

April 11, 2005

The Honorable Michael Oxley  
Chairman  
House Financial Services Committee

The Honorable Barney Frank  
Ranking Member  
House Financial Services Committee

Dear Chairman Oxley and Ranking Member Frank:

We, the undersigned organizations, are writing to express our opposition to the so-called Responsible Lending Act bill (H.R.1295) recently introduced by Representatives Ney and Kanjorski. If enacted, the bill would devastate current legal restrictions and likely would lead to an *increase* in predatory lending. In addition to preempting state laws of any kind protecting homeowners, H.R. 1295 would dismantle current prohibitions against predatory lending in the federal law as well as key avenues of consumer redress.

Under the guise of covering more loans under the Home Ownership and Equity Protection Act (HOEPA), H.R.1295 would actually *expand* the number of predatory loans made in this nation. The bill would:

**Encourage Predatory Loan Terms.** The bill would *reduce* loan protections by

- expanding the amount in prepayment penalties that can be charged to homeowners in many states;
- encouraging more unaffordable loans by reducing income verification requirements;
- increasing equity stripping by allowing the sale of single-premium credit insurance; and
- eliminating state anti-predatory lending laws and potentially all other state protections on home loans.

**Increase Incentives for Lending Discrimination.** Lending discrimination thrives when a lender can mask fees. This bill potentially preempts state laws that limit the ability of lenders to pay kickbacks to brokers for arranging overpriced loans.

**Fuel Wall Street's Support for Predatory Lending.** Enforcement of any HOEPA protections would evaporate due to a huge loophole in the bill.

- Purchasers of loans would have no incentive to police their loan purchases. Instead, investors could fund and profit from predatory lending without facing liability. In fact, the bill could even be read to provide super-protection from state law claims like fraud, for which these purchasers are unquestionably liable under

current law.

**Create an Escape Hatch From Liability.** The bill's comprehensive right to cure for creditors and assignees would remove any incentive to comply with remaining restrictions in the law. Violations of law would simply be a cost of doing business.

- In the relatively rare instance in which the consumer could prove a violation of the law, compliance with the law *at that time*, plus payment of a small penalty, would suffice to “cure” the illegal action. Creditors who regularly flaunt the law would only have to comply with the law in the rare instances they were actually caught.
- The right to cure also would render hollow a consumer's only remaining remedy. Rescission—the most powerful and effective remedy for consumers and the greatest incentive for lenders to obey the law—would be substantially weakened.

As you know, predatory mortgage lending continues to be an exploding problem in many communities across America. Hundreds of thousands of homeowners have not only lost their homes to foreclosures, but also have lost their primary source of savings—their home equity—to overreaching and unethical mortgage lenders.

The broad array of organizations listed below speaks in a unified voice in opposing this bill. It would unquestionably exacerbate the predatory lending problems facing our nation and our communities. H.R. 1295 would *reduce* the existing federal protections provided in HOEPA and the Truth in Lending Act (TILA.) Moreover, it would also wipe out the state anti-predatory lending laws that currently protect homeowners and would block the enactment of similar laws in the future.

Sincerely,

ACORN

American Federation of State, County and Municipal Employees (AFSCME)

Bronx Council on the Arts

Center For Community Change

Center for Responsible Lending

Consumer Action

Consumer Federation of America

Consumers Union

Leadership Conference on Civil Rights

National Association for the Advancement of Colored People (NAACP)

National Association of Consumer Advocates

National Consumer Law Center

National Council of La Raza

National Fair Housing Alliance

National People's Action

NCB Development Corporation  
Poverty and Race Research Action Council  
Service Employees International Union, AFL-CIO, CLC  
USAction  
US PIRG