THE STATE OF MANUFACTURED HOUSING

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
INSURANCE, HOUSING AND
COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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TUESDAY, NOVEMBER 29, 2011

APPENDIX

THE STATE OF MANUFACTURED HOUSING

Tuesday, November 29, 2011

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INSURANCE, HOUSING
AND COMMUNITY OPPORTUNITY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:08 a.m., at the Danville Municipal Building, 4th Floor City Hall, Danville City Council Chambers, 427 Patton Street, Danville, Virginia, Hon. Robert Hurt [vice chairman of the subcommittee] presiding.

Members present: Representative Hurt.

Mr. HURT. [presiding]. Good morning. I want to, first of all, welcome everybody to today's hearing.

As you all know, I am Robert Hurt, and I am a Member of Congress. I represent Danville and all of Southside Virginia in Congress. My district runs from Greene County, north of Charlottesville, all the way down to the North Carolina line, just a few miles from here, and runs from Martinsville in Henry County all the way over to South Hill and Lawrenceville over to the east.

So it is a very large district, and manufactured housing is very important to us here in Southside for two reasons. Number one, of course, it provides affordable housing for thousands of people all across my district, which is extremely important, especially in this economy when we have 9 percent unemployment.

Number two, it is also important because it is a provider of jobs. We have a vibrant manufactured housing sector here, as is the case across the country, and we have many jobs that are associated with this business here.

And so, as we look at ways in Washington that we can make it easier for small businesses to succeed, as we look for ways on our Financial Services Committee that we can help ameliorate the effects of legislation that has been adopted in the past, as well as the economic troubles that we currently face, this hearing is an opportunity to focus on a very important part of what I think will be an inevitable economic recovery.

Unfortunately, it is taking longer, I think, than anybody would like. But I do believe that we will get there. And the evidence that we will receive today will be very helpful in our committee's deliberations.

As I said, I am a member of the Financial Services Committee. I am also the vice chairman of the Insurance, Housing and Community Opportunity Subcommittee. I am the only member of the subcommittee who will be here today, but I can tell you that everything that we hear today, we will record.

We have a staff member from the Financial Services Committee here, Mr. Tallman Johnson, and we will take that evidence and we will carry it back with us to Washington. It will be made part of the record, and we will be able to use that as we go forward and look for legislative responses and regulatory responses that we believe will help the situation.

I also wanted to recognize two folks on my staff. Kelly Simpson is my legislative director. And we also have Denise Van Valkenburg, who is our director of constituent services.

Before I get started, I did want to recognize a few people that I really appreciate being here. Delegate Danny Marshall. There is Danny. Danny, of course, is our delegate in Richmond. Thank you, Danny, for being here.

When I was in the House of Delegates, he and I were on the Counties, Cities, and Towns Committee in the General Assembly, a committee that dealt with a lot of these issues. Thank you for being here, Danny.

I wanted to recognize Don Merricks' chief bottle washer. Where is Gayle? There is Gayle Barts. Don couldn't be with us today, but I did want to thank him for sending Gayle, his able assistant.

We have a couple of folks from the city council. We have Fred Shanks. Thank you, Fred, for being here. And Buddy Rawley was here. I don't know if he is still here. There is Buddy. Thank you, Buddy, for being here.

We have James Snead, who is a member of the Board of Supervisors and also the Mayor of Ringgold. And we also have Jimmy Gillie, who is our commissioner of revenue here in the city. I don't know if he is still here. Jimmy, thank you for being here. And we also have our city attorney, Clarke Whitfield.

And I am told that we have a special guest as well, Mayor Sherman Saunders. I just want you to know, Mr. Mayor, that I told my staff that I do not want to sit in Mayor Saunders' chair.

[laughter]

Mr. HURT. So I am going to sit down here. But Mayor Saunders, it is so nice of you to be with us, and thank you for hosting us here. This is our Mayor, Sherman Saunders. Thank you, Mr. Saunders. I appreciate you being here.

[applause]

Mr. HURT. So, with those introductions, I would like to bring this hearing of the Subcommittee on Insurance, Housing and Community Opportunity to order, and I will begin by making an opening statement, and then I will invite our witnesses to make opening statements.

Good morning, and welcome to today's Financial Services Committee field hearing on the state of the manufactured housing industry.

I want to thank all of our witnesses for traveling here to Danville this morning to examine the manner in which Federal laws and regulations impact these manufacturers, and the affordable housing they produce, as well as jobs they create here in Virginia's Fifth District and across the country.

The term "manufactured home" refers to a home built in a factory in accordance with the construction standards set forth in the National Manufactured Housing Construction and Safety Standards Act of 1974, which is administered by the Department of Housing and Urban Development (HUD). HUD not only establishes the construction standards for units of manufactured housing, but it also coordinates inspections of these manufacturers' facilities to ensure that the homes they produce meet the quality and safety guidelines HUD maintains.

Manufactured housing plays a significant role in the Nation's housing stock, supplying millions of units of affordable housing to individuals and families across the country. These homes are constructed in quality-controlled, HUD-regulated settings that produce cost-effective homes, expanding consumer access to affordable housing options.

The industry is also a source of employment for thousands of Americans, hundreds of which reside and work here in Virginia's Fifth District. From Rocky Mount to South Hill, from Charlottesville to Danville, the Fifth District is home to a number of manufacturers, retailers, suppliers, and related services, which create numerous jobs in connection with manufactured and modular housing.

The impact of the industry cannot be overstated at a time when 9 percent of Americans are unemployed. Many communities in my district have even higher rates of unemployment.

According to the data from the Census Bureau, the manufactured housing industry experienced strong sales in the mid- to late 1990s, exceeding 300,000 units sold annually. Since then, these sales figures have steadily declined, with approximately 50,000 units sold in 2010. Today's hearing will explore the causes of these trends and the impact of the relevant Federal laws and regulations on the manufactured housing industry's ability to respond to changing economic conditions.

Among the most critical factors in the purchase of a home is access to financing. Consumers are finding it increasingly difficult to obtain financing for manufactured homes, which, in turn, reduces demand for the product, ultimately resulting in fewer jobs for manufacturers and related businesses and fewer choices available to the consumer.

The majority of manufactured home purchases are financed as personal property, rather than real property mortgages. This method of financing results in comparatively smaller loan balances with shorter durations, but higher interest rates, given that most personal property loans cannot be securitized in the secondary market like a conventional mortgage.

Given the unique nature of this model of finance, we must be mindful that laws governing traditional mortgage finance may not be as effective in the manufactured housing market, case in point, the unintended consequences created by the Dodd-Frank Act. Dodd-Frank broadened the definition of high-cost loans under the Home Ownership and Equity Protection Act (HOEPA) and also imposed new requirements on loans considered to be high-cost loans under HOEPA.

While these provisions were well-intentioned, we must identify and mitigate the unintended consequences they produced: decreased access to affordable choices for consumers; and fewer jobs in the manufactured housing industry. This hearing will examine these and other issues that are impacting the manufactured housing industry and the consumers who utilize its products.

Again, I want to express my appreciation for today's witnesses, each of whom will speak to their expertise in a particular facet of the manufactured housing industry. I look forward to your testimony.

Without objection, your written statements will be made a part of the record, and you will each be recognized for a 5-minute summary of your testimony.

The first witness who will be testifying today is Mr. Henry Czauski, Acting Deputy Administrator for the Manufactured Housing Program at HUD.

Thank you, Mr. Czauski, for coming from Washington. It is my understanding that you came by way of Blacksburg, but we are glad to have you here. So you are recognized for 5 minutes.

STATEMENT OF HENRY S. CZAUSKI, ACTING DEPUTY ADMINISTRATOR FOR THE OFFICE OF MANUFACTURED HOUSING PROGRAM, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. CZAUSKI. I want to thank Chairman Hurt and the other distinguished members of the subcommittee for the opportunity to testify today.

My name is Henry Czauski, and I am the Acting Deputy Administrator for the Office of Manufactured Housing Program with the U.S. Department of Housing and Urban Development.

