more than 1.2 million REALTORS® who are involved in all aspects of the real estate industry.

H.R. 1728

Mortgage lending reform is paramount to our economic stability and a critical step in the housing market recovery.

We appreciate you tackling this important issue.

REALTORS® believe H.R. 1728 is properly focused. However, there are some areas of the bill that could result in unintended consequences for real estate professionals and the consumers we serve. Let me highlight five areas of concern for your consideration.

First, we believe the definition of “mortgage originator,” as outlined in section 101 of the bill, is too broad.

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Every day, REALTORS® provide guidance to our clients on what information they need to apply for a mortgage. We also may discuss prevailing mortgage rates and products; and may even recommend a number of loan officers.

In providing these services, REALTORS® would be considered “originators,” and therefore, subject to the requirements currently set forth in H.R. 1728. Likewise, home sellers who provide financing to a buyer would also be subject to the same requirements as lending institutions and mortgage brokers.

We respectfully request that you explicitly exclude real estate professionals and consumers who provide seller financing from this definition.

Second, NAR supports requiring originators who refinance a mortgage to verify that the new loan provides a significant benefit to the borrower. However, we suggest adding specific language that requires the lender to weigh the borrower’s circumstances, all terms of the new loan, the fees and other costs of refinancing, prepayment penalties, and the new interest rate, compared to those of the refinanced loan.

Third, REALTORS® believe that the safe harbor criteria in section 203 are too narrow, and we have concerns that conditions for rescinding the loan are too broad.

We recommend you offer more protection to mortgage originators in the rebuttal presumption and that you expand the safe harbor provision to encompass more than just 30-year, fixed-rate mortgages.

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If the safe harbor provision is not expanded, we fear that the credit risk retention requirement in section 213 could prompt lenders to stop offering products that are not covered under the safe harbor.

In other words, the impact of the credit risk retention requirement depends heavily on what is included in the safe harbor.

Fourth, REALTORS® support efforts to include taxes, insurance and other homeowner fees in escrow for subprime mortgage loans.

However, we believe borrowers who make at least a 20 percent down payment should have the option to budget for these payments independently.

Finally, REALTORS® believe H.R. 1728 helps strengthen the accountability and oversight of appraisers, while also creating new consumer protections such as allowing borrowers to obtain a copy of all appraisals prior to closing.

Conclusion

NAR applauds the Committee’s effort to craft comprehensive legislation that ensures safe and affordable mortgage lending. This bill is a major step in the right direction.

We ask that you consider making the adjustments I outlined today to ensure that the legislation does not cause unintended consequences and restrict the marketplace.

I thank you for this opportunity to present our thoughts. As always, the National Association of REALTORS® stands ready to work with Congress, and our industry partners, to help facilitate a full economic recovery.