The original documents are located in Box 38, folder "1/2/76 S2327 Real Estate Settlement Procedures Act Amendments of 1975" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

signed 1/2/76

APPROVED
JAN 2 - 1976

ACTION

Last Day: January 2

THE WHITE HOUSE

WASHINGTON

January 2, 1976

Posted 1/3/76
To Archives
1/5/76

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: S. 2327 - Real Estate Settlement Procedures Act Amendments of 1975

Attached for your consideration is S. 2327, sponsored by Senator Morgan and six others, which would amend the Real Estate Settlement Procedures Act of 1974 to:

-- Revise provisions concerning advance disclosure of settlement costs;

-- Repeal the requirement for disclosure of the previous selling price of certain property; and

-- Make clarifying and technical changes in the Act.

The enrolled bill would also repeal Section 121(c) of the Trust in Lending Act which requires a full statement of closing costs in connection with consumer and home mortgage lending.

The Office of Consumer Affairs recommends disapproval of the enrolled bill due to the repeal of the 12-day advance disclosure and the repeal of disclosure of previous price and improvement costs provisions.

A detailed analysis of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

HUD believes that the provisions of the enrolled bill will be helpful in the effective administration and operation of the Act and that most were made in response to Administration recommendations. HUD, OMB, Max Friedersdorf, Bill Seidman, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 2327 at Tab B.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 24 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2327 - Real Estate Settlement Procedures Act Amendments of 1975
Sponsor - Sen. Morgan (D) North Carolina and 6 others

Last Day for Action

January 2, 1976 - Friday. HUD requests delay in approval until last day.

Purpose

Amends the Real Estate Settlement Procedures Act of 1974 (RESPA), P.L. 93-533, to: revise provisions concerning advance disclosure of settlement costs, repeal the requirement for disclosure of the previous selling price of certain property, and make certain clarifying and technical changes. Repeals section 121(c) of the Truth in Lending Act which requires a full statement of closing costs in connection with consumer and home mortgage lending.

Agency Recommendations

Office of Management and Budget	Approval
Department of Housing and Urban Development	Approval
Federal Home Loan Bank Board	Approval
Federal Trade Commission	Approval
Department of Agriculture	Approval
Federal Deposit Insurance Corporation	No objection
Department of the Treasury	No objection
Federal Reserve Board	No objection (informal)
Veterans Administration	Defers to others
Department of Justice	Defers to others
Office of Consumer Affairs, Department of Health, Education, and Welfare	Disapproval

Discussion

The main purpose of RESPA, enacted last year, was to correct abusive practices in the real estate settlement process, primarily through increased disclosure of charges and previous selling prices. RESPA applies to all settlement transactions involving a "federally related mortgage loan," a term so broadly defined that it covers almost all residential real estate mortgage loans involving properties for occupancy by 1 to 4 families.

The provisions of RESPA became effective as of June 20, 1975. The House and Senate Committee reports on S. 2327 indicate that since then, the Congress has received a large volume of complaints about the Act from consumers, mortgage lenders, real estate agents, and other interested parties. The complainants object to the high cost, delay, and red tape involved in complying with some of the provisions of RESPA. S. 2327 seeks to alleviate these problems.

Major provisions of S. 2327

The enrolled bill would make changes of major significance in RESPA's disclosure requirements with respect to settlement costs.

Information booklets, advance disclosure, and uniform statement--Currently, section 5 of RESPA requires the Department of Housing and Urban Development (HUD) to prepare, and lenders to distribute to homebuyers, special information booklets explaining the nature and cost of settlement services. Section 6 generally requires lenders, at least 12 days before closing, to provide the borrower, seller, or any related Federal agency an itemized disclosure of each settlement charge. This information must be included in the uniform settlement statement which is required under section 4 to be prescribed by HUD itemizing all charges imposed on the borrower and seller in settlement transactions.

S. 2327 would repeal section 6 of RESPA. Instead of the 12-day advance disclosure provision in that section, the enrolled bill would require lenders to include with the information booklet provided under section 5 a good faith estimate of the amount or range of charges for specific settlement services which the borrower is likely to incur. In addition, the settlement agent would be required to make the uniform settlement form provided for under section 4 available to the borrower at or before settlement and to disclose, upon the borrower's request, any information he may have with respect to items on the form during the day immediately preceding settlement.

With respect to these sections, the enrolled bill would also:

-- authorize the Secretary of HUD, by regulation, to permit deletion from the uniform settlement form of items which are not applicable in particular localities.

-- permit the Secretary to waive the requirement that the form be available at or before settlement in localities where this practice is not customary or in situations where the requirement is impractical.

-- authorize the borrower to waive his right to have the form available at or before settlement.

-- delete the requirement that the form include all information and data required under the Truth in Lending Act.

-- make clear that a lender is required to provide the informational booklet and settlement cost estimates only upon receipt or preparation of a written application.

-- permit the Secretary to suspend any provision of sections 4 and 5 of RESPA for up to 180 days from the date of enactment of S. 2327.

HUD states that the 12-day advance disclosure notice requirement of section 6 has been RESPA's most troublesome provision, that it has caused a considerable increase in administrative costs to lenders, and that it has contributed to delays in mortgage loan closings. HUD believes repeal of the provision, coupled with the requirement that the lender provide the borrower at the time of loan application with a good faith estimate of likely settlement costs, would alleviate administrative burdens and provide the prospective homebuyer with early and meaningful information regarding settlement costs.

The Federal Home Loan Bank Board (FHLBB) is concerned over the removal of Truth in Lending disclosures from the uniform settlement form, but generally concurs with HUD as to the salutary effect of the provisions of S. 2327 described above.

Previous selling prices--Section 7 of RESPA now requires lenders making mortgage loans on existing property at least one year old to confirm that the seller has informed the buyer of the name and address of the present owner and the present owner's purchase date; and if the seller has owned the property for less than two years and has not used it as a residence, the purchase price the

seller paid and a list and costs of any improvements made to the property. Criminal penalties are imposed for failure to comply.

S. 2327 would repeal this section of RESPA.

HUD notes that serious difficulties have also arisen in connection with section 7, whose primary purpose was to protect purchasers of existing properties from real estate speculators who acquire such properties, make cosmetic repairs, and then resell them at inflated prices. The Department states that in most cases the only information that must be disclosed is the name and address of the owner and the date of his acquisition of the property, and that such disclosure is of almost no value to the buyer and should not be part of a criminal statute. HUD concludes that, although the Administration had proposed a replacement for the present section, repeal is acceptable.

The Federal Trade Commission (FTC) opposes the repeal of section 7 (Commissioner Nye dissenting). FTC believes that "by requiring disclosure of the seller's investment in the property, this section protects persons purchasing housing from real estate speculators...."

Other provisions of S. 2327

Other RESPA amendments contained in the enrolled bill include:

-- repeal of section 121(c) of the Truth in Lending Act which requires a full statement of closing costs in connection with consumer and home mortgage loans.

-- exemption from RESPA's coverage of temporary financing (such as construction loans), second liens, most mortgages given by individual sellers, and loans made by State agencies or instrumentalities.

-- clarification that cooperative brokerage and referral arrangements between real estate agents and brokers relating to sales commissions are exempt from RESPA's prohibition of kickbacks and unearned fees, and authority for HUD to exempt other payments or classes of payments from this prohibition.

-- an increase in the maximum permissible amount in escrow accounts for taxes, insurance, and other similar charges from one-twelfth to one-sixth of the estimated taxes and insurance payable in the ensuing twelve months.

-- specific authority for the Secretary to interpret all provisions of RESPA and to grant reasonable exemptions for classes of transations.

HUD states that these provisions would be helpful to the effective administration and operation of RESPA and that most were made in response to Administration recommendations.

Recommendations

HUD believes the enrolled bill would provide a sound resolution of the problems which have arisen since RESPA took effect. As explained further in its attached views letter, the Department requests delay in signing, and notification of the signing date, to permit necessary implementation actions.

The Office of Consumer Affairs (OCA) does not recommend favorable action on this bill. OCA believes that "...the outright repeal of Sections 6 & 7 go too far and that disclosure of the 'range of (settlement) charges' at application and the charges 'known' by the settlement lawyer on the business day prior to settlement do not sufficiently promote competition in lowering settlement charges or provide sufficient peace of mind regarding the absence of speculation or the funds needed at settlement. In effect, the enrolled bill is still a repeal of the concept of prior disclosure to the buyer of real estate where reform of the concept was the preferred choice."

* * * * *

On balance, we agree with HUD's assessment of S. 2327, and recommend that you sign the bill.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Attention: Miss Martha Ramsey

Dear Mr. Frey:

Subject: S. 2327, 94th Congress
Enrolled Enactment

This is in reply to your request for the views of this Department on the enrolled enactment of S. 2327, a bill "To amend the Real Estate Settlement Procedures Act of 1974".

S. 2327 would make a number of changes in the Real Estate Settlement Procedures Act of 1974 (RESPA). Of major significance are provisions which would amend RESPA's requirements with respect to the disclosure of settlement costs.

Presently, section 5 of RESPA requires that the lender, at the time of loan application, furnish the borrower with a booklet containing information on the nature and costs of settlement services. Section 6 generally requires lenders to provide an itemized written disclosure of each charge arising in connection with the settlement at the time of the loan commitment, or later in some cases, but at least twelve days prior to settlement. Section 6 also contains "Truth in Lending" disclosure provisions. At settlement section 4 requires that a uniform settlement form prescribed by HUD be used.

Section 5 of S. 2327 would repeal section 6. Instead, section 4(2) of the enrolled bill would require lenders to include with the informational booklet provided for in section 5 of RESPA a good faith estimate of the amount or range of charges for specific settlement services which the borrower is likely to incur. In addition, section 3(4) of S. 2327 would require the settlement agent to make the uniform settlement form available to the borrower at or before settlement (except in limited circumstances) and to disclose, upon the borrower's request, any information he may have respecting entries on the uniform settlement statement sometime during the business day immediately preceding the settlement.

Also of major importance is section 6 of the enrolled bill's proposed repeal of section 7 of RESPA. This section presently requires the lender, prior to making a loan commitment with respect to a property over one year old, to confirm that the seller has provided the buyer with the present owner's name and address, the date of acquisition of the property by the present owner and, in the case of a non-owner occupied dwelling owned less than two years by the seller, the date and purchase price of the last arm's length transfer of the property and a list and costs of any subsequent improvements. The present provision imposes criminal penalties on lenders and sellers who fail to comply with these requirements.

Finally, the enrolled bill would make several changes designed to clarify and improve RESPA's present operation. Among these changes are the following: section 2 of S. 2327 would amend section 3 of RESPA to exempt from the Act's coverage temporary financing (such as construction loans), second liens, most mortgages given by individual sellers, and loans made by State agencies or instrumentalities; section 3(3) of the measure would amend section 4 of the Act to accord HUD greater flexibility in modifying the uniform statement to take account of area differences in procedures;

section 4(3) and (4) of the enrolled bill would amend section 5 of RESPA to make clear that a lender is required to provide the informational booklet and settlement cost estimates only upon receipt or preparation of a written application; section 7 of S. 2327 would amend section 8 of the Act to make clear that cooperative brokerage and referral arrangements of real estate agents are exempt from RESPA's prohibition of kickbacks and unearned fees and authorize HUD to exempt other payments or classes of payments from this prohibition; and section 10 of the proposal would add a new section 18 to the Act which would provide the Secretary of HUD specific authority to interpret all provisions of RESPA and to grant reasonable exemptions for classes of transactions.

RESPA was enacted to assure more effective advance disclosure to home buyers and sellers of settlement costs, eliminate kickbacks or referral fees which tend to increase unnecessarily the costs of certain settlement services, reduce the amounts which home buyers are required to place in escrow accounts, and significantly reform and modernize local land title recordation systems.