My remarks will touch on some of the key aspects of manufactured housing legislation, the role HUD plays in implementing that legislation, the benefits to the stakeholders, and label fees.

In 1974, Congress enacted the National Manufactured Housing Construction and Safety Standards Act, which was amended by the Manufactured Housing Improvement Act of 2000. Congress found that manufactured housing plays a vital role in meeting the housing needs of the Nation and that manufactured homes provide a significant resource for affordable homeownership and rental housing accessible to all Americans.

HUD established a program to administer and carry out the many purposes of this legislation, which was intended to: protect the quality, durability, safety, and affordability of manufactured homes; provide for establishment of uniform nationwide Federal construction standards; encourage innovative and cost-effective construction techniques; protect residents; establish a balanced consensus process to develop standards; and ensure uniform and effective enforcement of those standards.

To carry out these purposes, Congress included stakeholders in the process—manufacturers, retailers, consumers, State regulators, administrative and monitoring contractors, and others. A Manufactured Housing Consensus Committee was established as a Federal advisory committee to provide recommendations to HUD on adopting and revising Federal standards and regulations. This committee is composed of 21 voting members, including 7 producers/retailers, 7 persons representing consumer interests, and 7 persons representing public officials and the general interest.

An administering organization authorized by Congress assists the committee in its mission. This committee is an active body and in the past year has met on four occasions, and its subcommittees have held ongoing meetings throughout the year.

The Federal standards have been the subject of ongoing review and updating. Over the years, HUD promulgated numerous standards, including standards that limited formaldehyde emissions in manufactured homes, improved wind safety requirements after Hurricane Andrew, enhanced smoke alarm standards, and upgraded electrical safety requirements. These standards are preemptive of State or political subdivision standards to ensure nationwide uniformity and comprehensiveness.

In order to assure compliance with these standards, manufacturers contract for inspection services with primary inspection agencies accepted by HUD. The Department conducts nationwide monitoring and inspections to assure that the standards are maintained.

Congress also authorized that States may assume responsibility for enforcement of standards, upon approval of a State plan approved by HUD. At the current time, 37 States have established plans. HUD assumes responsibility for enforcement of standards in the 13 States that do not have established plans. During the past 2 years, 2 national and 4 regional meetings with State regulators were held to provide guidance and ensure uniformity of standard administration among the States.

Once a manufactured home is determined to meet Federal standards, a certification label is permanently affixed to each home. This red label assures the consumer that the home was constructed in accordance with the Federal standards.

Congress authorized the Secretary to establish and collect a fee for this label to offset expenses incurred in carrying out the legislation. The current label fee was set at $39 in 2002. In Fiscal Year 2000, prior to the fee increase, label fee income of $11 million was collected.

As a result of reductions in the production of manufactured homes, fee income in Fiscal Year 2008 fell to $5.7 million. In Fiscal Year 2011, fee income fell to less than $3 million.

To supplement the reduced label fee income, Congress provided a direct appropriation of $5.4 million in Fiscal Year 2009. The appropriation rose to $9 million in Fiscal Year 2011. For Fiscal Year 2012, the appropriation was set at $2.5 million.

These label fees are used for conducting inspections and monitoring, providing funding to the States that have approved plans, administering the consensus committee, and administration of the enforcement of installation standards, and a dispute resolution program.

In closing, I would like to state that the Federal standards serve to protect the quality, durability, safety, and affordability of manufactured housing. I want to thank you for the opportunity to provide testimony today, and I would be pleased to answer any questions.

[The prepared statement of Mr. Czauski can be found on page 50 of the appendix.]

Mr. HURT. Thank you, Mr. Czauski.

The next witness that we will recognize for 5 minutes is Mr. Kevin Clayton, who is the president and CEO of Clayton Homes. And he joins us from Maryville, Tennessee.

Thank you, Mr. Clayton, for being here. And we will recognize you for 5 minutes.

STATEMENT OF KEVIN CLAYTON, SECRETARY, EXECUTIVE COMMITTEE, MANUFACTURED HOUSING INSTITUTE (MHI)

Mr. CLAYTON. Thank you, Mr. Chairman, and members of the subcommittee, for the opportunity to testify this morning.

My name is Kevin Clayton. I serve as the secretary of the Manufactured Housing Institute, or I will refer to that as MHI in my remarks.

I am also the president and CEO of Clayton Homes. The current chairman of MHI, Joe Stegmayer, sends his regards. He has a facility nearby in Rocky Mount. I know that you visited that facility, and we appreciate your interest and support of the industry.

My written testimony has been submitted for the record.

For over 60 years, manufactured housing has been critical as a single-family housing alternative for hard-working, low- to moderate-income families across this Nation. Most manufactured homes are located in rural America, where there are few apartments or other housing alternatives available.

The average cost of a new manufactured home is only $63,000 versus $270,000 for a site-built home. More importantly, the median annual income of a manufactured homeowner is $32,000, versus $60,000- plus for other homeowners.

An even greater indication of the Nation's reliance on manufactured homes as an affordable housing alternative is that 72 percent of all new homes sold under $125,000 are manufactured homes. Additionally, since 1989, manufactured housing has served roughly 20-plus percent of all new home sales.

The American dream is homeownership, and the unintended effects of new regulation and lack of the secondary market by the GSEs is a path to tragically wipe out the remains of this important housing segment. The implementation of the Dodd-Frank Act amendments to the Home Ownership and Equity Protection Act stands to critically affect this industry. HOEPA, which defines high-cost mortgages, is designed to protect consumers and prevent predatory lending.

The law uses APR limits for the annual percentage rate and fees charged on a loan to determine whether the loan is a high-cost mortgage. Prior to the Dodd-Frank Act, HOEPA only applied to non-purchase finance or refinance loans, but now will apply to all manufactured housing loans as well.

With no secondary market, the cost of capital for manufactured housing lenders starts at a much higher rate, and the limits within the Dodd-Frank Act are based off of the current artificially low mortgage rates. This makes it very difficult, and impossible in many cases, for a lender in our industry in the future to be able to charge enough interest rate to offset the cost of originating and servicing the loans and stay underneath those limits.

For example, a $200,000 site-built loan and a $50,000 manufactured home loan, they cost the same in dollars to originate and service a loan. But as a percentage of each loan's size, it is significantly different in interest rate spread. This difference is effectively discriminating against the smaller size manufactured home loans, putting them at a much higher risk of being categorized as high-cost mortgages, even though there is nothing predatory about manufactured housing loans.

The impact of this provision is significant. Of the 400,000-plus loans that our company has made since 1972, more than 50 percent of those would have not been done because they would have been classified as a high-cost mortgage under the Dodd-Frank amendments.

Due to the liabilities and stigma associated with high-cost mortgages, lenders typically refuse to make these types of loans. The other real impact of HOEPA will be felt by the 19 million Americans who live in manufactured homes, who could see their ability to resell their homes effectively wiped out because lenders would be unwilling to provide the financing needed to help them sell their homes.

Our regulatory challenges are not limited to HOEPA and the Dodd-Frank Act. The industry is already feeling the impact of the SAFE Act, which requires States to establish standards for licensing mortgage loan originators. Unfortunately, there has been a lack of clarity and uniformity in applying the SAFE Act to the manufactured housing market, specifically the manufactured home retailers and their salespeople.

Similar to real estate brokers, manufactured home retailers are in the business of assisting customers through the home-buying process. However, unlike conventional real estate, there are a limited number of banks that offer financing for manufactured housing. Without the assistance of the retailer and salespeople, the consumer would be—it is very difficult to locate a manufactured housing lender.

Salespeople are fundamentally involved in the business of selling homes, not originating mortgage loans. When they do not receive an incentive or compensation from a lender, then they should not be fearful to show a customer what financing options are available or answer basic questions about the lending process.

Additionally, as States have attempted to implement the SAFE Act, the impact has been inconsistent. Because of delays in the Federal rulemaking and the resulting differences and approaches taken at State levels, manufactured home retailers are often concerned with providing the most basic level of technical assistance and service to customers.

