

Watered-Down Mortgage Reform

- [Sign In to E-Mail or Save This](#)
- [Print](#)
- [Share](#)
 - [Del.icio.us](#)
 - [Digg](#)
 - [Facebook](#)
 - [Newsvine](#)
 - [Permalink](#)

ARTICLE TOOLS
SPONSORED BY



Published: November 6, 2007

What a difference a day makes. Just yesterday, this page praised the House Financial Services Committee for producing an exemplary bill, the Mortgage Reform and Antipredatory Lending Act of 2007, and urged its members to make only a few improvements before passing the measure. When they meet today, the committee chairman, Barney Frank, is prepared to offer an amendment that will make the weakest part of the bill even weaker.

Under the bill as currently drafted, borrowers have only limited ability to pursue legal claims against Wall Street investment banks and other investors, two groups that have profited greatly from mortgage lending, which turned out to be abusive. The lack of redress is a significant flaw. It would leave many aggrieved borrowers without adequate relief and would give the biggest players in the mortgage market insufficient incentive to avoid buying abusive loans.

Mr. Frank's proposed change would not improve borrowers' ability to pursue legal remedies against Wall Street under federal law. In addition, it would prevent borrowers from seeking redress on the state level, which sometimes offers stronger protection than federal law.

Specifically, state law would be pre-empted with regard to too common predatory practices. Under the bill, it would be illegal for a creditor to make a loan without documenting the borrower's ability to repay. It would also be illegal for creditors to refinance existing loans into new ones that are virtually impossible to pay off, a process known as "equity stripping." The Frank amendment would impose the bill's limited liability federal remedies to those specific violations. And worse, it could even extend to any state law that addresses other loan violations, but may have some connection to ability to repay or equity stripping. That could kill state-based cases against unfair loans, deceptive lending, fraud and other abuses if they pertain in any way to the ability to repay or refinancing.

State pre-emption is a demand of Wall Street, supported in some instances by federal regulators who reflexively choose industry over consumers. A more balanced bill would seek to meld federal and state efforts to combat mortgage abuse. If pre-emption is a demand that must be met to get enough votes to pass the bill, it should apply only to the specific federal violations and not to tangential state laws.

[Next Article in Opinion \(3 of 18\) »](#)

Tips

To find reference information about the words used in this article, double-click on any word, phrase or name. A new window will open with a dictionary definition or encyclopedia