The Act has had a substantial impact on sales, lending and related activities throughout the nation. Its operation, however, has given rise to a number of specific problems which could only be remedied legislatively. We believe that the enrolled bill would provide a sound resolution of these problems.

The most troublesome provision of RESPA has been section 6's twelve-day advance disclosure of settlement costs requirement. Compliance with this provision has caused a considerable increase in administrative costs to lenders and has contributed to delays in mortgage loan closings. We believe that the enrolled enactment's repeal of this provision, coupled with its proposed requirement that the lender, at the time of loan application, provide the borrower with a good faith estimate of likely settlement costs, would not only alleviate these administrative burdens but also would preserve the

Act's purpose of providing the prospective homebuyer with early and meaningful information regarding settlement costs.

As to repeal of the Truth in Lending provisions in Section 6 of RESPA, and repeal of section 121(c) of the Truth in Lending Act, we believe these provisions are acceptable, but we would defer to the members of the Federal Reserve Board.

Serious difficulties have also arisen in connection with section 7 of RESPA. The primary purpose of this section is to protect purchasers of existing housing from real estate speculators who acquire existing properties, make cosmetic repairs, and subsequently resell them at inflated prices. Section 7 seeks to protect such purchasers by requiring the amount of the seller's investment to be disclosed to the purchaser. However, the coverage of existing section 7 is too broad. By its terms, the section applies to almost all transactions involving one- to four-family properties over one year old, but in most cases requires only disclosure of the name and address of the owner and the date of his acquisition of the property. We believe that such disclosure is of almost no value to the buyer and should not be part of a criminal statute. Also, serious questions have arisen with respect to the meaning of section. 7. While it would have been possible to amend section 7, rather than repealing it, and the Administration provided Congress with a narrowly-drawn replacement for section 7, we believe that the enrolled bill's proposed repeal of section 7 is acceptable.

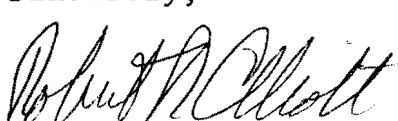
Finally, we believe that the remaining provisions of the enrolled bill would prove helpful to the effective administration and operation of RESPA and would enhance prospects for the achievement of the Act's purposes. Most of these technical amendments were made in response to Administration recommendations.

In light of the foregoing, the Department of Housing and Urban Development recommends that the enrolled enactment of S. 2327 be approved.

The extensive amendments of the Real Estate Settlement Procedures Act of 1974 (RESPA) are effective upon enactment, and will immediately render much of Regulation X, 24 CFR, Part 82 either moot or in conflict with the statute as amended.

Accordingly, this Department must send a notice to the Federal Register on the day of enactment amending the RESPA regulations and suspending certain portions of RESPA, as amended, for up to six months. The enactment must be coordinated with the issuance of the notice in order to avoid a hiatus during which lenders and others will be without proper regulations under RESPA. Only after this Departmental action is complete will final notification be provided, largely though industry sources, to all those affected of just what changes are being made in the governing regulations. Since over 100,000 lawyers, lenders and others are involved, this notification problem is substantial. Considering this problem together with the holidays and delays in the mails, it would be most desirable if the signing of the enactment could occur after January 5, 1976. In any event, we would appreciate being given a date certain for final Presidential action in order to coordinate implementation actions.

Sincerely,



Robert R. Elliott

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
OFFICE OF CONSUMER AFFAIRS
WASHINGTON, D.C. 20201

December 24, 1975

MEMORANDUM

FOR James Lynn, Director
Office of Management and Budget

FROM S. John Byington, Deputy Director
Office of Consumer Affairs

SUBJECT Comments on Enrolled Bill S. 2327
(Frey Memo Request of 12/22/75)

Responding to problems for business and consumers created by the Real Estate Settlement Procedures Act of 1974 (RESPA), Congress in the enrolled bill amendments to RESPA, would repeal the 12-day advance disclosure (Section 6), repeal the disclosure of previous price and improvement costs (Section 7), as well as making changes in definitions (Section 3), in the disclosure form (Section 4), the settlement booklet (Section 5), in the proscriptions against kickbacks (Section 8) and in the limitations on escrow deposits (Section 10).

The enrolled bill does maintain a degree of uniformity in settlement disclosure forms used at or before settlement, allows the borrower to see charges "known" by the settlement attorney on the business day preceding settlement and provides that the disclosure booklet available at loan application include "a good faith estimate of the amount or range of charges" for specific settlement services. (Emphasis supplied)

The advantages to the consumer in stimulating competition in lowering settlement costs through advanced disclosure of settlement costs (Section 6), the peace of mind in knowing how much money to have available at settlement, and the possibilities for curbing of speculation by non-resident owners (Section 7) should not be considered lightly or surrendered without comment. While technical defects in RESPA have presented problems and aggravations for business and consumers alike, it is the view of OCA that the outright repeal of Sections 6 & 7 go too far and that disclosure of the "range of (settlement) charges" at application and the charges "known" by the settlement lawyer on the business day prior to settlement do not sufficiently promote competition

in lowering settlement charges or provide sufficient peace of mind regarding the absence of speculation or the funds needed at settlement. In effect, the enrolled bill is still a repeal of the concept of prior disclosure to the buyer of real estate where reform of the concept was the preferred choice.

We do not recommend favorable action on this enrolled bill.

FEDERAL HOME LOAN BANK BOARD

WASHINGTON, D. C. 20552

320 FIRST STREET N.W.

FEDERAL HOME LOAN BANK SYSTEM
FEDERAL HOME LOAN MORTGAGE CORPORATION
FEDERAL SAVINGS & LOAN INSURANCE CORPORATION

OFFICE OF
GENERAL COUNSEL

December 24, 1975

Mr. James M. Frey
Assistant Director for Legislative
Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This is in response to your Enrolled Bill Request of December 22, 1975, concerning S. 2327, an Act to amend the Real Estate Settlement Procedures Act of 1974.

Section 2 of the bill would limit the coverage of the Real Estate Settlement Procedures Act of 1974 ("RESPA") by amending the definition of "federally related mortgage loan". There are two principal amendments in Section 2 of the proposed bill. One would exclude "temporary financing such as a construction loan" from the requirements of RESPA. The other would limit coverage of RESPA to loans secured by first liens on residential real property.

Section 3 of S. 2327 would amend Section 4 of RESPA, relating to the uniform settlement statement in order to increase the flexibility of the Secretary of Housing and Urban Development in prescribing the form of the uniform settlement statement. Section 4 would be further amended to provide, with certain exceptions as determined by the Secretary of HUD, that the uniform settlement statement be completed and made available for inspection by the borrower at or before settlement by the person conducting the settlement. Section 4 would also be amended to provide that the borrower, during the business day immediately preceding the day of settlement, may request inspection of the uniform statement and that the person conducting the settlement shall permit the borrower to inspect those items which are known to such person during such preceding day. Finally, the bill amends Section 4 of RESPA by striking the last sentence thereof relating to the providing in the uniform statement of all information and data required to be provided for transactions under the Truth in Lending Act, thereby satisfying the provisions of that Act.

Sections 4 and 5 of S. 2327 would amend RESPA so as to substitute for the required advance disclosure of settlement costs contained in Section 6 of RESPA, a requirement that the special information booklet prepared by HUD be accompanied by a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement. The booklet and the estimate are to be provided to each person from whom the lender receives or prepares a written loan application.

Section 6 of S. 2327 would repeal Section 7 of RESPA, relating to the disclosure of the previous selling price of existing real property.

Section 7 of S. 2327 would amend Section 8 of RESPA relating to the prohibition against kickbacks and unearned fees. Section 8(c) is amended to provide that nothing in Section 8 shall be construed as prohibiting payments pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and brokers, or such other payments or classes of payments or other transfers as are specified in regulations prescribed by the Secretary of HUD, after consultation with the Attorney General, the Administrator of Veterans' Affairs, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Secretary of Agriculture.

Section 8 of the bill would completely revise the wording of Section 10 of RESPA relating to escrow accounts, substituting a more flexible provision, taking into account the normal lending practice of the lender and local custom.

Sections 9 and 10 of the bill make a technical amendment to RESPA with respect to acts done or omitted in good faith in conformity with rules, regulations and interpretations of the Secretary of HUD and would grant authority to the Secretary of HUD to prescribe rules and regulations, make interpretations and grant exemptions under the Act. Sections 11 and 12 of the bill would repeal Section 121(c) of the Truth-in-Lending Act and permit the delay of effectiveness of amendments to Sections 4 and 5 of RESPA, respectively.

The proposal in Section 2 to narrow the scope of RESPA is, in the Board's view, an appropriate limitation, consistent with the purpose of providing information to homepurchasers.

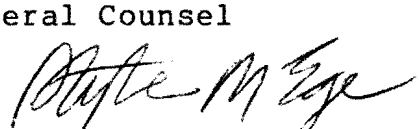
The Board supports the added flexibility to tailor uniform settlement statement requirements to local conditions contained in Section 3. While we are concerned over the removal of Truth-in-Lending disclosures from the uniform settlement statement form, the Board defers to the Board of Governors of the Federal Reserve System regarding the necessity and desirability of this change. The requirement contained in Section 5 that lenders provide homepurchasers, at the time of written loan application, with a good faith estimate of the amount or range of charges the homepurchaser is likely to incur in connection with settlement -- and the repeal of Section 6 of RESPA may -- produce several desirable effects. First, reduced settlement costs may result due to informed shopping to the extent that the homebuyer is encouraged by the good faith estimates given at the time of written loan application to shop for settlement services. This information would be required at an earlier time than is currently provided in Section 6 under RESPA. Second, S. 2327 would eliminate the lender's additional paper work by removing the requirement that lenders furnish borrowers advance disclosure of estimated settlement costs related to particular transactions. This, in turn, would reduce the lender's costs. Finally, S. 2327 could substantially eliminate the delays necessitated by existing Section 6 of RESPA which have apparently operated to the detriment of homepurchasers, home sellers and lenders.

The Board defers to HUD regarding the necessity and desirability of Sections 6, 8, 9, 10 and 12 of S. 2327 and to the Board of Governors of the Federal Reserve System regarding Section 11. The Board supports the proposed consultative arrangement contained in Section 7 of S. 2327 regarding exemptions from Section 8 of RESPA.

Thus, in conclusion, the Board supports enactment of Enrolled Bill S. 2327 as indicated above.

Sincerely,

Charles E. Allen
General Counsel



By: Stephen M. Ege
Assistant General Counsel
Legislation Division

FEDERAL TRADE COMMISSION
WASHINGTON, D. C. 20580

OFFICE OF THE SECRETARY

DEC 24 1975

The Honorable James T. Lynn
Director, Office of Management
and Budget
Executive Office of the President
Washington, D.C. 20503

Dear Mr. Lynn:

This is in response to your request for the views of the Federal Trade Commission upon Enrolled Bill S. 2327, 94th Congress, 1st Session, an Act "To amend the Real Estate Settlement Procedures Act of 1974."

By letter of December 18, 1974, to the Office of Management and Budget, the Commission expressed its support for the purposes of the Real Estate Settlement Procedures Act of 1974 (Public Law 93-553) which seeks to provide real estate purchasers with specific information as to the nature and costs of real estate settlement and to eliminate abusive and unreasonable practices within the settlement process. The Commission continues to support RESPA and all but one of the amendments to that Act contained in S. 2327.