While MHI fully supports the mission of the SAFE Act, consideration should be made for the unique manufactured home-buying process. Our industry is critical for housing and providing jobs in America. Over the past decade, new manufactured home construction has declined nearly 80 percent, which has accounted for 160 plant closures, more than 7,500 retail center closures, and the loss of over 200,000 jobs.

More importantly, thousands of manufactured home customers may be limited in their ability to purchase, sell, or refinance homes. Without action in these key areas, the people who live in manufactured homes and those whose livelihood is connected to this industry face significant risk.

I thank you for the opportunity to testify and welcome your questions later.

[The prepared statement of Mr. Clayton can be found on page 36 of the appendix.]

Mr. HURT. Thank you, Mr. Clayton, for your testimony.

The next witness who will testify will be Tyler Craddock, and he is the executive director for the Virginia Manufactured and Modular Housing Association. He is in Richmond, and he is from Southside.

Welcome, Tyler, and you are recognized for 5 minutes.

STATEMENT OF TYLER CRADDOCK, EXECUTIVE DIRECTOR, VIRGINIA MANUFACTURED AND MODULAR HOUSING ASSOCIATION (VAMMHA)

Mr. CRADDOCK. Thank you, Mr. Chairman. Thank you for the opportunity to testify this morning on the state of the manufactured housing industry, and thank you for hosting this hearing.

My name is Tyler Craddock, and I am the executive director of the Virginia Manufactured and Modular Housing Association.

Founded in 1965, VAMMHA is the voice of the factory-built housing industry in Virginia. We represent producers and retailers of manufactured and modular housing, community owners, lenders, suppliers, and others involved in providing Virginians with well-constructed, factory-built, affordable housing choices.

While most of our work is at the State and local level, we recognize that manufactured housing, by its very nature, requires a great deal of attention to Federal legislative and regulatory activity. For that reason, we are active members of and work in close partnership with the Manufactured Housing Institute, very ably represented here this morning by Kevin Clayton, with Clayton Homes.

Manufactured housing is an important component of the housing stock here in Virginia. According to the 2010 census, it comprises about 5.6 percent of the overall housing stock in the Commonwealth. But that does not tell the entire story.

In many rural localities, especially in Southside and southwest Virginia, according to the 2000 census data—that is the latest data we have available on a county-by-county basis—the proportion of manufactured homes exceeds 15 to 20 percent of the housing stock. That is no small wonder, given the relative lack of construction labor in many rural communities and the affordable nature of manufactured homes in Virginia.

In 2010, for example, the average cost of a new manufactured home in Virginia minus land was $58,500. In spite of manufactured housing's status as an affordable choice for many Virginia families, the manufactured housing industry in Virginia is limping along at present.

In 1990, over 5,400 homes were shipped into Virginia. That number rose to over 7,000 homes in the mid- to late 1990s and dropped over time to only 1,155 homes in 2010. Thus far in 2011, we are at approximately 30 percent off of our numbers from 2010, having only 670 shipments as of the end of September.

The decline in manufactured home shipments is mirrored in the decline we have seen in the number of manufactured homes actually produced here in Virginia. In 1990, 3,595 homes were produced in the Commonwealth. In the years that followed, that number went as high as 4,422 homes in 1998, but declined to only 113 homes in 2009.

While many of the issues we face are State or local in nature, and others testifying today can offer more in-depth perspective on the Federal issues affecting our industry, I would certainly be remiss if I did not highlight a couple of issues that have arisen as I have visited with VAMMHA members around the State. First and foremost, the lack of financing from manufactured home purchasers is putting many of our customers and our industry overall in a pinch.

Time and time again, retailers tell me that they have customers who are ready and willing to purchase a new home, but they cannot get financing for the purchase. In many cases, these are families who, in years past, would have had no trouble qualifying for a loan, but they cannot do so now.

In addition, for our customers who qualify, there remains the real threat that their home will not appraise for a value that will allow their home purchase to move forward. While appraisals are tighter across-the-board for the entire housing industry, a number of my members report that the problem lies not so much with appraisals in general, but with specific appraisers who do not understand our product and its unique nature. As such, there may be an opportunity for the industry and HUD to work in partnership to help ensure that appraisers are well educated with respect to manufactured homes.

Another issue that continues to concern our membership is the SAFE Act. While the final rule promulgated by HUD earlier this summer provides some helpful guidance and flexibility for our State regulators, it does not entirely clarify issues of critical concern to the industry.

The industry is seeking additional statutory language to clarify that licensed manufactured home salespersons not engaged in loan origination activities are not mortgage loan originators and, thus, subject to licensing. As it stands, given the unique nature of the retail side of our industry, manufactured home retailers, who are not in the business of making loans, could be on the hook for thousands in licensing fees at a time when they can least afford it.

In addition, the industry is seeking relief for those who originate only a small number of manufactured home loans on an annual basis and for those sellers financing the sale of their own manufactured homes. At a time when financing options are very limited for manufactured home buyers, regulatory burdens imposed by the SAFE Act are further limiting the few financing options available to low- and moderate-income manufactured home buyers.

Mr. Chairman, thank you for the opportunity to testify, and I certainly welcome any questions.

[The prepared statement of Mr. Craddock can be found on page 45 of the appendix.]

Mr. HURT. Thank you, Mr. Craddock.

We also have with us Stan Rush, who is an account representative with MHD Empire Services Corporation here in Danville. Mr. Rush, thank you very much for joining us today, and we will recognize you for 5 minutes.

Thank you, sir.

STATEMENT OF STANLEY RUSH, ACCOUNT EXECUTIVE, MHD EMPIRE SERVICE CORPORATION, AND VICE CHAIR, VIRGINIA MANUFACTURED AND MODULAR HOUSING ASSOCIATION (VAMMHA)

Mr. RUSH. Thank you, Chairman Hurt, and members of the subcommittee for the opportunity to testify regarding the state of manufactured housing personal property financing.

My name is Stanley Rush, and I am an account executive with MHD Empire. I am also currently serving as vice chair of the Virginia Manufactured and Modular Housing Association.

I have in worked many different areas of the manufactured housing industry since 1981 with almost 20 years of manufactured housing personal property financing experience. The most serious obstacle that exists with personal property financing is the SAFE Act and its inherent regulations.

Primarily, States do not know how to enforce the new regulations. Most States, especially Virginia, already had predatory lending laws that were passed years ago. The SAFE Act has confused a situation that was working.

The SAFE Act creates confusion for the manufactured housing salespeople who are assisting customers with the process of obtaining financing for affordable homes they want to purchase. There is great uncertainty about the SAFE Act and how it applies with respect to the need for manufactured housing salespeople to obtain a mortgage loan originator's license to be able to assist with a credit application.

Manufactured housing salespeople are licensed and regulated by the State. Any additional licensure is costly and unnecessary, as the salespeople are not making any lending decisions, merely helping with paperwork.

The SAFE Act is also preventing manufactured housing community owners from doing their own financing, which is necessary at this time because so many sources of money are no longer available. While the recent guidance from HUD and conversations between our industry and State regulators have been helpful, they are based only on current interpretations and, as such, are subject to change in the future.

Additionally, these positive first steps do not completely address the industry's concerns. That is why we strongly encourage you to support clarifying language to state that manufactured housing salespersons not engaged in loan origination do not need to be registered, and language that provides some relief to folks making only a few loans and sellers financing the sale of their own homes.

At one time, there were more than a dozen national lenders doing manufactured housing personal property financing. Now, we are down to four. One of the reasons personal property financing has become so scarce is that banks are being told by regulators that if it is the least bit out of the ordinary, don't do it.

Manufactured housing personal property financing is out of the ordinary, and thus, the banks stay away. The new financial regulatory format is only making this situation worse.

Our industry is by no means perfect. None is. But we have gotten caught up in a perfect storm of unintended consequences that, on top of the prolonged poor economy, is keeping our customers out of the most affordable housing available today.

Thank you again, Chairman Hurt, for the opportunity to testify today, and I will be glad to answer any questions that you may have.

[The prepared statement of Mr. Rush can be found on page 55 of the appendix.]

Mr. HURT. Thank you for your testimony, Mr. Rush.

