

Testimony

Of

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**“Successful Homeownership and Renting
through Housing Counseling”**

**Committee of Financial Services
Subcommittee of Housing and Community Opportunity**

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Chairman Ney, Ranking Member Waters, and other Members of the Committee, I would like to thank you for the opportunity to testify on H.R. 3938, “Expanding Housing Opportunities through Education and Counseling.” The Consumer Mortgage Coalition (“CMC”) applauds Chairman Ney, and Representatives Velazquez and Scott for introducing this legislation.

The CMC has believed since its inception in the mid-1990s that housing counseling and education, *if done correctly*, is a key component to helping individuals first become and then remain successful homeowners. In order for counseling to be effective, however, consumers need to know where to access quality counseling services, and those services must be of sufficient quality so that they actually help consumers decide which loan product best meets their financial needs.

CMC’s Counseling Solutions

When the CMC first became actively engaged in this issue some years ago, we found that there was an enormous amount of counseling that is available to consumers, but –

- Consumers often did not know where to go for counseling, and very importantly,
- The quality of counseling services varied dramatically.

Our solutions to these two issues were several-fold. First, in order to address the problem of letting consumers know where to find qualified counselors, we suggested that the government publish an on-line list of qualified counselors or counseling services and their location. In addition, we suggested that the government set-up 1-800 numbers that consumers could call to find out where to access those services. Furthermore, we suggested that the government engage in a public advertising/public relations campaign to let consumers know that these services are within their reach by simply calling the 1-800 number that would be advertised or by visiting the HUD website.

Second, in an effort to improve the quality of the counseling services being provided, we initially suggested having the government develop and make publicly available “smart” computer systems to be used as a tool to help counselors provide quality counseling services. In addition, we also proposed that these systems be available on-line so that consumers who had access to computers could use these systems themselves. This idea was not original to us. In fact, Roy Green at the AARP came to us with this concept some years ago. Many government agencies use “smart” computer systems to help government employees respond to questions from various individuals. For example, the Social Security Administration uses a “smart” computer system to help Social Security employees respond to questions from workers and retirees inquiring about their benefits, or other questions.

Since the concept of utilizing a “smart” computer system to help improve the quality of counseling services was thought of some years ago, industry has actually developed a number of similar programs that are available for consumers to use on-line. However, these systems are not necessarily being widely used by the housing counselors to counsel consumers. Rather, consumers themselves who have access to and can use computers are using many of these online systems.

Therefore, our third proposal was to have HUD create a counseling certification process to at least ensure that the HUD-funded counselors meet uniform, high standards. That HUD certification process could eventually lead to a system whereby counselors would actually seek to be certified by HUD to prove to their customer/consumers that either they or their organization were providing quality services by utilizing the latest technology tools.

Fourth, we suggested that HUD’s special information booklet required to be given to consumers under RESPA should be made available online, and that the booklet should include examples illustrating various loan products and how consumers might evaluate which products best fit their needs. While not the only solution, helping consumers understand the loan product and its terms, and the responsibilities of homeownership, will help to prevent consumers from falling prey to abusive lending practices.

Finally, we suggested that the lender provide information to its mortgage applicants on how they could reach a qualified counselor.

This legislation incorporates many of these proposals and we believe it is a very good start to making timely, high-quality housing counseling available to consumers. We particularly support the requirement that counselors be duly certified before participating in any HUD counseling program. We should create incentives to have counselors be certified so that consumers can be assured of quality, effective counseling services. We also place a high degree of importance of the public awareness campaigns referenced in the bill. Effective counseling to assure consumers can afford to buy and maintain a home and a mortgage should be treated as importantly as counseling on major health risks, such as smoking.

We also believe it is critical that consumers understand what options are available to them after closing, particularly when they miss a payment. There is important information that consumers need that will help them from falling deeper into default and possibly losing their home. One of the biggest difficulties that mortgage servicers have is getting delinquent consumers to communicate with them about their situation right away and work out a resolution or plan to bring the loan current. If a consumer is reluctant to call and becomes many months’ delinquent, it is much harder to craft a solution that works for both the consumer and the note holder. The availability of timely counseling can be of immense help to consumers in this situation. Thus, we are also very supportive of the legislation’s recognition of the importance of default counseling.

Importance of Private Sector Involvement

We note that many of these counseling provisions are drawn from H.R. 833, the Responsible Lending Act, also introduced by Chairman Ney last year. That bill would create a “Consumer Mortgage Protection Board,” composed of private sector members representing both business and consumer interests, to oversee and coordinate HUD’s counseling activities, while HR 3938 puts this function in a new Office of Housing Counseling within HUD, with an private sector Advisory Committee. We believe that private sector involvement and coordination is key to developing and maintaining the availability, quality and delivery of effective counseling to consumers. We do not want to create another bureaucracy that moves slowly toward the goals of this legislation. Rather we need to have HUD leverage off of the already extensive counseling initiatives, such as the “smart” computer programs, that the private sector has already developed.