In its letter of September 18, 1975, to OMB with respect to the proposed RESPA amendments submitted by the Department of Housing and Urban Development, the Commission expressed the opinion that certain of the suggested amendments to Sections 7 and 10 of RESPA would weaken rather than enhance the Act's effectiveness. Section 7 of RESPA currently prohibits a lender from making a loan commitment unless it has confirmed the disclosure to the buyer by the seller of certain information including the previous selling price of the property. The Commission objected to the HUD proposal which would have transferred the responsibility for assuring disclosure from the lender to the seller and suggested that the burden be placed upon both lender and seller. The Commission also objected to a proposed exemption to Section 7 for sales by federally insured or guaranteed lending institutions. S. 2327 goes beyond the HUD proposed amendments and repeals Section 7 of RESPA entirely. The Commission believes that by requiring disclosure of the seller's investment in the

property, this section protects persons purchasing housing from real estate speculators who may acquire existing properties, make cosmetic repairs and subsequently resell them at inflated prices. Accordingly, the Commission opposes the repeal of Section 7 of RESPA.

Section 10 of RESPA prohibits a lender from collecting for deposit in escrow in any calendar month more than one twelfth of the estimated taxes and insurance premiums that will become due and payable during the year. With respect to the HUD proposal changing this fraction to one sixth, the Commission expressed concern that the suggested language might be interpreted in a manner which would permit lenders to demand interest free escrow deposits of amounts substantially in excess of those legitimately needed. However, the language of S. 2327, which adopts the HUD proposal altering the fraction from one twelfth to one sixth, clarifies the intent of Section 10 to permit the escrow only of amounts currently needed plus two months. The additional two month requirement is intended to provide lenders a reasonable amount of money with which to make payments of taxes, insurance premiums and other charges as they fall due.

The Federal Trade Commission therefore supports the enactment of the Real Estate Settlement Procedures Act Amendments of 1975 subject to the foregoing reservation with respect to the repeal of Section 7 of RESPA.

Commissioner Nye supports the repeal of Section 7 of RESPA.

By direction of the Commission.

Virginia M. Harding

Charles A. Tobin
Acting Secretary

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

December 23, 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C.

Dear Mr. Lynn:

Pursuant to your request for our comments on the enrolled bill S. 2327 "To amend the Real Estate Settlement Procedures Act of 1974" (RESPA), the Department has no objections to the bill.

The bill, by reducing some of the requirements of RESPA and removing the need for an advance disclosure of settlement costs, will facilitate the closing of loans and result in a saving to the Farmers Home Administration (FmHA) of approximately one hour of working time for each affected loan. The Department, therefore, recommends that the bill be signed.

Sincerely,

John A. Knebel

Under Secretary

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, D.C. 20429

OFFICE OF THE CHAIRMAN

December 24, 1975

Honorable James T. Lynn
Director
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Lynn:

By enrolled bill request dated December 22, 1975, your Office requested the Corporation's views and recommendations on S. 2327, 94th Congress, the "Real Estate Settlement Procedures Act Amendments of 1975."

One of the enrolled bill's two major amendments to the Real Estate Settlement Procedures Act of 1974 (RESPA) would be the repeal of section 6 of that Act which presently requires that the uniform settlement statement itemizing closing costs be given to the borrower at the time of the loan commitment or at least 12 calendar days prior to settlement. Instead, the enrolled bill would require only that the statement be made available to the borrower at or before settlement, unless waived by the borrower or exempted by the Secretary of Housing and Urban Development. The bill would also provide that "upon the request of the borrower to inspect the form . . . during the business day immediately preceding the day of settlement, the person who will conduct the settlement shall permit the borrower to inspect those items which are known to such person during such preceding day." The other major amendment to RESPA would be the repeal of section 7 of that Act which now requires that the seller or his agent disclose in writing to the buyer the name and address of the present owner of the property being sold, the date the property was acquired by the present owner, and, if the seller had owned the property for less than two years and had not resided on the property, the purchase price the seller paid and the cost of any improvements he made to the property.

Other RESPA amendments contained in S. 2327 include (1) exemptions from RESPA coverage for temporary financing such as construction loans and for second liens, most mortgages given by individual sellers, and loans made by State agencies or instrumentalities, (2) permission for the HUD Secretary to allow deletion from the settlement form of those items that are not relative to particular localities, (3) a new requirement that information booklets furnished by the lender include settlement

cost estimates and clarification that such booklets need be provided by the lender only upon its receipt or preparation of a written (as opposed to an oral) application for a mortgage loan, (4) clarification that cooperative brokerage and referral agreements between real estate agents and brokers relating to real estate sales commissions are not within RESPA's prohibition against kickbacks and unearned fees, and authority for the HUD Secretary to exempt other classes of transactions or payments from such prohibition, (5) an increase in the maximum permissible amount in escrow accounts for taxes, insurance and other similar charges from one-twelfth to one-sixth of the estimated taxes and insurance payable in the ensuing 12 months, (6) repeal of section 121(c) of the Truth in Lending Act which requires a full statement of closing costs in connection with consumer and home mortgage loans, and (7) specific authority for the HUD Secretary to interpret all provisions of RESPA and to grant reasonable exemptions as necessary to achieve its purposes.

The Corporation has no objection to approval of S. 2327 by the President.

Sincerely,

Frank Wille

Frank Wille
Chairman

THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

DEC 23 1975

Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 2327, "To amend the Real Estate Settlement Procedures Act of 1975."

The enrolled enactment would make two significant and several technical and improving changes in the procedures established by the Real Estate Settlement Procedures Act of 1974 (RESPA). The first major modification would change the provisions for the advance disclosure of settlement costs by repealing the requirement for the full disclosure of settlement costs no later than 12 days prior to settlement. The other important change would repeal provisions of the RESPA unrelated to settlement costs which require disclosure of the purchase price and other information by sellers of homes. These provisions were found to be unnecessary and unworkable by lenders, real estate agents, attorneys, and buyers since the implementation of RESPA on June 20, 1975.

The Department would have no objection to a recommendation that the President sign the enrolled enactment.

Sincerely yours,

Stephen Gardner

Stephen S. Gardner

VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D.C. 20420

December 24, 1975

The Honorable
James T. Lynn
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This will reply to the request of the Assistant Director for Legislative Reference for the Veterans Administration's comments on the enrolled enactment, S. 2327, 94th Congress, entitled "Real Estate Settlement Procedures Act Amendments of 1975."

This enactment would make numerous changes to the Real Estate Settlement Procedures Act of 1974 (RESPA), Public Law 93-533. Major amendments to be made by S. 2327 include: permitting greater flexibility in modifying the uniform settlement statement to adapt it to local laws and customs; requiring that the lender include with the settlement information booklet a good faith estimate of the amount or range of charges for settlement services the borrower is likely to incur; repealing of sections 6 and 7 of RESPA, which provide for advanced disclosure of settlement costs and disclosure of the owner and previous sales price of existing real property; narrowing the prohibition against kickbacks and unearned fees; and redrafting the provisions on tax and insurance escrow accounts contained in RESPA.

The Real Estate Settlement Procedures Act of 1974 has led to confusion and delays in the closing of real estate loans. The enrolled enactment is intended to modify or repeal the more objectionable portions of RESPA.

The Veterans Administration has no objection to the approval by the President of the enrolled enactment, S. 2327. However, since the bill will be primarily enforced by the Department of Housing and Urban Development, and also will effect the operation of other Federal programs, we will defer to the recommendations of the officials involved.

Sincerely,

Odell W. Vaughn

Deputy Administrator - In the absence of

RICHARD L. ROUDEBUSH
Administrator

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

December 24, 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill (S. 2327, "To amend the Real Estate Settlement Procedures Act of 1974."

The enrolled bill, if approved, would effect major changes in the Real Estate Settlement Procedure Act of 1974, P.L. 93-533, 88 Stat. 1724 (93rd Cong., 2nd Sess.) (hereinafter "RESPA"). It would repeal section 6 of that Act which now affirmatively requires a lender who agrees to make a federally related mortgage loan to provide the prospective borrower with a statement disclosing settlement costs at the time of the loan commitment, but in no case later than twelve (12) calendar days prior to settlement, and further provides civil liability for lenders who fail to comply with these disclosure provisions. The enrolled bill would also repeal section 7 of the Act which requires, in certain circumstances, disclosure of the previous selling price of existing real property. In addition, the enrolled bill repeals §121(c) of the Truth-In-Lending Act, 15 U.S.C. §1631(c), which currently requires a lender to provide its borrower with a full statement of closing costs prior to the time a down payment is due or the time when the creditor commits himself to the transaction.

In lieu of the above provisions, the enrolled bill would require that the disclosure statement be made available for inspection at or before settlement. It would further require that lenders include with the "special information booklets" which they are currently required to distribute at the time a loan application is made, a good faith estimate of the amount or range of charges for

specific settlement services the borrower is likely to incur in connection with the settlement. Also, if requested, the person who is to conduct the settlement would be required to permit the borrower, one business day immediately preceding the day of settlement, to inspect those items which are then known to such person.

The enrolled bill also would completely redraft section 10 of RESPA, permitting lenders to require borrowers to deposit in escrow accounts a larger fraction of a new base which would include "other changes," as well as taxes and insurance premiums. RESPA would also be amended to provide the Secretary of Housing and Urban Development (hereinafter "the Secretary") with authority to prescribe rules and regulations, make interpretations and grant reasonable exemptions as may be required to achieve the purposes of the Act. In addition, the Secretary's authority to permit variations and deletions from the standard disclosure form would be increased and the exemptions from the anti-kickback provisions of section 8 of RESPA would be enlarged to include (1) payments made pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and brokers and (2) other payments specified by the Secretary. Finally, language would be added to clarify that the provisions of RESPA apply only to first liens on residential real property and do not apply to temporary financing such as a construction loan.

The Department of Justice defers to the views of those agencies more directly concerned with the subject matter of the bill as to whether it should receive Executive approval.

Sincerely,

Michael M. Uhlmann

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

DEC 2 4 1975

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Attention: Miss Martha Ramsey

Dear Mr. Frey:

Subject: S. 2327, 94th Congress
Enrolled Enactment

This is in reply to your request for the views of this Department on the enrolled enactment of S. 2327, a bill "To amend the Real Estate Settlement Procedures Act of 1974".

S. 2327 would make a number of changes in the Real Estate Settlement Procedures Act of 1974 (RESPA). Of major significance are provisions which would amend RESPA's requirements with respect to the disclosure of settlement costs.

Presently, section 5 of RESPA requires that the lender, at the time of loan application, furnish the borrower with a booklet containing information on the nature and costs of settlement services. Section 6 generally requires lenders to provide an itemized written disclosure of each charge arising in connection with the settlement at the time of the loan commitment, or later in some cases, but at least twelve days prior to settlement. Section 6 also contains "Truth in Lending" disclosure provisions. At settlement section 4 requires that a uniform settlement form prescribed by HUD be used.

To J. Cavanaugh 12-29-75 10 a.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 24 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2327 - Real Estate Settlement Procedures Act Amendments of 1975
Sponsor - Sen. Morgan (D) North Carolina and 6 others

Last Day for Action

January 2, 1976 - Friday. HUD requests delay in approval until last day.

Purpose

Amends the Real Estate Settlement Procedures Act of 1974 (RESPA), P.L. 93-533, to: revise provisions concerning advance disclosure of settlement costs, repeal the requirement for disclosure of the previous selling price of certain property, and make certain clarifying and technical changes. Repeals section 121(c) of the Truth in Lending Act which requires a full statement of closing costs in connection with consumer and home mortgage lending.

Agency Recommendations

Office of Management and Budget	Approval
Department of Housing and Urban Development	Approval
Federal Home Loan Bank Board	Approval
Federal Trade Commission	Approval
Department of Agriculture	Approval
Federal Deposit Insurance Corporation	No objection
Department of the Treasury	No objection
Federal Reserve Board	No objection (informal)
Veterans Administration	Defers to others
Department of Justice	Defers to others
Office of Consumer Affairs, Department of Health, Education, and Welfare	Disapproval

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 1540

Date: December 29 Time: 10:30am

FOR ACTION: Tod Hullin
Paul Leach
Max Friedersdorf
Ken Lazarus
Bill Seidman

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, December 31 Time: noon

SUBJECT:

S. 2327 - Real Estate Settlement Procedures Act Amendments of 1975

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

x___ For Your Comments ____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. Suggest that consideration be given to a signing statement which would be sensitive to the comments of the Office of Consumer Affairs and consumer groups.