And now, it is my pleasure to introduce Scott Yates, who is president of Yates Homes in Pittsylvania County. It is a family-owned business that has operated since 1986, and thank you very much for coming down to the big City of Danville—

[laughter]

Mr. HURT. —to testify. You are recognized for 5 minutes.

STATEMENT OF SCOTT YATES, PRESIDENT, YATES HOMES, AND PAST CHAIR, VIRGINIA MANUFACTURED AND MODULAR HOUSING ASSOCIATION (VAMMHA)

Mr. YATES. Thank you, Congressman Hurt, for giving me the opportunity to appear before you today.

My name is Scott Yates, and I am president of Yates Homes, a family-owned business that has operated in Pittsylvania County since 1986.

Over the course of my career, I have sold manufactured and modular homes, and I own and operate a manufactured housing community. I am also a member of the Virginia Manufactured and Modular Housing Association, have served as its chairman, and I am also a member of the executive committee, the board of directors, and had the pleasure of being elected to MHI, representing Virginia for a number of years.

From day one, I have sold manufactured homes because I knew there was a need for affordable housing, but wanted to help consumers realize the American dream of homeownership. For quality of life and economic competitive reasons, every community needs a steady, well-built supply of affordable housing choices, and I decided early on that I wanted to play a part in helping provide that in Southside Virginia.

Since 1986, I have seen our industry hit some of its highest points, and likewise, I have been through some of its toughest times, as is the case today. At the peak of the industry, our business sold 180 houses a year and employed 19 people. As the economy went into a tailspin and the housing market slowed to a crawl, I have had to adjust our company to only 5 employees, including myself and my partner, and we are only selling 30 homes a year.

This being the third downturn we have been through and the longest of my career, I think we have outsmarted ourselves for the sake of fixing the housing problem and forgotten commonsense resolutions. With the constant pressure of government regulation at all levels, and a lack of reliable financing sources for customers, we have turned to modular homes instead of manufactured homes.

The finance community has turned from manufactured homes because of secondary markets not wanting to buy portfolios that contain this type of housing. The true loser is the customer who wants to provide shelter for their family at an affordable price and who understands that manufactured housing is a viable option to do exactly that.

Four years ago, we recognized that lending sources for manufactured home buyers were drying up. As such, we deemed it necessary to explore an alternative business model so that our company could survive. We moved into modular homes because they are built to the prevailing local codes, which is the Virginia Uniform Statewide Building Code, the same standard that applies to site-built homes.

They have fewer restrictions for customers seeking financing and feature many of the same terms as the site-built homes. With manufactured homes, the interest rates are generally higher. In addition, we observed that the appraisals were coming in well below the price for which the home had sold.

Finally, it got to the point that selling manufactured homes was a losing scenario from a financial point of view. We were selling at a lower margin and being cut to the point that we could not make a small profit to keep our company going.

In this scenario, however, the true loser is not me or our company. The true loser is the American people. Not every family can afford a home over $100,000. These are the families today who are suffering the most in our economy. They are being squeezed between job losses and the increasing cost of providing necessities like food, clothing, and whatever type of shelter for their families.

In time, this leads to more people depending on our government to support them, thereby perpetuating the cycle of entitlement and spending that has brought our Nation to the brink of financial destruction. That is certainly not what this country was founded on, and in my opinion, it is not the direction our forefathers had in mind when they bravely affixed their names to the Declaration of Independence.

In closing, I would like to share a story from my first year in business. A couple came in with two children. The loving father and mother wanted to provide a home for their family. We had a $4,000 used manufactured home for sale. They wanted to put it on the property that their family owned.

The father and mother had saved and worked hard to purchase this home. When they wrote us a check for the $4,000, the notation in the memo line contained two very simple, but powerful words, "a home."

I never forgot that family, and those words that remind us that whether a home has a $1 million price tag or a $4,000 price tag, it is a home that meets their housing needs and provides a home for their family.

Chairman Hurt, thank you for the opportunity to testify today, and I welcome any questions.

[The prepared statement of Mr. Yates can be found on page 65 of the appendix.]

Mr. HURT. Thank you very much, Mr. Yates.

I would now like to recognize for 5 minutes Mr. Adam Rust, who is the research director for the Community Reinvestment Association of North Carolina, and he comes to us from Durham, North Carolina.

Mr. RUST. That is right.

Mr. HURT. So thank you for being with us, and you are recognized for 5 minutes.

STATEMENT OF ADAM RUST, RESEARCH DIRECTOR, COMMUNITY REINVESTMENT ASSOCIATION OF NORTH CAROLINA

Mr. RUST. Honorable Chairman Hurt, thank you for inviting me to testify before your panel today.

My name is Adam Rust, and I am the research director for the Community Reinvestment Association of North Carolina. Our main focus is housing finance. I am the author of, "This Is My Home: The Challenges and Opportunities of Manufactured Housing." And since 2010, I have served as a general member of HUD's Manufactured Housing Consensus Committee.

In my opinion, today there is no better example of a community that is obstructed from accessing good credit than the local manufactured housing park. That is why I think it is important that this hearing is happening today.

To your first question, what has caused the manufactured housing industry to go from 300,000 units produced in 1999 to only 50,000 units in 2010? I would offer that an equally valid question is, what would help the manufactured housing industry ship more homes in the near future?

I see two opportunities—better participation by the GSEs and a better industry effort to take advantage of demographic change in our population. The manufactured housing industry finds it hard to ship more units because fewer people can get the financing they need to buy the homes.

I agree with the sentiment expressed by Mr. Rush, Mr. Clayton, Mr. Yates, and Representative Hurt. Your opinion of personal property lending may determine your thoughts on the most important issues for how credit is accessed, how we interpret the way that the GSEs operationalize their duty to serve in the case of manufactured housing.

The GSEs have expressed that they want to narrow their commitment to only real property. I believe that we need to find a middle ground. I believe that the GSEs can be a lever that elevates the quality of manufactured housing lending for personal property. I imagine that if a GSE did focus on buying these loans, it would serve as a lever to elevate the quality of lending.

I think there are important conditions to set with that, including full disclosure under RESPA for closing costs, no balloon payments, and loans that do not bind people unable to get a refinance in the near future.

Secondly, the manufactured housing industry needs to do a better job of serving people with disabilities. We know the population is graying. The point of purchase is not when you know if you will need a home with disability protections. As an example, you never know if you are going to need a seatbelt, but I believe that we are all glad that cars now come with seatbelts.

We know the population is graying, and I think it is about finding a middle ground. And to that, I want to say that I voted against the sprinkler proposal. But hallway widths are an important topic.

I have two letters that I have brought today from the Paralyzed Veterans of America and the American Association of People with Disabilities. Both of them specifically asked the Manufactured Housing Consensus Committee to establish a minimum hallway width of 36 inches in the HUD code.

The actions to consider with regard to financing include that the GSEs should not just focus on real property, but also on personal property loans, and that we change the rules associated with the GSEs' MH Select program, which currently require PMIs for some homes with higher LTVs. For better or worse, there were less than 200 PMI contracts written for manufactured homes in 2010, compared to more than 10,000 just as recently as 2004. The products are not being offered.

We need to create credit enhancement facilities for second position loans to help people acquire manufactured housing parks. And last, we need to engage and encourage State housing finance agencies to use their tax credit dollars to encourage manufactured housing lending.

Straight to the third question, what role will the CFPB play for the manufactured housing industry under Dodd-Frank, I believe that Dodd-Frank will reward the good guys by eliminating the competitive threat posed by a race to the bottom among financing companies. CFPB's focus is on consumer protection. It is not the SAFE Act. It is different.

And here is what is wrong with personal property lending. We know that it is hard to shop around for a better loan when the financing comes from a retailer that is selling the home. It is even harder when there is no requirement for closing costs. And then, ultimately, the homes come with features that may change the ultimate resale value of the home, including balloon payments or prepayment penalties.

One in five borrowers ends up unable to make their payments. Some people are getting these loans that they couldn't qualify for a mortgage. It is bad for consumers, and it stands to reason that this will be bad for the future of the industry.

