

Opening Statement of Ranking Member Steve Chabot

RESPA and Its Impact on Small Business

I would like to thank the Chairwoman for holding this important hearing on the Department of Housing and Urban Development's proposed changes to rules implementing the Real Estate Settlement Procedures Act or RESPA.

This is the Committee's third hearing on HUD's plan to modify regulations governing the real estate settlement process. Although HUD has made significant strides since the Committee last examined this issue in January 2004, I remain concerned about the procedures used to assess the economic impact that the proposal will have on small businesses operating in the residential real estate market.

I certainly concur with the idea that the complex process associated with the purchase of a home can be simplified. Given the state of the housing market in certain areas of the country, including my state of Ohio, there is no doubt that a more transparent process on the front end may ameliorate problems on the back end, thereby potentially reducing the number of foreclosures.

The effort to reduce confusion and increase transparency in the real estate settlement process should not be borne solely by small businesses. The Regulatory Flexibility Act or RFA requires federal agencies to consider the impact of their proposed rules on small businesses and determine whether there are any practical alternatives that would reduce the adverse effects on small business while still achieving the agency's regulatory objectives. In the case of the proposed RESPA rules, HUD must assess alternatives that increase transparency and assist consumers but do not necessarily pose undue burdens on small businesses that play a vital role in the operation of the residential real estate market.

In particular, the Department's initial regulatory flexibility analysis and regulatory impact study use data from 2002 and 2004. The data may be accurate but clearly do not reflect the current turbulence in the residential real estate market. An accurate analysis under the RFA requires an assessment of the regulation in the context of the current economy, not in the economy of five years ago. I will be interested in hearing from HUD how it plans to update this data to reflect current economic conditions. I also will be interested in hearing from our other witnesses how changes in the marketplace affect their capacity to implement regulatory changes.

I am also concerned that HUD did not perform a detailed assessment of the consequences of volume pricing on the future viability of small businesses. There is no doubt that volume discounts will benefit consumers and may provide marginal assistance in improving the residential real estate market. However, the long-term consequences of reduced competition may argue against making changes that will further shrink an already troubled sector of our small business economy.

Finally, I also would like to hear from our witnesses whether this is an appropriate time to commence this type of significant rulemaking change. The focus of the Department's resources should be on helping the ailing housing sector, not implementing new regulations that might divert some of these resources away from the more critical mission of restoring the health of our housing sector. Once that is done, the Department could turn its attention to its modification of rules to implement RESPA.

I want to thank the witnesses for taking time to discuss this important issue and with that I yield back.

Congress of the United States

U.S. House of Representatives

Committee on Small Business

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Washington, DC 20515-6315

STATEMENT

Of the Honorable Nydia M. Velázquez, Chairwoman

United States House of Representatives, Committee on Small Business

Full Committee Hearing: "RESPA and its Impact on Small Business"

Thursday, May 22, 2008 at 10:00 am

Today, we will examine the Department of Housing and Urban Development's proposed rule on the Real Estate Settlement Procedures Act. The recent housing crisis has revealed that predatory lending remains a major problem. It has also demonstrated the importance of providing quality information to homebuyers. Over time, the closing process has become more complex, making these consumer disclosures even more critical. The recent abuses we have seen in the mortgage market have in part been exacerbated by a lack of such protections.

RESPA was initially established to provide these very safeguards. – but clearly they are not working in today's housing market. At its very foundation are the Good Faith Estimate and the HUD-1 form, which provide homebuyers with basic information concerning the cost of their purchase.

Unfortunately, HUD's recent proposal to update these forms as well as the settlement process is not the cure-all that homebuyers need. The rule creates additional paperwork and complexity, potentially adding to the confusion of an already stressful purchase. This could lead to information overload and ultimately result in more uncertainty for consumers.

In addition to these problems, it will create chaos for small settlement service providers. These firms play a key role in the home buying process and they stand to incur billions of dollars in costs due to the implementation of the RESPA regulation.

Many title insurance companies, settlement attorneys, real estate agents, mortgage bankers and brokers struggling to survive in the worst housing market in decades may be pushed to the brink. This is largely due to the cost of the proposed rule. Loan originators and settlement service providers would have to pay up to \$570 million to become compliant with the proposed rule changes. They would then face recurring compliance costs of \$1.2 billion per year—or \$98.48 per loan.

Aside from the enormous costs posed to small businesses, it also creates an environment in which they are placed on an unlevel playing field. While HUD asserts that volume discounting will provide consumers with savings, we know better. It will lead to the bundling of services and reduce competition by forcing small firms out of business. As a result, consumers will ultimately face higher prices.

It is my expectation that Steven Preston, who President Bush recently nominated to be Secretary of HUD, will help address these problems. We know Mr. Preston well on this Committee –

and I am hopeful that he will utilize his experience as head of the SBA – to ensure the RESPA rule does not unnecessarily burden small firms. Should that not happen, the Committee will be following up with him.

The changes the proposed rule makes to the settlement and closing process come at a challenging time in the housing market. It is important that we closely examine these modifications so its recovery is not undermined. We also have a responsibility to protect homebuyers by ensuring that they are given information about loan terms and closing fees in a clear, easy to understand manner.

Today's hearing will begin to answer these questions and make sure that we are not doing more harm than good to the home buying process. I look forward to today's testimony and thank the witnesses again for coming here to share their views.