Ken Lazarus 12/31/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM LOG NO.: 1540

Date: December 29 Time: 10:30am

FOR ACTION: Tod Hullin
Paul Leach
Max Friedersdorf
Ken Lazar
Bill Seidman

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, December 31 Time: noon

SUBJECT:

S. 2327 - Real Estate Settlement Procedures Act Amendments of 1975

ACTION REQUESTED:

____ For Necessary Action

____ Prepare Agenda and Brief

x___ For Your Comments

____ For Your Recommendations

____ Draft Reply

____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Approved

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

THE WHITE HOUSE

WASHINGTON

DEC 30 1975

MEMORANDUM FOR: JIM CAVANAUGH

FROM: MAX L. FRIEDERSDORF M.L.F.

SUBJECT: S.2327 - Real Estate Settlement Procedures Act Amendments of 1975

The Office of Legislative Affairs concurs with the agencies that the subject bill be signed.

Attachments

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 1540

Date: December 29 Time: 10:30am

FOR ACTION: Tod Hullin oa
Paul Leach oa
Max Friedersdorf oa
Ken Lazarus sign
Bill Seidman sign

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, December 31 Time: noon

SUBJECT:

H. 2327 - Real Estate Settlement Procedures Act Amendments of 1975

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

x For Your Comments ____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 1540

Date: December 29 Time: 10:30am

FOR ACTION: Tod Hullin
Paul Leach
Max Friedersdorf
Ken Lazarus
Bill Seidman

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, December 31 Time: noon

SUBJECT:

S. 2327 - Real Estate Settlement Procedures Act Amendments of 1975

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

x___ For Your Comments ____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. Suggest that consideration be given to a signing statement which would be sensitive to the comments of the Office of Consumer Affairs and consumer groups.

Ken Lazarus 12/31/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Calendar No. 403

94TH CONGRESS
1st Session

SENATE

REPORT
No. 94-410

RESPA AMENDMENTS

OCTOBER 6 (legislative day SEPTEMBER 11), 1975.—Order to be printed

Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs, submitted the following

REPORT

[To accompany S. 2327]

The Committee on Banking, Housing and Urban Affairs, to which was referred the bill (S. 2327) having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

GENERAL STATEMENT

The bill suspends for a period of one year sections 4, 6, and 7 of the Real Estate Settlement Procedures Act (P.L. 93-533) which requires a complicated uniform settlement statement, a 12 day advanced disclosure of settlement costs by lenders, and a requirement, in some instances, of the disclosure of the previous selling price of existing real property. In addition, the bill will repeal section 121(c) of the Truth in Lending Act which also requires a full statement of closing costs in connection with consumer and home morgtage lending.

In the past several months, most members of Congress have received a large volume of complaints from consumers, mortgage lenders, and other interested parties about the high cost, delay and red tape involved in complying with the foregoing provisions of the Real Estate Settlement Procedures Act. Most of the witnesses appearing before the Senate Banking, Housing and Urban Affairs Committee during the oversight hearings on the Real Estate Settlement Procedures Act held on September 15, 16, and 17, expressed dissatisfaction with the present Act and called for quick action to improve the situation. The one year suspension contained in the bill will bring immediate relief to both the home buyers and sellers and the affected industry from the unreasonable restrictions of the Real Estate Settlement Procedures Act and afford Congress sufficient time to work with the appropriate government agencies and interested parties to develop simplified procedures for the benefit of all involved in the real estate settlement

process. It is important to suspend these cumbersome procedures as quickly as possible to relieve the consumer from the delays in real estate settlements and the industry from the burdensome paper work.

ESTMATED COST OF THE LEGISLATION

In accordance with section 252 of the Legislative Reorganization Act of 1970, the Committee reports that no cost will be incurred in carrying out the bill.

CORDON RULE

In the opinion of the Committee, it is necessary to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate in connection with this report.

○

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 94-667

REAL ESTATE SETTLEMENT PROCEDURES

NOVEMBER 14, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. REUSS, from the Committee on Banking, Currency and Housing, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany S. 2327]

The Committee on Banking, Currency and Housing, to whom was referred the bill S. 2327 to suspend sections 4, 6, and 7 of the "Real Estate Settlement Procedures Act of 1974", having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendment to the text of the bill strikes out all after the enacting clause and inserts in lieu thereof a substitute text which appears in italic type in the reported bill.

The title of the bill is amended to reflect the amendment to the text of the bill.

INTRODUCTION AND BACKGROUND OF THE BILL

S. 2327, a bill to amend the Real Estate Settlement Procedures Act of 1974, is the result of numerous problems that have arisen subsequent to enactment of the Real Estate Settlement Procedures Act of 1974, Public Law 93-533, in December 1974, and its implementation on June 20, 1975. When enacting the Real Estate Settlement Procedures Act last year, your committee was attempting to provide the prospective homebuyer with adequate protection against unscrupulous practices that were causing homebuyers to pay unconscionable fees in closing costs, and to provide homebuyers with adequate advance disclosure of what the costs of settlement would be.

Real estate settlement practices are different in each of the 50 states and each state differs extensively within the numerous governmental

subdivisions. The attempt of last year to legislate nationally with the Real Estate Settlement Procedures Act on the problems that had arisen with regard to real estate practices in a number of jurisdictions has proved in many areas of the country to be unworkable, overly rigid in a number of other areas, and too inflexible to be administered adequately in those jurisdictions where real estate settlement practices needed the attention of Federal regulations. Your committee still believes that Federal attention should remain directed at real estate settlement practices around the country but not within the framework of the 1974 Act.

S. 2327 would make major changes in RESPA by repealing the 12-day advance disclosure provision embodied in section 6 of the Act. It would provide that a disclosure of good faith estimates of settlement costs be made in the special information booklet that are provided the borrower at the time a written application for a mortgage loan is made. This, your committee, believes continues the Congressional intent to provide the prospective homebuyer with general information as to what their costs will be at the time of settlement.

The bill would also repeal the disclosure of previous selling price provision of the Act (section 7) which your committee believes to be basically an unworkable provision. The bill would make a number of other important changes in the Act, such as excluding construction loans and second trusts from the definition of federally related mortgage loans, as well as excluding state agencies or instrumentalities thereof from the definition of creditor.

S. 2327 would grant the Secretary of HUD greater flexibility in modifying the uniform settlement statement to adapt to area differences in procedures and to permit the HUD Secretary to exempt certain classes of settlements from these requirements.

The committee reported bill would also clarify the anti-kickback provisions of the Act (section 8) to make it clear that cooperative brokerage and referral arrangements of real estate agents are exempt from the prohibition of kickbacks and unearned fees. This clarification would also allow the HUD Secretary, in consultation with the Attorney General and other agencies, to exempt other payments or classes of payments from this provision.

Since the implementation of RESPA on June 20 of this year, this committee has received an enormous amount of complaints from all around the country from lenders, real estate agents, attorneys, and most importantly, from the home-buying public. The Subcommittee on Housing and Community Development conducted extensive hearings on October 28, 29 and 30, hearing testimony from lenders, realtors, title companies, consumer groups, attorneys, homebuilders, the General Counsel of the Department of Housing and Urban Development, and the Acting Chairman of the Federal Home Loan Bank Board and a member of the Federal Reserve Board. The subcommittee heard testimony on the various complaints regarding the implementation and the administration of RESPA and on numerous bills that have been introduced to repeal the Act, bills to suspend certain provisions of the Act for one year, and bills to make major changes in the Act.

The hearings before the subcommittee demonstrated that certain changes were necessary to comply with the original intent of the Congress in enacting RESPA. Most witnesses agreed that advance disclosure of settlement costs were necessary, but mortgage lenders pointed out to the subcommittee that the costs incurred by them in administering the 12-day advance disclosure provision were from $35.00 to $90.00 per mortgage loan depending on the size of the institution, and approximately one hour of personnel time has been added per mortgage loan in complying with section 4 of the Act. This considerable administrative expense plus the additional time needed by the lender to comply with the section 4 Uniform Settlement Statement provision have complicated the already complex mortgage approval process. The subcommittee was told by lenders that the period from formal loan application to loan settlement had been increased by an average of 11½ days, and that borrowers were disturbed because of the additional administrative procedures and additional time involved in obtaining the loan. Mortgage loan closings, the subcommittee was told, were substantially delayed, increasing red tape, with borrowers and lenders equally confused. Until recent changes in the regulations, financial institutions were even afraid to respond to oral inquiries about loan terms over the telephone for fear of triggering booklet distribution and disclosure forms. The subcommittee was told that processing delays were causing buyers to lose earnest money and numerous transactions were terminated because of the complications caused by the Act. The presence of civil and criminal penalties caused lending institutions to be extremely wary of providing facts and figures of what must be disclosed. It was certainly not the intention of your committee in enacting RESPA last year to have caused these types of circumstances.

The bill reported by your committee was strongly endorsed by a number of consumer groups. A representative of the Consumer Federation of America stated, "We enthusiastically endorse H.R. 10283 (the subcommittee-approved bill) as being an eminently reasonable solution to the substantive problems which RESPA has entailed." The witness went on further, "We implore his subcommittee to persist in their recognition that most of the parties involved in this issue are not and never have been far apart on desired goals and solutions. H.R. 10283 is a magnificent opportunity to bring lenders, credit unions, realtors, title companies and consumers together."

Your committee has reported a bill which retains the goals and purposes that the Congress established in passing the Real Estate Settlement Procedures Act of last year by making the Act a workable instrument on behalf of all of the parties involved in a real estate transaction.

What the Bill Would Do

The committee bill makes two significant and several technical and improving changes in the procedures established by the Real Estate Settlement Procedures Act of 1974 (RESPA). One major modification of RESPA affects the requirements for the advance disclosure of settlement costs. The other important part of the committee bill repeals provisions of RESPA unrelated to settlement costs which require disclosures by sellers of homes of the purchase price and other information.

Your committee believes that the Federal Government should assume a role in making real estate transfers more uniform and efficient, in order to reduce costs for both sellers and buyers. However, your

committee is convinced that several provisions of RESPA miss the mark and are counter productive.

Advance disclosure of settlement costs

The advance settlement disclosure provisions of RESPA require lenders to determine the exact amount, or if that is not possible, a good faith estimate of the amount, of each charge to be incurred by the buyer and the seller in connection with a real estate settlement. This information must be supplied to the buyer, the seller, and any federal agency insuring or assisting the loan. This information must be collected and furnished in accordance with certain rigid time constraints: namely, at the time the loan commitment is made by the lender but, in no event, later than 12 days prior to settlement. The 12-day limit can be waived by the buyer, in accordance with regulations issued by the Secretary of Housing and Urban Development, but the requirement of disclosure at the time of loan commitment cannot be waived. Lenders who violate these requirements are subject to civil damages.

The major purpose of this provision of RESPA is to afford the buyer and seller the opportunity and the time to shop for settlement services at prices lower than those charged for services arranged for by the lender. Another purpose of this provision is to protect the buyer and the seller against unexpected or unreasonable charges which might be imposed at the time of settlement.

While the advance disclosure provisions of RESPA are a logical way to reach toward these objectives they are neither necessary nor, as experience has borne out, desirable. For most buyers and sellers of real estate the settlement process is something of a mystery, with the actual providers of services paid for at settlement rarely visible and the nature of their product arcane. In the course of arranging for the sale or purchase of a home, most buyers and sellers are involved with numerous matters and are most concerned that the sales transaction be consummated without complications.