In fact, the problems facing manufactured housing took place and developed before the idea of the CFPB was even imagined. The CFPB will not regulate manufacturers. It will supervise, enforce, and write rules only for nonbank financial institutions and only if they are considered larger participants.

The CFPB is only about making sure that people get the best financed product that they deserve, and I think that enhancing the role of the GSEs is the first step to making that happen.

Ultimately, and to conclude, as transactions become more transparent and as more finance products prove to be sound, results will be seen and the quality of manufactured housing communities and the experience that owners have and in the perception of the industry—I believe that the only way that the industry will go forward and return to health is to address this issue of financing.

Thank you.

[The prepared statement of Mr. Rust can be found on page 58 of the appendix.]

Mr. HURT. Thank you, Mr. Rust.

The next witness that we will hear from is Ms. Carla Burr. She is a manufactured housing resident, and she is from Chantilly, Virginia. And we will recognize you, Ms. Burr, for 5 minutes.

STATEMENT OF CARLA BURR, MANUFACTURED HOUSING RESIDENT

Ms. BURR. Thank you.

Good morning, Vice Chairman Hurt, and I thank you for the opportunity to testify.

My name is Carla Burr, and I am a proud owner of a manufactured home in Chantilly, Virginia. But I am not just representing myself. I am representing 17 million families who live in these homes across this country.

Owners of manufactured homes are frequently ignored by Federal housing policy. So I am very grateful that we have this attention paid to it today.

We believe if you want to understand why manufactured home sales have dropped so dramatically, it is critical to ask the homeowners and buyers and residents among these communities: Would you recommend them to others? Would you recommend your child buy one?

I would certainly recommend someone buy a manufactured home. My only mistake was putting it in a park, where I have no control. The issues regarding manufactured housing in a community such as ours is so grave that people are walking in and turning in their title to their home because they can't sell it. It is too old. They can't get a replacement.

There are many people in our community who are suffering so badly that they can't even buy food. It is a toss-up between food and medical bills and lot rent.

In my particular community, the lot rent is going to increase this next year to $919 a month. In most communities, we are finding the lot rent is higher than the mortgage, and this is unconscionable. In some communities, the lot rent is almost equal to the mortgage.

We know one homeowner in my community, their lot rent is like $100 less than their mortgage. A $2,000 a month payment for a manufactured home in a community is just absurd.

What we are facing right now is a constant threat by the—not manufactured housing, but by the landlord of this property. We are really considering how we are going to try and get out of this community. We would like to buy it. We would love to buy the property.

In fact, if I had the chance to buy the land my house sits on, I would do it in a heartbeat. But there are no provisions. We don't have any rights as far as homeowners. There is no right of first refusal for us.

The landlord could basically sell the property out from under us, and we would never know until the sale happened. And then, we would be frantically trying to find someone to buy our home for less than what it is worth.

Right now, we have been successful as a community in getting our property taxes lowered because the assessment values were way out of line. We felt that they were using this Wingate appraisal method to actually assess our homes, and we found it to be absurdly unrealistic. My house I could probably sell for less than half of what I paid for it, and I would be lucky to get that.

Anyway, for the nearly 3 million homeowners like me on leased land, we are in a financially precarious position. We are not notified if the land owner decides to sell. Like I said, we don't have right of first refusal.

There are practices of certain community owners that further erode the value of my investment if I want to sell. For example, landlords can refuse to sell to someone who wants to buy my home. They can limit how I market my house. They can steer potential buyers to other homes within the community, toward their product, which is happening in my community.

In my community, it has gotten so bad that people are turning in their title, which I have said. We feel like prisoners in a feudal system.

The other practice is where management is not equitably applying the rules across-the-board. They single out those of us who are taking action to effect change. They try and persuade other homeowners to not attend our meetings because we are really seeking to get the whole community involved.

They single out those of us who are taking action, and they use tactics to scare the homeowners. "We are not going to renew your lease." Whether they do it or not, we don't know. This is an unacceptable position to be in, in any community.

And why is the manufactured housing community singled out? Because of nonexistent protection under the law. Although Virginia does have some vague laws about this type of retaliation, and even our rental agreement says the landlord cannot retaliate, they basically ignore those rules.

I truly believe that manufactured housing can be a part of the solution to our need for affordable homes, and can create jobs, save energy, and provide attractive homes for people who want to buy them.

There is much that Congress can do to improve the regulatory marketplace so buyers get the best possible loans, and ensure that Federal agencies use their resources to help homeowners buy a quality home that they can afford, and require protections for owners living in communities. Everyone—the people who build the homes, the people who sell the homes, the people who finance the homes, and the people who buy these homes—should work together to improve outcomes for buyers like me.

I would love to provide an unqualified recommendation for manufactured housing. However, until we fix the financing issue to provide equal access benefits and ensure secure tenure, manufactured home sales will remain slack.

Finally, as an owner of a manufactured home, I really look forward to the day when we have equal rights under the law as a homeowner. Whether it is stick-built or some other condominium, we are also petitioning our local representatives in Virginia to pursue some sort of rent control or restructuring so that land owners cannot raise the lot rent without impunity. And there needs to be some sort of ceiling.

We know rent control is gone for the most part in this country, but for our purposes, there is no way we can stay. We have determined there is no affordable housing in Fairfax County. It doesn't exist. And an article in the Washington Post even confirmed that.

So thank you for listening.

[The prepared statement of Ms. Burr can be found on page 29 of the appendix.]

Mr. HURT. Thank you, Ms. Burr, very much for your testimony.

Not on the program is a gentleman from the Manufactured Housing Association for Regulatory Reform. His name is Mark Weiss. He is behind you, Ms. Burr. If we could get that microphone to him, I would like to ask unanimous consent to recognize him to make a brief statement for the record.

He comes from Washington.

STATEMENT OF MARK WEISS, SENIOR VICE PRESIDENT, MANUFACTURED HOUSING ASSOCIATION FOR REGULATORY REFORM (MHARR)

Mr. WEISS. Thank you, Mr. Chairman. I appreciate the opportunity to speak here today.

Mr. HURT. Yes, sir. Thank you.

Mr. WEISS. My name is Mark Weiss, and I am senior vice president of the Manufactured Housing Association for Regulatory Reform.

MHARR is a national trade association of mostly smaller producers of HUD-regulated manufactured housing. MHARR first requested an oversight hearing on the HUD Manufactured Housing Program and was promised such a hearing by Chairman Bachus earlier this year. MHARR specifically requested an oversight hearing on HUD's failure to fully and properly implement key reform provisions of the Manufactured Housing Improvement Act of 2000.

We expressed our wish to present testimony showing the devastating impact of that failure on the industry and particularly the smaller independent manufacturers that MHARR represents, as well as American consumers of affordable housing, which would then provide the committee with a basis to seek answers from HUD officials on those issues.

The smaller businesses represented by MHARR have major and specific grievances based on HUD's failure to fully and properly implement those key reforms of that law, reforms that were designed to ensure that manufactured homes are treated as housing rather than the trailers of yesteryear. Some of those reforms have been distorted, others have been ignored, and yet others have been effectively read out of the Act entirely by process of interpretation.

We trust and hope that during the next session of the 112th Congress, a hearing on those specific implementation issues will be held where our small business members and their witnesses can appear and testify before the committee. In the interim, we would ask that my statement be included in the record, as well as a series of fact sheets specifically addressing those implementation issues that we have prepared and will submit to the committee.

Mr. HURT. Without objection, those documents will be admitted to the record. And thank you for your statement, Mr. Weiss.

Mr. WEISS. Thank you, Mr. Chairman.

Mr. HURT. Now, we will commence with a period of questioning for the witnesses, and I will ask a few questions.

First up, Ms. Burr, thank you for your testimony. One of the things that I was wondering about as you testified was whether or not there is a market for being able to sell your home in the, I don't know if you call it the secondhand market or used market?

Ms. BURR. Yes.

Mr. HURT. Is there a market for that? And I would imagine living in Fairfax County, like you do, that it would be very difficult to find affordable housing in Fairfax County. We would, just for the record, invite you to move to Pittsylvania County.