Technical Changes

CMC believes that the Subcommittee should make certain technical changes to the legislation.

The Mortgage Loan Foreclosure and Default Study

Section 6 of the legislation requires HUD to perform an extensive study of home loan defaults and foreclosures. We favor such a study. However, we have seen in recent years many advocacy-related “studies” on this issue, most of which appear more interested in denigrating non-prime mortgage lending than actually discovering the reason for the foreclosures. They tend to use a circular logic along the following lines: a lender determined that the consumer was more likely to default, so the consumer got a nonprime loan, and then the consumer defaulted. Thus, nonprime lending caused the default. We believe that the required study, rather than using “as much empirical data as are available,” should focus on learning as much as can be learned on a more limited sample of foreclosures in a number of varied localities, including in different geographic regions in the country, in urban, suburban and rural districts, and the like. Was a particular loan built to fail? Or did the borrower hit one of the many life events that we believe generally cause most defaults and foreclosures: death, disability, serious illness or chronic disease or depression, divorce, long-term unemployment? Or was the property under water – either because of some property-flipping scheme or because of a major economic change in the area such as a plant closing or increased crime rates? Could the foreclosure have been prevented with more counseling, either on the front end before the consumer obtained the loan or at the back end once the loan was in default?

The Mortgage Information Booklet

In the changes to the Mortgage Information Booklet, the legislation would require the lender to provide a list of counselors located in the area of the lender. This is fine for lenders that operate in a constricted geography. This does not make much sense for national lenders such as the members of our organization. A better approach would be

for HUD to publish state-specific lists of certified counseling agencies and for lenders to provide the list appropriate for the state where the property is located. In addition, the lender is required to provide the version of the booklet that is most language and culturally appropriate. We often do not know our borrowers well enough within just three days of application to make that determination. A better approach might be that if the lender knows that the borrower would prefer a non-English version of the booklet and the Secretary has promulgated a version in that language, the lender would provide the version of the booklet in that other language. It would not be fair to make lenders liable for translating official notices and booklets such as the Mortgage Information Booklet.

Counseling as Key Component of A Broader Program to Help Consumers

The CMC believes housing counseling and consumer education are key components of a package of solutions to try to prevent abusive lending practices from occurring. They are not the only components. The CMC believes the following initiatives and reforms, collectively, will best help consumers to obtain loans that meet their needs and eliminate fraudulent and abusive practices that have victimized consumers:

- **Mortgage Reform.** The CMC has been in the forefront in advocating for mortgage reform that empowers consumers to use the market and let market competition serve consumers. To accomplish this we first need mortgage reform to simplify the mortgage shopping process and to encourage more borrowers, particularly those with blemished credit, to comparison shop for loans. The mortgage industry is on the verge of tremendous advances that will provide great benefits to consumers *if* we can secure appropriate regulatory relief that allows technology and market competition to improve the delivery of mortgages to consumers at lower costs.
 - **Regulatory Relief #1: The E-Sign Act.** The principal regulatory relief necessary to unleash far-reaching technological advances has already occurred. The Electronic Signatures in Global and National Commerce Act ("E-Sign Act"), enacted several years ago, ensured the legal effect of electronic signatures, contracts, and disclosures. The CMC played a leading role in securing the passage of the E-Sign Act, and particularly the provisions that allow consumer disclosures to be provided on-line and mortgage loans to be effectively transferred electronically. This law has paved the way for the full "electronification" of obtaining a mortgage, from application to closing to recording to sale in the secondary market. This electronification of mortgages should significantly lower interest rate costs by reducing the hedging costs associated with the time gap between the application and funding of a loan.
 - **Regulatory Relief #2: RESPA Reform.** The second regulatory relief that is necessary to allow market competition to bring maximum benefits to consumers in the form of lower settlement costs is RESPA reform. This reform, which has become very controversial, has four objectives: (i) to streamline and simplify the disclosures provided to borrowers so that they will

have better and more certain information with which to make wise credit choices; (ii) to lower settlement costs by removing the regulatory barriers that insulate these costs from the effects of market competition; (iii) to reduce abusive lending practices; and (iv) to ease the burden of compliance by adding much-needed certainty into RESPA's and other related regulatory requirements, which should reduce the continual onslaught of class action litigation that is spawned by ambiguous rules.