In the committee's view, procedures should be adopted which inform prospective buyers of the details of the settlement process and which equip them to spot and avoid unreasonable charges. Your committee believes that the existing provisions of RESPA which require lenders to provide special information booklets on settlement procedures are good provisions. The committee bill amends these provisions to make the special information booklets considerably more useful.

Under RESPA, special information booklets are prepared by or under the direction of the Secretary of HUD and distributed to lenders who in turn are required to distribute them to prospective borrowers at the time an application for a loan is received. These booklets contain (1) a description and explanation of the nature and purpose of each cost incident to a real estate settlement; (2) an explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incident to a real estate settlement; (3) an explanation of the unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement; (4) an explanation and sample of the standard real estate settlement form; and (5) a description and explanation of the nature and purpose of escrow accounts.

The committee bill requires the lender to include with the special information booklet a good faith estimate of the amount or range of charges for specific settlement services the prospective borrower is likely to incur in connection with a settlement. The figures provided the prospective borrower are estimates of the settlement charges prevailing in the area and applicable with respect to the particular lender. These estimates could appear on pre-printed forms geared to various sales prices or mortgage amounts at intervals of, for example, $2,500. Where the lender will arrange to have a settlement service provided by a particular provider, the prospective borrower should be so informed and the estimates given should reflect the lender's knowledge of the cost of that service.

Armed with the special information booklet, at an early stage, as expanded by the committee bill to include estimates of settlement costs, the prospective borrower is adequately equipped to shop, or not to shop if he so wishes, for settlement services, or to question or not to question the reasonableness of a settlement charge. No amount of federal requirements and red tape can substitute for an informed consumer who can insist on fair dealings and say "no" to unreasonable charges. Accordingly, the committee bill repeals the rigid and onerous advance disclosure provisions of RESPA in favor of provisions designed to provide early and meaningful information to consumers in a manner that is not burdensome to the parties involved in the real estate transaction.

Disclosure of previous selling price

The committee bill repeals section 7 of RESPA which requires the lender to refrain from giving a loan commitment with respect to existing homes until it has confirmed that the seller has given the buyer certain information with respect to the name and address of the owners of the property, the date the property was acquired, and, where the property has been owned for less than two years and has never been used by the seller as a place of residence, the purchase price of the last arm's length transfer of the property and the cost of any improvements excluding maintenance repairs. The provision imposes criminal penalties on lenders and sellers who fail to comply.

By all accounts, section 7 of RESPA is a defective and unworkable provision. Your committee expended considerable effort to determine whether section 7 could be reworked to achieve its objective, but without success. The objective of section 7 is on its face unassailable: namely, to make it difficult for unscrupulous speculators, often acting in cooperation with appraisers, lenders, and government employees, to sell older, defective homes at prices far in excess of their true value.

While the objective of this provision is fairly narrow, its coverage is extremely broad. For every unscrupulous seller covered, tens of thousands of honest sellers and lenders are exposed to criminal penalties. Not only is the coverage of the provision extensive, it is also unclear. The Department of Housing and Urban Development has been deluged with requests for clarification of various parts of the provisions. While HUD has no specific authority to interpret this criminal provision, it has attempted, in cooperation with the Department of Justice, to provide guidance on such matters as the treatment of sales by executors, ownership of property in trust, foreclosures or bank-

ruptcy sales, land sales contracts where the seller retains legal title, and condominium and cooperative conversions, as well as to such matters as what is a maintenance repair and a place of residence.

The committee has received information that many lenders have taken elaborate and burdensome precautions to avoid possible criminal liabilities under this provision and it is concerned that in time the provision can have a discouraging impact on the willingness of lenders to make mortgage loans in inner city areas since typically absentee ownership is higher in such areas.

Even in those cases in which section 7 is applicable to a sale by an unscrupulous speculator, the protection is inadequate since section 7 is structured in such a way that the disclosures can be made by the seller after signing of the sales contract, thus leaving the buyer with the difficult choice of losing his earnest money or buying a home whose value is probably, but not certainly, less than the sales price.

It is the committee's view that any federal legislation in this area must be sharpened and applied to the narrow range of transactions involving speculator abuses. In this connection, the committee takes recognition of the efforts of the Department of Housing and Urban Development to tighten its procedures to asssure that homes sold with FHA assistance in inner city areas are not overpriced. Many of the speculator abuses brought to the attention of the committee involved FHA programs, particularly subsidized and low downpayment programs, as they operated in inner city areas. Buyers all too often relied on FHA appraisers to warrant the value and sound condition of the properties and were misled by inept or corrupt FHA employees or agents. The committee is satisfied that the stringent procedures adopted by HUD can effectively preclude deceitful sales and intends very shortly to examine the actual results of these safeguards in the course of conducting field hearings on the operations of the FHA.

Technical and improving amendments

The committee bill makes several modifications in the provisions of RESPA which were recommended by the Department of Housing and Urban Development on the basis of its experience in administering RESPA and by those affected by RESPA.

(*1*) *Types of loans covered.* The committee bill exempts from RESPA coverage temporary financing such as construction loans, second liens, most mortgages given by individual sellers, and loans made by State agencies or instrumentalities.

(*2*) *Uniform settlement statement.* A uniform settlement statement, developed by HUD, is required under RESPA to be used to show all settlement charges. The committee bill permits the deletion of those items that are not relevant to particular locales, makes clear that nothing in RESPA requires that the seller receive information on the buyer's settlement costs or vice versa, requires that the person conducting the settlement make the completed settlement statement available to the buyer at or before settlement unless waived by the buyer or the Secretary of HUD determines compliance is impractical, and eliminates the requirement that truth-in-lending information be included seller or lender pays all settlement costs, it is not intended that a uniform settlement statement be furnished or that settlement cost estimates be provided to the buyer at the time of loan application.

(*3*) *Special information booklets.* The Committee bill makes clear that the requirement that a lender provide special information booklets and settlement cost estimates is to be triggered upon its receipt or preparation of a written application. Under the existing provisions of RESPA, many lenders are reluctant to respond to informal or telephone inquiries from prospective borrowers because of uncertainty as to whether such oral communications might trigger RESPA requirements.

(*4*) *Prohibition against kickbacks and unearned fees.* The committee bill makes clear that cooperative brokerage and referral agreements between real estate agents and brokers relating to real estate sales commissions are not considered kickbacks and authorizes the Secretary of HUD to exempt other classes of transactions or payments from this provision.

(*5*) *Limitation on requirements of advance deposit in escrow accounts.* The committee bill increases from 1/12 to 1/6 of the estimated taxes and insurance payable in the ensuing 12 month period, the amount permitted to be included in the balance maintained in escrow. This change is necessary since monthly mortgage payments are often due shortly before a tax payment should be made and such mortgage payments are often made late. The bill also makes technical changes to this provision.

(*6*) *Administration of RESPA.* The committee bill gives the Secretary of HUD the specific authority to intepret all provisions of RESPA and to grant reasonable exemptions for classes of transactions.

Effective dates

All the amendments made by the committee bill are effective upon enactment. However, some of the provisions make extensive changes in the requirements of RESPA which will entail the publication of proposed and final regulations and the dissemination of information. To permit time for these revisions, the bill permits the Secretary of HUD to suspend the revised provisions of RESPA dealing with the uniform settlement statement and the special information booklet for up to 180 days.

Statements Required in Accordance With House Rules

In compliance with clause 2(l)(3) and 2(l)(4) of rule XI of the Rules of the House of Representatives, the following statements are made:

With regard to subdivision (A) of clause 3, relating to oversight findings, the committee finds, in keeping with clause 2(b)(1) of rule X, that this legislation is in full compliance with the provision of this rule of the House, which states:

> In addition, each such Committee shall review and study any conditions or circumstances, which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of the committee * * *.

The objective of this legislation is to amend the Real Estate Settlement Procedures Act of 1974 to repeal or amend those provisions of that Act which have been found unworkable or defective.

With respect to subdivisions (C) and (D) of clause 3, the committee advises that no estimate or comparison has been prepared by the Director of the Congressional Budget Office relative to any of the provisions of S. 2327, nor have any oversight findings or recommendations been made by the Committee on Government Operations with respect to the specific subject matter contained in S. 2327.

In compliance with clause 2(l)(4) of rule XI of the House of Representatives, the committee makes the following statement: S. 2327 will have no inflationary impact; in fact, it would have an anti-inflationary impact because it would reduce the cost to lenders, sellers of homes, buyers, and other parties to real estate transactions by eliminating various time-consuming and disruptive procedures required by the provisions of the Real Estate Settlement Procedures Act of 1974.

In compliance with clause 7(a) of rule XIII of the House of Representatives, the following statement is made: S. 2327 involves no budget authority or outlays.

In compliance with clause 2(l)(2) of rule XI of the House of Representatives, the following statement is made relative to the record vote on the motion to report S. 2327. A total of 31 votes was cast for reporting and 5 votes against reporting.

Section-by-Section Summary of the Bill

SECTION 1

This section would provide that this Act be cited as the "Real Estate Settlement Procedures Act Amendments of 1975".

SECTION 2

This section would amend Section 3(l) of the Real Estate Settlement Procedures Act of 1974 (RESPA) to exclude from the definition of a "federally related mortgage loan" any construction loan, second trust, and a mortgage eligible for purchase by, but not intended to be sold to GNMA, FNMA, or FHLMC. This section would also exclude any agency or instrumentality of a State from the definition of "creditor".

SECTION 3

This section would amend Section 4 of RESPA dealing with the Uniform Settlement Statement to allow greater flexibility in modifying the standard form prescribed by the Secretary of HUD to adapt to area differences in laws and customs. Items may be deleted from the form if they are not applicable in that locality under local law and custom. Any items from the standard form that are retained in the local form, however, would be required to carry the numerical code prescribed by the Secretary of HUD. It would not be required that information included in the standard form relating to the borrower's transition be given to the seller or that information relating to the seller's transaction be given to the borrower.

This section would also require that the settlement statement be provided to the borrower by the person conducting the settlement at or before settlement. The Secretary of HUD could exempt certain classes

of settlement from this requirement if the settlements occurred in areas where the settlement statement was not customarily provided at or before the date of settlement or if the requirement was impractical. In addition, the borrower, in accordance with HUD regulations, could waive his right to have the settlement statement made available at or prior to settlement. This section would also eliminate the requirement that truth-in-lending information be included as part of the statement.

SECTION 4

This section would amend Section 5 of RESPA by adding a new subsection providing that the special information booklets designed to explain the nature and costs of real estate settlement services should include good faith estimates of the amount of range of charges for specific settlement services the borrower is likely to incur. This section would also make it clear that the information booklet is required to be given to the borrower whenever a written application for a mortgage loan is submitted or prepared.

SECTION 5

This section would repeal Section 6 of RESPA which required that the uniform settlement statement itemizing closing costs be given to the borrower at the time of the loan commitment or at least twelve calendar days prior to settlement.

SECTION 6

This section would repeal Section 7 of RESPA which required that the seller or his agent disclose in writing to the buyer the name and address of the present owner of the property being sold, the date the property was acquired by the present owner, and, if the seller had owned the property for less than two years and had not resided on the property, the purchase price the seller paid and the cost of any improvements he made to the property.

SECTION 7

This section would amend Section 8 of RESPA to make clear that cooperative brokerage and referral arrangements of real estate agents are exempt from the prohibition against kickbacks and unearned fees. This section also allows the Secretary of HUD, in consultation with the Attorney General, the VA Administrator, the FDIC, Federal Reserve System, Governors, and the Secretary of Agriculture, to exempt other payments or classes of payments or other transfers.

SECTION 8

This section would amend Section 10 of RESPA by making technical changes involving terminology with respect to the dates on which property taxes are customarily paid. This section would also require that in addition to amounts required for the payment of taxes, insurance premiums, and other charges due at settlement, the buyer could not be required at settlement to place in an escrow account more than

one-sixth of the estimated total amount of such taxes, insurance premiums, and other charges payable within the twelve-month period beginning on the date of settlement. In addition, monthly payments into escrow accounts could be required in amounts sufficient to maintain a surplus of one-sixth of estimated total amount payable in the coming twelve-month period.