[laughter]

Mr. HURT. But with that said, is there a vibrant market at this time for used manufactured housing?

Ms. BURR. Not from what we can see. The county has actually made it so difficult. They have changed the zoning on some of the land. You can't actually move it. If you buy a piece of land in Fairfax County, it is probably zoned in such a way that you can't put your home on it. So even if I could move it, there is nowhere to move it.

And I have checked with communities like ours all the way into Maryland and West Virginia. They don't have lots big enough to put my house on. And if you want to buy a piece of property, the zoning doesn't allow you to move it there. So we are stuck.

Mr. HURT. Okay. Thank you.

And Mr. Rust, I would like to ask you a question. If you would try to use the microphone for the court reporter, if you don't mind?

Thank you for your testimony, Mr. Rust. I was wondering if you could just address—you talked a lot about the GSEs, and of course, that is something that has taken up a lot of our focus in Washington is dealing with Fannie Mae and Freddie Mac and how do we—taxpayers provided a $160 billion bailout for those two organizations. And I think that there is across-the-aisle support for trying to wind those down.

The key, the key to the success for that, though, will be bringing the private sector into the secondary mortgage market. That is the only way it works if we don't want to make it worse for housing and make it worse for the real estate market.

So I was wondering if you could speak to that. Obviously, it would be nice to see that secondary mortgage market evolve in the private sector, and I didn't know if you had any comments as it relates to that?

Mr. RUST. It is true that there is hardly a market for those kind of homes on the private investor side. One issue that—

Mr. HURT. How do we correct that without—

Mr. RUST. Okay. So I am worried about the loan level price adjustments, which are a series of costs that are imposed on the delivery of manufactured homes or any mortgage to the secondary market. And specifically, I am concerned about the additional costs that are passed on for borrowers even when they haven't demonstrated a poor credit record.

There is an additional fee specifically designated for a manufactured home so that is raising cost that is passed on either in the interest rate or in the closing costs. And so, that is one thing I would encourage you to look at because I think it is a little bit under the radar, and it has been taking place since about 2009 and continues to evolve. But it is really hurting the secondary market and liquidity.

Mr. HURT. Okay. Thank you.

Mr. Yates, I have a question for you. Thank you again for your testimony, and I appreciate the 35 years of experience that you bring to this.

When you think about the regulatory structure, and I don't mean just as it relates specifically to manufactured housing and modular housing, but the regulatory structure generally, just as a small business, a family-owned business for 35 years, I would imagine that those regulatory burdens, whether it be taxes or whether it be environmental issues, can you talk a little bit about that burden just generally as a small business?

And do you have any advice for us in terms of how we make it easier for you to succeed so that you are not—your testimony is very compelling when you talk about how your business has changed in the last 10 years.

Mr. YATES. The regulatory environment is a moving target. It is constantly moving. I will give you one quick example. Basically, bringing the consumer back into it because that is what drives all of our businesses. It is not just myself; it is the consumer.

In Pittsylvania County today, it costs $700, approximately $725 just to get a well and septic permit. Now that is before you do anything. That is just a permit on the property to say, I can put a home here, whether it is a manufactured home, a modular home, or a stick-built home.

But from the consumer, the regulation that is coming down, the permit for this, the permit for that, and I understand the State needs its funding, local government needs its funding. But—

Mr. HURT. It all adds up, doesn't it?

Mr. YATES. Absolutely. And it takes people who want to buy from our business, it takes them off of the buying arena because these fees keep adding up.

I can remember when my closing files used to be this big. Now, they are this big.

Mr. HURT. Right.

Mr. YATES. We had someone out of Richmond come in last week and check our company. We are visible. So we are constantly getting people in, making sure you have this license, you have that license. I am not saying license is a bad thing. I think it needs to be regulated.

But again, as I said in my statement, when we get past, when we outsmart ourselves and we forget the commonsense approach to, number one, the consumer, and number two, to business, we are hurting from top to bottom all the way down.

Mr. HURT. Sure. Thank you.

Mr. Rush, you talked a little bit about the appraisal standards and the changes that were brought by Dodd-Frank. And I was wondering if you could just talk a little bit about those appraisal standards and how those changes have and will affect the marketplace.

Mr. RUSH. The problem that has come into, and I think it is affecting the real estate market also is that the Federal guidelines are one thing, and then each lender has their own set of guidelines for how they are doing manufactured housing and how they are doing site-built housing.

Right now, we have a situation where a modular home can be built to the statewide building code and the frame can be left under it. And if that is the case, then the Federal guidelines from FHA are that the appraiser has to appraise it like a manufactured house, a HUD code manufactured house, which means they can only use comps that are HUD code houses. That limits the comps, especially in the market today, where there are not that many being sold, and there are almost none being resold because of the appraisal process and the lack of financing.

So they are condensing us down into a little, small pinhole that is not helping the industry, and it is drastically hurting the industry as far as appraisals. We need to be able to comp a mod to a mod if that is—or site-built because they are built to the same code, whether it has a frame under it or it doesn't have a frame under it. That is just one area where the appraisals are being affected.

The other thing is that they are not supposed to be using foreclosures for comps, and the appraisers are. And it is hurting the prices because people are doing short sales. Lenders are doing short sales. We don't have any bigger problem with foreclosures than the site-built industry, but we all have them right now with the way the economy has been going for such a long period of time, with folks out of work.

So there are foreclosures out there in both the site-built and the manufactured housing industry. These things are all, as I said in my testimony, a perfect storm of negative things that are affecting our industry.

Mr. HURT. Good deal. Thank you, Mr. Rush.

Tyler, a question for you. From your viewpoint in Richmond, can you just talk a little bit about how the Federal—dealing with HUD and the Federal regulations, as well as the State regulations and the local regulations that Mr. Yates was talking about, can you talk about that dynamic? What are the regulations that are the hardest to deal with? Who can learn from whom maybe is another way to—

Mr. CRADDOCK. Certainly. A couple of issues specifically. One, of course, and we have mentioned it, is the SAFE Act. That is one of the poster children because in Virginia we have the State corporation commissions and the Bureau of Financial Institutions, which regulates—which is enforcing the SAFE Act in Virginia, for lack of a better term.

What that has created in this dynamic is—and we have seen it in other States—that is why I am talking to my counterparts in other States—is this dynamic where we have State regulators who may be willing to work with us on some of the flexibility that our industry needs, but they feel that their hands are tied because of the guidance they are getting from HUD. And certainly as a lobbyist, you are not going to lobby the State government, saying you need to go against what HUD is telling you, go against the Federal Government. Don't mind the supremacy clause, etc.

One of the other areas where we see that dynamic play out, though, and we didn't mention it as much here, is in the actual administration of the HUD code itself. The thing about this, you have, for lack of a better term, a Federal building code that is a Federal code that is administered in Virginia by the State. We have an SAA, a State administrative agency, which is the Virginia Department of Housing and Community Development, but then is enforced by local officials.

So you have this building code that really is being acted upon at three different levels. And what that ends up at the end of the day, I have had retailers tell me you end up in a situation where local building official says "X" needs to—putting a house on the site, "X" needs to be done.

The retailer says, no, that is not what is in the HUD code. So you end up with this 2-day runaround trying to call Richmond and get an answer because Richmond is trying to enforce something on behalf of HUD. And so, it does create a confusing dynamic at times.

Mr. HURT. How do you fix that?

Mr. CRADDOCK. That is the million dollar question. Because when you are out there, when you are waiting on a certificate of occupancy for a home, do you really want to butt heads with the same inspector who is going to not only be inspecting this home, but the next one that you hopefully have closing in 2 weeks and 2 or 3 weeks after that?

A lot of the key for us, we have found, rather than some sort of punitive fix or slap on the wrist is just simply better education and communication. In a lot of instances, as far as administration of the HUD code on the local level and the building official level is simply working—and our SAA has been really good and diligent about this, but it is just moving that process forward. It is a process that is ongoing so we have to keep working at it.

Mr. HURT. Okay. Thank you very much, Mr. Craddock.