- **A Comprehensive Public Awareness and Education Campaign.** As noted above, it is critical that the government, working with the private sector, highlight the importance of counseling. Federal policymakers should implement an ongoing, nationwide public service campaign to advise consumers, particularly the more vulnerable, of the basics of obtaining appropriate loans. Public service announcements could be made on radio and television, and articles and notices could be run in local newspapers and selected publications. As noted above, given that people's homes are at stake, these messages should be every bit as pervasive as the anti-smoking public interest announcements that have frequently appeared in the media in the last several years. This campaign should highlight the importance of obtaining the advice of an independent third party before signing any loan agreements.
- **Improved Counseling.** This is what this legislation is all about. Once made aware of the importance of information to help them navigate the home financing world, consumers will need to be able to avail themselves of counseling services from unbiased sources. Those sources can always include family and friends and industry participants. In addition, however, a nationwide network should be put in place to ensure that all consumers can easily access advice and counseling to help them determine the loan product that best fits their financial needs. A public awareness infrastructure needs to be built out that would include 1-800 numbers with trained, certified, independent counselors, using sophisticated computer software, to help consumers talk through the loan product they are considering. In addition, programs could be developed with community organizations and other organizations serving senior citizens to provide on-site counseling assistance at local senior and community centers and churches. HUD's 800 number for counseling could also be listed on required mortgage disclosures as an initial step to increase awareness of available counseling. Mortgage calculators or "smart" computer programs are now available online. Since these computer programs were already developed by the private sector and are widely available, a process where these programs can be reviewed and certified to be effective in enabling consumers to comparison shop among loans would lend credibility to, and increase the use of, these programs.
- **A Nationwide Licensing Registry.** Consumers need to be able to evaluate the competency and integrity of the mortgage originators with whom they are dealing. For this reason, a nationwide licensing registry should be established on which state regulators could detail consumer complaints, licensing suspensions and

revocations that would be accessible to consumers. The bonding requirements for mortgage brokers should also be increased so that claims against abusive mortgage brokers are more viable.

- **Competitive Automated Underwriting Systems.** Enhanced competition serves borrowers, both in terms of lower costs and greater choices. While HUD has put forth a proposal to increase competition for a loan's costs, we also need greater competition in the underwriting systems that are used to underwrite the vast majority of mortgage loans in this country, which will lead to greater choices. The problem is that two automated underwriting systems ("AUS") -- Freddie Mac's Loan Prospector and Fannie Mae's Desktop Underwriter - dominate the market. The development of AUS and automated property evaluation systems is a significant advance that, as noted above, is part of the "electronification" of the mortgage process that has benefited and will continue to benefit consumers. They can shorten the time from application for a mortgage to approval from weeks to minutes, facilitate accuracy in mortgage documentation, and reduce consumers' costs. However, the dominant use of the GSEs' AUS has raised concerns about whether the GSEs are limiting access to the mortgage market for many borrowers because these AUS are perceived to allow lenders less flexibility in considering compensating factors or alternative credit history (e.g., utility bills or rental payments) that would permit disadvantaged borrowers to qualify for conforming loans. HUD has been concerned about these issues for several years and commissioned the Urban Institute to study them. That study concluded that the GSEs have made some progress in adding flexibility to their underwriting guidelines, but that "[t]he GSEs' guidelines disqualify a disproportionate share of lower income and minority borrowers. Primary lenders are making more aggressive efforts to serve such borrowers by offering loan products that are more flexible than the GSEs' guidelines." Even without a study, however, it simply stands to reason that multiple underwriting systems that provide alternative and more flexible standards are better for consumers than just two. More competition, more choices.
- **Ultimate Need For Uniform, National Rules.** Although real estate has traditionally been regarded as a state law concern, it is clear that mortgage lending is a national industry where it is routine for lenders to lend in multiple states, loans and loan servicing rights to be transferred across state lines, and pools of loans from around the country to be assembled and placed in securities which are sold on the national capital markets. We believe that such a national industry should ultimately have the same, uniform rules that apply to all. Consumers should have the same protections, whether they are in Maine or California, and lenders and servicers should operate on the same, level playing field of regulation across the nation. As you know, state and local governments across the country are enacting or considering legislation that would implement different standards and impose varying levels of prohibitions on lenders. This vastly increases lenders' costs of compliance, which are ultimately passed on to consumers through higher mortgage rates. We hope that any federal legislation that is

considered addresses these concerns by preempting state and local predatory lending laws while providing the same substantive protections from abusive lending to all consumers.

The CMC appreciates the opportunity to provide testimony to this subcommittee on H.R. 3938, and I would be very pleased to answer any questions you might have.

United States House of Representatives
Committee on Financial Services

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ANNE C. CANFIELD

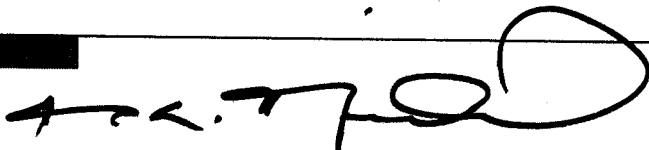
CONSUMER MORTGAGE
COALITION

Yes

No

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