SECTION 9

This section would amend Section 18 of RESPA by deleting subsection (b) which provided Federal protection against liability under RESPA or other State laws for Acts done or omitted in good faith in accordance with the rules, regulations or interpretations issued by RESPA by the Secretary of HUD. This protection is reestablished in Section 10 of the bill.

SECTION 10

This section would create a new Section 19. Subsection (a) would authorize the Secretary of HUD to issue rules, regulations and interpretations, as well as make certain exemptions as may be necessary to achieve the purposes of the Act. Subsection (b) would replace the subsection deleted by Section 9 of this Act.

SECTION 11

This section would repeal Section 121(c) of the Truth-in-Lending Act which requires a full statement of closing costs in connection with consumer and home mortgage loans.

SECTION 12

This section would provide that the Act is effective upon enactment but that the Secretary could suspend up to 180 days the provisions of Section 4 and Section 5 of RESPA, as amended.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

* * * * * * *

SEC. 3. For purposes of this Act—

(1) the term "federally related mortgage loan" includes any loan (*other than temporary financing such as a construction loan*) which—

(A) is secured by *a first lien on* residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from one to four families; and

(B) (i) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is regulated by any agency of the Federal Government; or

(ii) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary or a housing or related program administered by any other such officer or agency; or

(iii) [is eligible for purchase by] *is intended to be sold by the originating lender to* the Federal National Mortgage Association, the Government National Mortgage Association, [or] the Federal Home Loan Mortgage Corporation, or [from any] *a* financial institution from which it [could] *is to* be purchased by the Federal Home Loan Mortgage Corporation; or

(iv) is made in whole or in part by any "creditor", as defined in section 103(f) of the Consumer Credit Protection Act (15 U.S.C. 1602(f)), who makes or invests in residential real estate loans aggregating more than $1,000,000 per year, *except that for the purpose of this Act, the term "creditor" does not include any agency or instrumentality of any State*;

* * * * * * *

SEC. (*a*) The Secretary, in consultation with the Administrator of Veterans' Affairs, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall develop and prescribe a standard form for the statement of settlement costs which shall be used (with such [minimum] variations as may be necessary to reflect [unavoidable] differences in legal and administrative requirements or practices in different areas of the country) as the standard real estate settlement form in all transactions in the United States which involve federally related mortgage loans. Such form shall conspicuously and clearly itemize all charges imposed upon the borrower and all charges imposed upon the seller in connection with the settlement and shall indicate whether any title insurance premium included in such charges covers or insures the lender's interest in the property, the borrower's interest, or both. [Such form shall include all information and data required to be provided for such transactions under the Truth in Lending Act and the regulations issued thereunder by the Federal Reserve Board, and may be used in satisfaction of the disclosure requirements of that Act, and shall also include provision for execution of the waiver allowed by section 6(c).] *The Secretary may, by regulation, permit the deletion from the form prescribed under this section of items which are not, under local laws or customs, applicable in any locality, except that such regulation shall require that the numerical code prescribed by the Secretary be retained in forms to be used in all localities. Nothing in this section may be construed to require that that part of the standard form which relates to the borrower's transaction be fur-*

nished to the seller, or to require that that part of the standard form which relates to the seller be furnished to the borrower.

(b) The form prescribed under this section shall be completed and made available for inspection by the borrower at or before settlement by the person conducting the settlement, except that (1) the Secretary may exempt from the requirements of this section settlements occurring in localities where the final settlement statement is not customarily provided at or before the date of settlement, or settlements where such requirements are impractical and (2) the borrower may, in accordance with regulations of the Secretary, waive his right to have the form made available at such time.

SEC. 5. (a) * * *

* * * * * * *

(c) Each lender shall include with the booklet a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement as prescribed by the Secretary.

[(c)] *(d)* Each lender referred to in subsection (a) shall provide the booklet described in such subsection to each person from whom it receives [an application] *or for whom it prepares a written application* to borrow money to finance the purchase of residential real estate. Such booklet shall be provided at the time of receipt *or preparation* of such application.

[(d)] *(e)* Booklets may be printed and distributed by lenders if their form and content are approved by the Secretary as meeting the requirements of subsection (b) of this section.

ADVANCE DISCLOSURE OF SETTLEMENT COSTS

[SEC. 6. (a) Any lender agreeing to make a federally related mortgage loan shall provide or cause to be provided to the prospective borrower, to the prospective seller, and to any officer or agency of the Federal Government proposing to insure, guarantee, supplement, or assist such loan, at the time of the loan commitment, but in no case later than twelve calendar days prior to settlement, upon the standard real estate settlement form developed and prescribed under section 4, or upon a form developed and prescribed by the Secretary specifically for the purposes of this section, and in accordance with regulations prescribed by the Secretary, an itemized disclosure in writing of each charge arising in connection with such settlement. For the purposes of complying with this section, it shall be the duty of the lender agreeing to make the loan to obtain or cause to be obtained from persons who provide or will provide services in connection with such settlement the amount of each charge they intend to make. In the event the exact amount of any such charge is not available, a good faith estimate of such charge may be provided.

[(b) If any lender fails to provide a prospective borrower or seller with the disclosure as required by subsection (a), it shall be liable to such borrower or seller, as the case may be, in an amount equal to—

[(1) the actual damages involved or $500, whichever is greater, and

[(2) in the case of any successful action to enforce the foregoing liability, the court costs of the action together with a reasonable attorney's fee as determined by the court;

except that a lender may not be held liable for a violation in any action brought under this subsection if it shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures adopted to avoid any such error.

[(c) The provisions of subsection (a) shall be deemed to be satisfied with respect to a borrower or seller in connection with any settlement involving a federally related mortgage loan if the disclosure required by subsection (a) is provided at any time prior to settlement and the prospective borrower or seller, as the case may be, executes, under terms and conditions prescribed by regulations to be issued by the Secretary after consultation with the appropriate Federal agencies, a waiver of the requirement that the disclosure be provided at least twelve calendar days prior to such settlement. In issuing such regulations, the Secretary shall take into account the need to protect the borrower's and the seller's right to a timely disclosure.

[(d) With respect to any particular transaction involving a federally related mortgage loan, no borrower shall maintain an action or separate actions against any lender under both the provisions of this section and the provisions of section 130 of the Consumer Credit Protection Act (15 U.S.C. 1640).

[(e) The provisions of this Act shall supersede the provisions of section 121(c) of the Consumer Credit Protection Act insofar as the latter applies to federally related mortgage loans as defined in this Act.]

[SEC. 7. (a) No lender shall make any commitment for a federally related mortgage loan on a residence on which construction has been completed more than twelve months prior to the date of such commitment unless it has confirmed that the following information has been disclosed in writing by the seller or his agent to the buyer—

[(1) the name and address of the present owner of the property being sold;

[(2) the date the property was acquired by the present owner (the year only if the property was acquired more than two years previously); and

[(3) if the seller has not owned the property for at least two years prior to the date of the loan application and has not used the property as a place of residence, the date and purchase price of the last arm's length transfer of the property, a list of any subsequent improvements made to the property (excluding maintenance repairs) and the cost of such improvements.

[(b) the obligations imposed upon a lender by this section shall be deemed satisfied and a commitment for a federally related mortgage loan may thereafter be made if the lender receives a copy of the written statement provided by the seller to the buyer supplying the information required by subsection (a).

[(c) Whoever knowingly and willfully provides false information under this section or otherwise willfully fails to comply with its

requirements shall be fined not more than $10,000 or imprisoned for not more than one year, or both.]

SEC. 8. (a) * * *

* * * * * * *

(c) Nothing in this section shall be construed as prohibiting (1) the payment of a fee (A) to attorneys at law for services actually rendered or (B) by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance or (C) by a lender to its duly appointed agent for services actually performed in the making of a loan, [or] (2) the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed, *or (3) payments pursuant to cooperative brokerage arrangements between real estate agents, and referral arrangements or agreements between real estate agents and brokers, or (4) such other payments or classes of payments or other transfers as are specified in regulations prescribed by the Secretary, after consultation with the Attorney General, the Administrator of Veterans' Affairs, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Secretary of Agriculture.*

* * * * * * *

[LIMITATION ON REQUIREMENT OF ADVANCE DEPOSITS IN ESCROW ACCOUNTS

[SEC. 10. No lender, in connecion with a federally related mortgage loan, shall require the borrower or prospective borrower—

[(1) to deposit in any escrow account which may be established in connection with such loan for the purpose of assuring payment of taxes and insurance premiums with respect to the property, prior to or upon the date of settlement, an aggregate sum (for such purpose) in excess of—

(A) in any jurisdiction where such taxes and insurance premuims are postpaid, the total amount of such taxes and insurance premiums which will actually be due and payable on the date of settlement and the pro rata portion thereof which has accrued, or

[(B) in any jurisdiction where such taxes and insurance premiums are prepaid, a pro rata portion of the estimated taxes and insurance premiums corresponding to the number of months from the last date of payment to the date of settlement,

plus one-twelfth of the estimated total amount of such taxes and insurance premiums which will become due and payable during the twelve-month period beginning on the date of settlement; or

[(2) to deposit in any such escrow account in any month beginning after the date of settlement a sum (for the purpose of assuring payment of taxes and insurance premiums with respect to the property) in excess of one-twelfth of the total amount of the estimated taxes and insurance premiums which will become due and payable during the twelve-month period beginning on the first day of such month, except that in the event the lender determines there will be a deficiency on the due date he shall not be prohibited from requiring additional monthly deposits in such escrow account of pro rata portions of the deficiency corresponding to the number of months from the date of the lender's determination of such deficiency to the date upon which such taxes and insurance premiums become due and payable.]

ESCROW ACCOUNTS

SEC. 10. A lender, in connection with a federally related mortgage loan, may not require the borrower or prospective borrower—

(1) to deposit in any escrow account which may be established in connection with such loan for the purpose of assuring payment of taxes, insurance premiums, or other charges with respect to the property, in connection with the settlement, an aggregate sum (for such purpose) in excess of a sum that will be sufficient to pay such taxes, insurance premiums and other charges attributable to the period beginning on the last date on which each such charge would have been paid under the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, and ending on the due date of its first full installment payment under the mortgage, plus one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period; or

(2) to deposit in any such escrow account in any month beginning with the first full installment payment under the mortgage a sum (for the purpose of assuring payment of taxes, insurance premiums and other charges which are reasonably anticipated to be paid on dates during the ensuing twelve months which dates are in accordance with the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, plus (B) such amount as is necessary to maintain an additional balance in such escrow account not to exceed one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period. Provided, however, That in the event the lender determines there will be or is a deficiency he shall not be prohibited from requiring additional monthly deposits in such escrow account to avoid or eliminate such deficiency.

* * * * * * *

SEC. 18. [(a)] This Act does not annul, alter, or affect, or exempt any person subject to the provisions of this Act from complying with, the laws of any State with respect to settlement practices, except to the extent that those laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency. The Secretary is authorized to determine whether such inconsistencies exist. The Secretary may not determine that any State law is inconsistent with any provision of this Act if the Secretary determines that such law gives

greater protection to the consumer. In making these determinations the Secretary shall consult with the appropriate Federal agencies.

[(b) No provision of this Act or of the laws of any State imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Secretary, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.]

AUTHORITY OF THE SECRETARY

SEC. 19. (a) The Secretary is authorized to prescribe such rules and regulations, to make such interpretations, and to grant such reasonable exemptions for classes of transactions, as may be necessary to achieve the purposes of this Act.