Mr. Clayton, I would love it if you could—if you had anything to add to his question that I asked about the Federal, State, and local dynamic. And then I also wanted you to comment, if you could, it is my understanding that HUD intends to raise the label fee from $39 per label to $60 per label. And I wanted to find out if you had any thoughts on how that would affect the marketplace. So, if you could address both of those issues?

Mr. CLAYTON. There is nothing specifically I would add to that. I think HUD is faced with doing what we have all had to do when our sales are running about 20 percent of where they once were. We have all had to make drastic cutbacks. So I think looking at what the real requirement budget need is versus only shipping 50,000 homes this year needs to be looked at carefully.

Mr. HURT. Okay. Do you have anything to add in terms of the Federal, local, and State—the regulatory dynamic?

Mr. CLAYTON. I thought that was addressed very well already. What our industry desperately needs right now is legislation that will move forward, that will modify HOEPA loan limits. Otherwise, what little is left of the industry, half of that will be wiped out.

Because when you take a home-only customer who is not financing land in and you are operating and the limits are basically 6.5 percent over an artificially low, where Treasury is helping buy down mortgage rates. So it is based off of that, that spread there. When our cost of funds are starting out—because we have no secondary market, we have no GSE support or Treasury support. There has been no government help whatsoever.

Our cost of funds starting out is double because we are going through normal commercial paper debt instruments. We start out at a double. And that just wasn't thought about and recognized in the creation of the Dodd-Frank.

So it is very logical. Everybody that you mention this to, they see the need to change it. We have great Republican support. There needs to be some Democratic support urgently to move that forward and stop it.

It is the last piece of the housing segment that needs to be hurt right now. Our best-selling model right now is below $50,000. That is where the economy is. That is all that most people can afford right now. And that is an underserved market.

It is in rural America, where there are few apartments out in rural America, and there are certainly not affordable housing options.

Mr. HURT. Thank you very much.

Mr. CLAYTON. Thank you.

Mr. HURT. Mr. Czauski, I wonder if you could just address the fee issue, raising the fee from $39 to $60 per label? And then conclude with anything else you might want to add.

Mr. CZAUSKI. There has been discussion about raising the fee, as you are aware, to $60. And it is currently under review within the Department. Going from a fee of $39 to $60 is somewhat of an increase, especially at a time when the industry has been depressed and the number of homes being built has gone down.

The Manufactured Housing Program is unique, and I have been with HUD for 32 years, 30 of which were in the Office of the General Counsel. So I have worked with many programs. This is the only one with a Federal advisory committee, consensus committee. And any regulations that are implemented go through that consensus committee.

That consensus committee is composed of manufacturers and retailers, consumers, as well as State regulators. So all the parties involved at this table and in this room are represented on that consensus committee. And that committee makes a recommendation to the Department, and that will also occur with regard to the fee issue.

The Department is interested in getting feedback with regard to the impact of any fees on the industry, on the consumers, and how that will affect the industry. So I think it is an opportunity for everybody to provide feedback, and it is a second bite of the apple because even after those recommendations are provided, and there is a regulation that would increase the fee, there is the opportunity for public comment.

And that is something the Department is interested in hearing. It is very interested in making sure that the industry is stable and yet protecting the consumers.

Mr. HURT. I thank you for that, and I trust that you all will take that seriously because I think, as Mr. Yates was pointing out, it is just a little fee, a little fee, a little bit here, a little bit there, and the next thing you know, you are talking about something that is a barrier to being able to do what the consumer wants to do. And I think that is something all of us at every level of government have to be really keenly aware of.

So thank you for your answer.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for Members to submit written questions to these witnesses and to place their responses in the record.

I also understand that Congressman Fincher has a statement that he would like to have entered into the record. And so, I would ask unanimous consent for that. Without objection, that is so ordered.

I would also like to recognize—I think Larry Campbell is here, from the city council. Thank you, sir, for being here.

I wanted to again thank the city for making this available. Many thanks to Mayor Saunders and all of the staff who put this together.

I also thank the Sheriff's Office, and all of our staff here who worked so hard to put this together.

Finally, let me thank everybody in the audience who attended today. I am very grateful to you all for your interest in this subject and, of course, thanks to each of the witnesses for traveling here today to be with us. I think this hearing was very helpful to us, and I know that it will be very useful as we go back to Washington and consider these important subjects.

And so, with that, this hearing is now adjourned.

Thank you.

[Whereupon, at 10:21 a.m., the hearing was adjourned.]

A P P E N D I X

November 29, 2011

Congressman Joe Donnelly
Statement for the Record
Field Hearing: "The State of Manufactured Housing"

I am pleased that the Insurance, Housing and Community Opportunity Subcommittee is having this field hearing today. Manufactured housing plays a vital role in meeting the housing needs of the nation by providing quality, affordable homes to over 18 million people. This $8 billion a year industry has long been a major economic driver in places like Elkhart County, Indiana by directly employing thousands in manufactured housing plants and thousands more in suppliers' factories, not to mention contributing to the local municipal tax base.

I appreciate the hard work the industry has done for communities across our country and particularly in areas like Northern Indiana, which I am proud to represent. This industry knows all too well the pain felt by this economic crisis. The last couple of years have not been easy, and the suppliers, manufacturers and dealers have been patient and worked hard to continue to make quality homes and keep hardworking Americans employed so they can provide for their families.

As we work to emerge from this housing crisis, we realize that now, more than ever, it is important that people have access to quality homes that they can afford. As millions of Americans are facing or on the brink of foreclosure, we must recognize the value and cost-effectiveness that these homes provide. Manufactured housing should be considered a critical solution to helping us emerge from this housing crisis.

Creating affordable homeownership is one of the fundamental building blocks of our society and plays a fundamental role in achieving the American Dream. It helps to provide families with economic security and build strong communities. I hope today is an opportunity to highlight this industry's important contributions and identify how Congress can ensure it remains a thriving and successful job-creator in America and a source to meet our current and future housing needs.

State of the Manufactured Housing Industry
November 29, 2011
Congressman Stephen Fincher
Statement for the Record

Mr. Chairman,

Thank you for holding this hearing today. I truly appreciate your good work on this issue. While I had hoped to attend the hearing this morning, I had a prior commitment in Tennessee.

I'd like to extend a warm welcome to Kevin Clayton –President and CEO of Clayton Homes which is headquartered in Tennessee. Clayton Homes produces more new homes than any other lender in the nation. Clayton homes employs over 10,000 people nationally with over 1/3 of its employees located in the State of Tennessee. They have 33 home building facilities that support more than 1,000 retail home centers - one of which is located in Jackson, TN. They finance more than 325,000 customers and insure 160,000 families. Clayton Homes also owns and operates 18 subdivisions. Bottom line – they help a lot of people not just in the state of Tennessee but throughout the nation both through producing affordable homes and employment opportunities.

Manufactured housing is important to Tennessee's 8th Congressional District because it provides quality housing options and is an economic job creating engine. The manufactured home industry includes not only companies who build quality manufactured homes, but also thousands of suppliers, lenders, and retailers.

One of the strongest attributes is the average cost of a new manufactured home is $62,800, enabling low to moderate-income people access to quality and affordable family homes. These quality homes are located through-out the United States in rural and suburban areas, providing homes to roughly nineteen million residents.

The manufactured home industry is currently facing several regulatory challenges. Specifically, there is a key difference in lending practices between mortgages secured by personal property versus real property. Manufactured housing is a unique asset class with smaller sized loans. Unfortunately, under the current law manufactured home loans are thrown together with site built home loans, leading to many unintended consequences that could potentially limit capital flows and inhibit access to credit particularly for low-to moderate income families. While I support consumer protections, I have strong concerns with this "one-size-fits-all" approach.

Under the Dodd Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), the new mortgage lending restrictions will increase regulations that will limit financial options and trigger increases in manufactured housing costs. Additionally, regulations under the SAFE Act (P.L. 110-289) so vaguely define "loan originator" that manufactured home retailers that provide even the most basic level of technical assistance and service to customers could be considered "loan originators" pursuant to the SAFE Act. These regulations continue to lead to a lack of clarity in State interpretation and supervision of compliance thereof.

