Editorial

Putting an End to Abusive Lending

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When members of the House Financial Services Committee meet this week to put the finishing touches on a bill to curb abusive mortgage lending, they need focus only on how to make a good bill better.

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The bill's critics — mainly the finance industry that profited immensely during the mortgage bubble — claim that new rules could sharply curtail lending. But the current credit squeeze was brought on by reckless lending. Obviously, an absence of rules is a much greater threat to the stable flow of credit than is sound regulation.

The unassailable premise of the bill — the Mortgage Reform and Antipredatory Lending Act of 2007 — is that lending standards and consumer protections have proved disastrously lax as mortgage making has gone from a local business to a faceless global market for mortgage-related investments.

Its approach to establishing standards and protections is levelheaded and evenhanded. The bill requires those giving out loans to first document that borrowers have a reasonable ability to repay, not just during a lower-rate introductory period but also after rates rise. It would eliminate perverse incentives that reward mortgage brokers for putting borrowers into the costliest loans possible. And it requires mortgage brokers to be licensed and registered, putting them more on a par with stockbrokers and insurance brokers.

The bill also requires a refinancing to be in the borrower's best long-term economic interest. Some of the worst abuses have occurred when homeowners have been persuaded to cash in their home equity and refinance with complex adjustable-rate loans that are virtually impossible to pay off over time.

And very important, the bill does not bar states from enforcing their own, sometimes stronger consumer protections. Bankers would prefer a federal law that pre-empted state law, but consumers would be disadvantaged if a new law undercut the states.

Where the bill needs beefing up is in ensuring that borrowers can get relief from loans that violate the law. As drafted, it allows wronged borrowers to seek some redress from the original lender, even if they're not in danger of losing their homes. However, borrowers whose abusive loans have been sold to investors cannot sue those investors for relief until they're facing foreclosure.

Wall Street would like to keep it that way. But forcing borrowers into foreclosure as a condition for asserting their rights would be unfair. Besides, there are already protections for Wall Street in the bill. It does not allow class-action suits and has other liability caps.

The committee and its chairman, Barney Frank, deserve high praise for thorough and thoughtful work on this bill. America's homeowners need its protections.

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