(b) No provision of this Act or the laws of any State imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Secretary or the Attorney General, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

EFFECTIVE DATE

SEC. [19] *20.* The provisions of this Act, and the amendments made thereby, shall become effective one hundred and eighty days after the date of the enactment of this Act.

SECTION 121(c) OF THE TRUTH IN LENDING ACT

§ 121. General requirement of disclosure

(a) * * *

* * * * * * *

[(c) For the purpose of subsection (a), the information required under this chapter shall include a full statement of closing costs to be incurred by the consumer, which shall be presented, in accordance with the regulations of the Board—

[(1) prior to the time when any downpayment is made, or

[(2) in the case of a consumer credit transaction involving real property, at the time the creditor makes a commitment with respect to the transaction.

The Board may provide by regulation that any portion of the information required to be disclosed by this section may be given in the form of estimates where the provider of such information is not in a position to know exact information.]

DISSENTING VIEWS OF REPRESENTATIVE LEONOR K. SULLIVAN

It took five years of hard work and some bitter battles in the House Committee on Banking and Currency to enact a law last year to protect home buyers against predatory abuses, unconscionable overcharges and flagrant "featherbedding" practices in the transfer of residential real estate; it is now taking only five months of real estate industry lobbying pressure to convert that law into a hollow shell which would permit elements of the industry to resume doing many of the very things which made the original law necessary.

HISTORY OF THE LAW

The Real Estate Settlement Procedures Act of 1974 ("RESPA") grew out of investigations by the Banking Committee in 1969–70 into inner city real estate speculation abuses involving conventional mortgages from insured savings and loans in the District of Columbia, and in 1971–72 into the nationwide scandals involving subsidized housing for low income families under the FHA Section 235 program. A comprehensive series of articles by Ronald Kessler in the Washington Post about the great variation in settlement costs in Maryland, Virginia, the District of Columbia and other areas of the Nation added significant additional documentation of the need for corrective legislation dealing with real estate transfers. Studies made by the Department of Housing and Urban Development under Section 701 of the Emergency Housing Act of 1970 into excessive closing costs on FHA-insured and VA-guaranteed mortgages prompted former HUD Secretary George Romney to propose Federal regulation of prices charged for settlement services on FHA and VA housing.

All of these factors led to the inclusion in the comprehensive housing bill approved by the Banking Committee in 1972 (but never acted on in the House) a far-reaching Title IX which subsequently became the basis for the separate legislation known as the Real Estate Settlement Procedures Act of 1974.

THE DRIVE TO REPEAL RESPA

The Act is far less comprehensive than the legislation I originally offered to the Housing bill in 1972. It was watered down so substantially that all of the trade associations in the real estate industry supported it last year, and the legislation was eventually passed with little controversy last December, to take effect June 20, 1975. However, after it went into effect under regulations issued by HUD, industry sources almost immediately began a campaign to repeal it, claiming it was unworkable. Delays—which have always been characteristic of real estate settlements—were now all being blamed on RESPA.

Some home buyers who had to wait what they were told was an extra two weeks for settlement "because of some crazy law passed by Congress", naturally joined in denouncing the Act. HUD subsequently met all of the legitimate complaints by issuing a series of technical amendments to the regulation and several legal interpretations which eliminated all of the earlier problems of compliance with the law.

But the easing of the requirements through administrative action came after so many protests had been initiated by the real estate industry over the "unworkability" of the new law that by then most Members of Congress has been deluged with complaints.

The legislation the House is about to consider repeals two of the most important requirements of the law—one to provide home-buyers with information in advance of settlement on the actual charges they are going to be required to pay in order to obtain possession of the dwelling; the other, a requirement that real estate *speculators* disclose to buyers the previous selling price, in the last *arm's-length* transaction, and the cost of subsequent improvements of any property acquired by the speculator within the previous two years and not used as his own residence.

REPEAL OF ADVANCE DISCLOSURE REQUIREMENT

One of the sections of the Real Estate Settlement Procedures Act which S. 2327, as amended, would repeal is its most important provision—the heart of the law. It is intended to give home purchasers an opportunity to shop around for the best terms on any real estate settlement charges which are in fact negotiable. It is also intended to give buyers ample advance warning—before going to settlement—of how much money they will need to have with them in order to cover all of the multitude of fees, assessments, and charges of all kinds the buyer will be required to pay at settlement. The law now provides for a waiver of advance disclosure requirements to any buyer who needs or merely wants to go to settlement without 12-day advance information on the costs. HUD's regulations now provide that by utilizing the waiver privilege, a setlement can occur *within 24 hours* after the closing costs are disclosed to the buyer. Thus, there is no longer any legitimate basis for the attacks on the law as causing unnecessary delays. This is a deliberate smoke screen at this point, an untrue charge being vigorously promoted by the professionals in the real estate industry who perhaps do not want their customers to learn how to negotiate better terms for legal fees, title search, title insurance, and other expenses of acquiring a mortgage and a home. Everyone who has ever bought a home without having their own lawyer at their elbow through every stage of the proceedings knows whereof I speak.

S. 2327, as amended and approved by the Committee on Banking, Currency and Housing, professes to meet this situation by requiring the lender merely to give the purchaser in advance only a "*good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur*". But it should be noted that in repealing Section 6, the bill eliminates any penalty whatsoever for failing to give information which is, in fact, a "good faith" estimate.

And it will be only when the buyer actually goes to settlement that he or she will learn *exactly* what settlement charges are being required. There will not be even one day's advance notice of the accurate costs.

Not only did the Committee reject my amendment to strike from the bill the section repealing Section 6 of RESPA, but also rejected an amendment by Representative Spellman to require that the actual settlement charges merely be *available* to the buyer *one day* before settlement. This indicated to me that the Committee is not interested in enabling home buyers to go to settlement fully prepared for what they are going to be called upon to pay. Under the tension of signing the mass of settlement papers, thrust at the buyer, one after another, by people ordering one to "sign here" and "sign there", the average home buyer, and particularly the first-time buyer, is too intimidated by the strangeness of the proceedings and the magnitude of the obligations being assumed to question individual items at that point.

Ideally, every home buyer should have at every stage from sales contract signing to settlement a lawyer who represents only the buyer. Instead, the lawyer whose fee the home buyer is paying is often the lender's lawyer as well, and may also be representing the title company, too, and may even be sharing in the premium for title insurance. Such arrangements have been documented in our hearings. But until home buyers become sophisticated enough to obtain their own lawyers before entering into far-reaching real estate transactions, Section 6 of RESPA, as presently written, is their only real protection against excessive charges. It will be a sad day for consumers if this section of the law is repealed after only five months of operation.

PROTECTING THE REAL ESTATE SPECULATOR

Another tremendously important consumer protection in RESPA which this bill repeals is Section 7, providing for disclosure to the buyer of the previous selling price, plus the cost of improvements, of a house being sold by a real estate speculator who acquired it within the preceding two years and did not use it as the speculator's own residence. This section of the law stemmed from the studies made by the Committee of Banking and Currency in previous Congresses into victimization of low and moderate income families by real estate speculators buying up old homes at bargain prices and, after a few cosmetic touches but no real repairs or improvements, selling them to unsuspecting buyers at fantastically inflated prices.

FHA, to its everlasting shame, went along with thousands of such shoddy deals under the so-called "235" subsidized housing program. But our investigations also showed that many such properties were foisted on moderate income families in Washington and elsewhere under conventional loans as well, issued during periods of relatively easy mortgage market conditions by careless or corrupt officials of savings and loans.

An experienced or knowledgeable home buyer makes it a point to investigate the true value of a house offered for sale, including the previous sale price and the cost of any improvements for which building permits were obtained. But what we found in our 1969–70 investi-

gation, and also in 1971–72, was that many unsophisticated low income home buyers—subsidized or not—bought homes which had been bought and sold several times in a matter of days or weeks, often in fictitious straw party deals at sharply increasing prices to establish an artificially high "market price."

Section 7 of RESPA now requires that the last arm's length transaction of a speculator-sold home must be disclosed to the buyer. It has already put a real crimp in unscrupulous real estate speculation, without hurting the legitimate remodeler who puts fair value into a restored property. The intensity of the drive to repeal Section 7 certainly indicates that Section 7 is doing *what we intended it to do* and should therefore be retained in the law. If we take it out of the law, the moderate income family buying a home from a professional real estate speculator will again be helpless in defending against the real estate "sharpies" who infest many of our inner cities.

It was unscrupulous speculators who made the "235" program into a crook's grabbag, while the FHA eventually was left "holding the bag"—as owner of thousands upon thousands of dilapidated, abandoned housing. And what the FHA did not get stuck with, the Federal Savings and Loan Insurance Corporation had to take over to bail out failing savings and loans which had invested heavily in conventional mortgages in overpriced speculator-sold houses. The facts have been fully documented in Banking Committee investigations.

Eliminating Section 7 from the law would give a new twist to the law's acronym, R.E.S.P.A.—The Real Estate Speculator's Protective Act.

THE $9½ BILLION ESCROW KITTY

In 1972, the Committee voted to include in the comprehensive Housing bill reported that year a provision calling upon the Federal Reserve Board to investigate the feasibility of requiring interest to be paid by mortgage lenders on the escrow accounts they require mortgagors to establish and maintain for the payment of taxes and casualty insurance. When the 1972 Housing bill died in the Rules Committee that year, I asked the General Accounting Office to make such a study, and it did so.

The GAO reported that about $9½ billion was being placed over a year's time in such accounts on one to four family dwelling units, that an infinitessimal number of such accounts were interest bearing (except in the few states which require interest to be paid on such accounts) and that many lenders—particularly large institutions with many mortgages outstanding—derived substantial profits from the temporary investment of those funds.

But the GAO study also indicated that smaller-sized real estate lending institutions probably only broke even or perhaps even had expenses from the maintenance of tax and insurance escrow accounts which exceeded the income from the escrow money.

Based on the GAO finding, I proposed including in RESPA last year a provision which would not require interest to be paid on escrow accounts but instead would give individual home buyers the option of paying their own taxes and insurance rather than being *required* by the lender to maintain an interest-free escrow account for this purpose. This proposal was rejected by the Committee last year and again on the bill now before us. Since this legislation is scheduled to come before the House under Suspension of the Rules, there will be no opportunity to offer such an amendment on the House Floor. That is unfortunate, because many of our home-buying constituents with sizeable real estate tax bills each year would prefer to pay the taxes directly, meanwhile investing the money in interest-bearing accounts. Under most home mortgages, however, the home buyer does not have that option. In rejecting that amendment, the Committee is further acting to convert RESPA into a law to aid everyone involved in a real estate transaction but the home buyer.

REPEAL OF ADVANCE DISCLOSURES REQUIRED ON MORTGAGE FINANCE CHARGES AND RATES UNDER TRUTH IN LENDING

Another glaring anti-consumer provision of S. 2327 as amended by the House Banking Committee repeals requirements in both the Truth in Lending Act and the Real Estate Settlement Procedures Act that the *finance charges* called for in a mortgage on residential real estate, including the exact annual percentage rate, must be disclosed *prior* to settlement. Lower court decisions have held that disclosure of the interest rate and other aspects of the finance charge at the time of settlement destroys the whole purpose of the Truth in Lending Act in such transactions, by precluding any opportunity on the part of the buyer to shop for the best terms. By the time the buyer usually received this information it was on a take-it-or-leave-it basis at settlement. The Federal Reserve Board thereupon recommended that the Truth in Lending disclosures on residential real estate be made at least 10 days before settlement.

Congress last year amended the Truth in Lending Act therefore to require that the Truth in Lending disclosures, along with estimated closing costs, must be given the home buyer before a loan commitment is issued by the lender. When RESPA was passed, this section of the Truth in Lending Act was allowed to stand as regards mortgages *not covered by RESPA*, but all transactions covered by RESPA were required to provide for disclosure of the Truth in Lending information as part of a package of other information called for under RESPA.

S. 2327 as amended would once again permit the lender to make the Truth in Lending disclosures at the time of settlement, whether or not the transaction is covered under RESPA. The result would be that on a mortgage covered by Truth in Lending but not by RESPA, the home buyer would not be entitled to *any* information in advance on closing costs or finance charges and annual percentage rate; and on those mortgages covered by RESPA, which includes most but not all residential mortgages, the important Truth in Lending disclosures would again come at the last minute.

This is yet another example of the way this bill has been written to take away protections now in the law for consumers and twist the law into an industry statute.

S. 2327 SHOULD BE DEFEATED

S. 2327, as amended by the House Committee on Banking, Currency and Housing, is the real estate industry's bill to pull the teeth of a consumer law which has been in effect less than five months. We have been deluged with demands from constituents in that industry to either repeal RESPA outright or pass this bill which cripples it.

As I told the Housing Subcommittee when this bill was being acted on at the Subcommittee level, I am reminded of the promise in the 1936 Republican Platform to repeal the Social Security Act as "unworkable". Now we are being urged after only five months of operation to get rid of the most important features of the "Home Buyers' Security Act". The new law has not had a fair chance to operate. Granted that HUD's original regulations were cumbersome and unclear; they have since been cleaned up and clarified. All of the legitimate problems which the industry encountered under the regulations during the first few months of the Act's operations have been resolved administratively. Unnecessary delays have been eliminated. Why, then, the rush to gut the law?

The answer is that RESPA now provides consumer-home buyers with information they need in order to arrive at *prudent* decisions connected with the largest expenditures most families ever make. An industry which generally succeeded for generations in making real estate transfers incomprehensible—and excessively expensive—for most home buyers apparently liked it better the old way. S. 2327 should be defeated. The existing law should be given further opportunity to operate under HUD's revised and more understandable requirements. It should have at least a year of continued operation without change before we assess what changes are *really* necessary. By next June, we can then make rational and deliberate improvements in the Act to make it a more effective instrument for helping home buyers, instead of tearing it apart under lobbying pressure from an industry which depends for its very existence on the extensive assistance it receives each year from the Congress of the United States.

I believe in, and have worked hard over 20 years, helping to write legislation to aid the home building and real estate lending industry. But when that industry mounts a direct attack on the consumers of their product, as is being done in this bill, my loyalty is to the consumer.

LEONOR K. SULLIVAN, M.C.

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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 94-769

REAL ESTATE SETTLEMENT PROCEDURES

DECEMBER 19, 1975.—Ordered to be printed

Mr. REUSS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 2327]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 2327) entitled "An Act to suspend sections 4, 6, and 7 of the 'Real Estate Settlement Procedures Act of 1974' ", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 2.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with amendments as follows:

Strike out the matter proposed to be inserted by the Senate amendment and restore the matter proposed to be struck out by the Senate amendment.

On page 3, line 17, of the House engrossed amendments, insert the following immediately after the first period:

Upon the request of the borrower to inspect the form prescribed under this section during the business day immediately preceding the day of settlement, the person who will conduct the settlement shall permit the borrower to inspect those items which are known to such person during such preceding day.

And the Senate agree to the same.

HENRY REUSS,
WILLIAM A. BARRETT,
WILLIAM S. MOORHEAD,
ROBERT G. STEPHENS, JR.,
FERNAND J. ST GERMAIN,
GARRY BROWN,
JOHN H. ROUSSELOT,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
JAKE GARN,
Managers on the Part of the Senate.

57-006

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 2327) entitled "An Act to suspend sections 4, 6, and 7 of the 'Real Estate Settlement Procedures Act of 1974' ", submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

AMENDMENT NUMBERED 1: COMPLETION AND INSPECTION OF SETTLEMENT FORM IN ADVANCE

The Senate bill contained a provision not in the House amendments which would require the settlement agent to complete the uniform settlement form one business day prior to the day of settlement and to make it available for inspection by the borrower.

The conference report contains the Senate provision in amended form. The provision as revised makes clear that the obligation of the settlement agent to make the settlement form available prior to settlement is to be triggered by the request of the borrower and that the agent's sole obligation is to make available only that information which is known to him at the time of disclosure. The amended language also makes clear that the information is only required to be made available sometime during the business day immediately preceding the settlement day.

AMENDMENT NUMBERED 2: TRUTH-IN-LENDING DISCLOSURES

The Senate bill contained a provision not in the House amendments which would authorize the Federal Reserve Board to require the disclosure of all or a part of the information required in the Truth-in-Lending Act at or prior to the time a written commitment to make a real estate loan was issued. The conference report does not contain the Senate provision.

The conferees believe that the advance disclosure of truth-in-lending information, which has been provided as page three of the RESPA statement, has been useful to consumers. With the repeal of section 6 of RESPA, there is doubt whether the Federal Reserve Board of Governors retains the authority to require advance disclosure of truth-in-lending information. The conferees believe that continuation of some form of advance truth-in-lending disclosure in consumer real estate transactions has merit. However, this question was not treated in hearings and neither of the banking committees has had an opportunity to consider the details of such disclosure. The conferees be-

lieve that rather than include a truth-in-lending provision in this Act, the appropriate committees should consider the question early in 1976, and recommend legislation at the earliest feasible time.

HENRY REUSS,
WILLIAM A. BARRETT,
WILLIAM S. MOORHEAD,
ROBERT G. STEPHENS, JR.,
FERNAND J. ST GERMAIN,
GARRY BROWN,
JOHN H. ROUSSELOT,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
JAKE GARN,
Managers on the Part of the Senate.

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S. 2327

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fourteenth day of January, one thousand nine hundred and seventy-five

An Act

To amend the Real Estate Settlement Procedures Act of 1974.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Real Estate Settlement Procedures Act Amendments of 1975".

SEC. 2. Section 3(1) of the Real Estate Settlement Procedures Act of 1974 is amended—

(1) by inserting "(other than temporary financing such as a construction loan)" immediately after "includes any loan";

(2) by inserting "a first lien on" immediately after "is secured by" in subparagraph (A);

(3) by striking out "is eligible for purchase by" in subparagraph (B)(iii) and inserting in lieu thereof "is intended to be sold by the originating lender to";

(4) by striking out "or" the first time it appears in subparagraph (B)(iii);

(5) by striking out "from any" and "could" in subparagraph (B)(iii) and inserting in lieu thereof "a" and "is to", respectively; and

(6) by inserting the following immediately before the semicolon at the end of subparagraph (B)(iv): ", except that for the purpose of this Act, the term 'creditor' does not include any agency or instrumentality of any State".

SEC. 3. Section 4 of the Real Estate Settlement Procedures Act of 1974 is amended—

(1) by inserting "(a)" immediately before "The Secretary" in the first sentence;

(2) by striking out the words "minimum" and "unavoidable" in the parenthetical phrase in the first sentence;

(3) by striking out the last sentence thereof and inserting in lieu thereof the following new sentences: "The Secretary may, by regulation, permit the deletion from the form prescribed under this section of items which are not, under local laws or customs, applicable in any locality, except that such regulation shall require that the numerical code prescribed by the Secretary be retained in forms to be used in all localities. Nothing in this section may be construed to require that that part of the standard form which relates to the borrower's transaction be furnished to the seller, or to require that that part of the standard form which relates to the seller be furnished to the borrower."; and

(4) by adding at the end thereof the following new subsection:

"(b) The form prescribed under this section shall be completed and made available for inspection by the borrower at or before settlement by the person conducting the settlement, except that (1) the Secretary may exempt from the requirements of this section settlements occurring in localities where the final settlement statement is not customarily provided at or before the date of settlement, or settlements where such requirements are impractical and (2) the borrower may, in accordance

with regulations of the Secretary, waive his right to have the form made available at such time. Upon the request of the borrower to inspect the form prescribed under this section during the business day immediately preceding the day of settlement, the person who will conduct the settlement shall permit the borrower to inspect those items which are known to such person during such preceding day.".

SEC. 4. Section 5 of the Real Estate Settlement Procedures Act of 1974 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b) the following new subsection:

"(c) Each lender shall include with the booklet a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement as prescribed by the Secretary.";

(3) by striking out "an application" in the first sentence of subsection (d), as redesignated by paragraph (1) of this section, and inserting in lieu thereof "or for whom it prepares a written application"; and

(4) by inserting "or preparation" immediately after "receipt" in the second sentence of subsection (d), as redesignated by paragraph (1) of this section.

SEC. 5. Section 6 of the Real Estate Settlement Procedures Act of 1974 is repealed.

SEC. 6. Section 7 of the Real Estate Settlement Procedures Act of 1974 is repealed.

SEC. 7. Section 8 of the Real Estate Settlement Procedures Act of 1974 is amended in subsection (c) by striking out "or" immediately before "(2)", and by inserting before the period at the end thereof the following: ", or (3) payments pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and brokers, or (4) such other payments or classes of payments or other transfers as are specified in regulations prescribed by the Secretary, after consultation with the Attorney General, the Administrator of Veterans' Affairs, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Secretary of Agriculture".

SEC. 8. Section 10 of the Real Estate Settlement Procedures Act of 1974 is amended to read as follows:

"ESCROW ACCOUNTS

"SEC. 10. A lender, in connection with a federally related mortgage loan, may not require the borrower or prospective borrower—

"(1) to deposit in any escrow account which may be established in connection with such loan for the purpose of assuring payment of taxes, insurance premiums, or other charges with respect to the property, in connection with the settlement, an aggregate sum (for such purpose) in excess of a sum that will be sufficient to pay such taxes, insurance premiums and other charges attributable to the period beginning on the last date on which each such charge would

have been paid under the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, and ending on the due date of its first full installment payment under the mortgage, plus one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period; or

"(2) to deposit in any such escrow account in any month beginning with the first full installment payment under the mortgage a sum (for the purpose of assuring payment of taxes, insurance premiums and other charges with respect to the property) in excess of the sum of (A) one-twelfth of the total amount of the estimated taxes, insurance premiums and other charges which are reasonably anticipated to be paid on dates during the ensuing twelve months which dates are in accordance with the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, plus (B) such amount as is necessary to maintain an additional balance in such escrow account not to exceed one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period: *Provided, however,* That in the event the lender determines there will be or is a deficiency he shall not be prohibited from requiring additional monthly deposits in such escrow account to avoid or eliminate such deficiency.".

SEC. 9. Section 18 of the Real Estate Settlement Procedures Act of 1974 is amended by striking out subsection (b) and by striking out "(a)" in subsection (a).

SEC. 10. The Real Estate Settlement Procedures Act of 1974 is amended by redesignating section 19 as section 20 and by inserting the following new section immediately after section 18:

"AUTHORITY OF THE SECRETARY

"SEC. 19. (a) The Secretary is authorized to prescribe such rules and regulations, to make such interpretations, and to grant such reasonable exemptions for classes of transactions, as may be necessary to achieve the purposes of this Act.

"(b) No provision of this Act or the laws of any State imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Secretary or the Attorney General, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.".

SEC. 11. Section 121(c) of the Truth in Lending Act is repealed.

SEC. 12. The provisions of this Act and the amendments made hereby shall become effective upon enactment. The Secretary may suspend for up to one hundred and eighty days from the date of enactment of this Act any provision of section 4 and section 5 of the Real Estate Settlement Procedures Act of 1974, as amended by this Act.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

December 22, 1975

Dear Mr. Director:

The following bills were received at the White House on December 22nd:

H.J. Res. 749	H.R. 8304	H.R. 11184
H.R. 4016	H.R. 9968	S.J. Res. 157
H.R. 4287	H.R. 10035	S. 95
H.R. 4573	H.R. 10284	S. 322
H.R. 5900	H.R. 10355	S. 1469
H.R. 6673	H.R. 10727	S. 2327

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.