There has been a significant decline in both the manufactured housing industry and financing options. With a decline of nearly 80 percent since the late 1990's, the manufactured home sector has lost over 200,000 jobs and this number will continue to grow if policy is not amended to recognize the uniqueness of the manufactured home buying process and financing. Congress has a responsibility to address many of the unintended consequences of such policy. I have been working with my colleague, Congressman Gary Miller (R-CA), to craft legislation that addresses many of these concerns. A one-size fits all regulatory approach to mortgage lending does not meet the housing needs of my constituents and negatively impacts job growth. We need responsible lending products that take into consideration consumer protection, while ensuring access to credit and flow of capital.

Again, thank you for your attention to the manufactured home industry.

Testimony

Carla Burr

Hearing on the State of Manufactured Housing
Tuesday, November 29, 2011 Danville, VA
Subcommittee on Insurance, Housing and Community Opportunity
Financial Services Committee, House of Representatives

Good morning, Vice Chairman Hurt and members of the subcommittee. My name is Carla Burr and I have the honor of representing the 17 million families who live in manufactured housing. I live in a manufactured home of 1,800 of square feet that I purchased new for $113,000 in cash from Realty Systems, Inc., which is a re-seller for Crystal Valley Homes, a Division of Patriot Homes, Inc.

Owners of manufactured homes are frequently ignored by federal housing policy so we are very grateful for the attention paid today to our recommendations. We believe if you want to understand why manufactured home sales are falling so dramatically, it is critical to ask the buyers and residents of manufactured homes. Would we recommend them to others? Would you want your child to buy one?

I would certainly recommend a manufactured home to others.

I love my home. Built after the regulatory codes were fully operational, my home is attractive and energy efficient. I have a disability that prevents me from working so affordability and being able to live on one level really improves my quality of life. I love my house.

As the largest single source of unsubsidized affordable homeownership in the country, it is the *de facto* source of affordable housing in many of the nation's most persistent poverty regions and high-cost housing markets. In one recent study, more than two-thirds of all new housing constructed over a three year period that was affordable to low-income families was manufactured.

Still, manufactured homes are frequently misunderstood and overlooked due to outdated stereotypes of "trailers" and "mobile homes." In reality, manufactured housing that is well built and maintained can be a wonderful option for families and the elderly.

However, there are elements beyond the quality of the homes that affect the deep decline in the number of manufactured home sales in the past year.

The decline in the number of manufactured home sales can be directly linked to the following factors:

- a weak economy;
- limited – and expensive – financing options
- limited access to homeownership benefits and assistance
- a feudal system that traps home owners and strips their wealth

I. Weak economy

The recession has hit working class people very hard. High levels of unemployment and falling wages make it difficult for families to assemble a down payment and buy a home. Many people are doubling up with family members and friends. They would buy a home if they could afford it; unfortunately, many cannot. Efforts to create jobs through targeted federal investment should be aggressively pursued.

II. Limited – and expensive – financing options

But the economy is not the whole story. When I went to buy my home, I was shocked that the best interest rate I could get was 10% for a 15 year loan. My excellent credit rating did not matter. I had owned a condominium so was used to the terms and rates for stick built homes. I had a 4.58% mortgage for the condo. Instead of taking a loan, I used the proceeds from the sale of the condo to pay cash.

However, many people cannot afford to make this choice. The loan choices are few and much more expensive. The products that are available have higher interest rates, shorter amortization time frames and fewer protections than regular mortgages. These loans are generally unnecessarily risky for consumers, especially as most owners of manufactured homes can only get personal property loans, often called chattel loans, not mortgages. Chattel loans have higher costs and fewer protections. These higher rates result in a higher monthly payment making a standard $63,000 manufactured home much more expensive. Whether a home is classified as real or personal property significantly affects the home's asset-building potential, mostly due to tax and financing implications.

We applaud the Dodd-Frank Act and the creation of the Consumer Financial Protection Bureau. We need better regulations in this marketplace so people understand what financing they receive and avoid becoming delinquent or foreclosing due to balloon payments or placement on land where they could easily be displaced.

We eagerly await the confirmation of Richard Cordray as Director of the Consumer Financial Protection Bureau. Loans made to manufactured homebuyers should be covered under the CFPB. We also are looking forward to the rule from the Federal Housing Finance Agency detailing the duty to serve requirements related to manufactured housing. We strongly support duty to serve benefits focused on providing mortgages instead of personal property loans. We also want to see duty to serve rules push the market toward long-term leases and to support resident-owned cooperatives.

There is much that Congress, regulators and the industry can do to make the purchase of a manufactured home a better deal for buyers. Congress and the regulators should implement the Dodd-Frank Act to ensure that manufactured home owners benefit from security of tenure, with long-term leases. They need stronger legal protections from unscrupulous dealers who sell them loan products that end up being very expensive. They need to be able to purchase energy efficient homes that are accessible for aging populations and that have resale value.

Lack of regulatory schemes to ensure consumer friendly loan products, and lack of protections against aggressive rent increases that are not linked to improvements in the manufactured housing community, also make it extremely difficult for manufactured home owners to sell their homes, never mind realize any equity increase in their investment.

III. Limited access to homeownership benefits and assistance

There are tax benefits and government assistance for homeownership that do not benefit manufactured homeowners to the same extent.

- Homeowners can deduct their mortgage interest and their property tax. However, the mortgage interest subsidy does not apply to chattel or personal property loans.

- For cooperatives, residents of a community who pull together and purchase our land as a cooperative, we cannot deduct our proportional share of the interest paid on the loan for the land. The Internal Revenue Code Section 216 that covers cooperatives only allows deductions from the building, not the land. Manufactured housing community coops should have the same tax benefits as other cooperatives and home owners.

- HUD's major housing programs—HOME and the Community Development Block Grant—allow communities to use their funds for manufactured housing at their discretion. This can lead to discrimination and ineligibility for manufactured home buyers receiving down payment assistance or manufactured housing being included in a housing plan. HUD's FHA Title I and Title II programs could also be improved by requiring identical manufactured housing foundation standards for both Title I and Title II loans. Title I programs should also remove prohibitions that disallow the financing of manufactured homes that have been relocated so long as the homes are in good condition. The deep cut to HOME and CDBG will hurt affordable housing efforts.

- USDA's Rural Development Section 502 Direct program could be made more accessible for manufactured housing as well by making sure that severe reductions in funding are prevented; increasing the loan term limits for manufactured homes; removing restrictions on the financing of subsequent purchases of manufactured homes; specifying a single foundation standard for manufactured homes that applies across states; providing loans for single-section homes; and expanding the use of 502 Direct loans for manufactured homes in cooperatives.

Not everyone lives in a manufacture home as gorgeous as mine. As many as 1.5 million people live in homes built prior to the national HUD code that went into effect in 1976. Some of these homes are in good shape but many, need to be replaced. These homeowners are stuck. With incomes too low to replace their home without assistance, they cannot benefit from housing assistance as they are homeowners. Their homes are technically eligible for weatherization but for many, adding new windows or insulation is just a waste of money. Congress should prioritize replacing these homes. Some suggested investments include:

- The Department of Education's weatherization program should allow the weatherization allocation to count towards replacing a pre-HUD code mobile home with an ENERGY STAR manufactured home.

- Owners of pre-1976 mobile homes should be able to qualify as first time homebuyers and receive housing assistance for many programs including the Assets for Independence matched savings account program at the Department of Health and Human Services.

- Low-Income Housing Energy Assistance Program (LIHEAP) funds should be allowed to advance to provide a down payment to buy a new manufactured home. A GAO study on this possibility is currently underway at the request of Chairman Bingaman.

IV. A feudal system that traps home owners and strips their wealth

As I said, I love my home. I just made a mistake when I moved into a manufactured housing community, or park. About 2/3 of manufactured homes are placed on land owned or controlled by the home buyer but 1/3 of the homes are placed on land leased. Nationwide, there are 50,000 communities. Some are wonderful with respectful land owners who maintain high quality and keep prices affordable.

Then there are communities like mine. Established in 1972, there are 499 homes in my community. Unfortunately, many of us feel trapped. We each spent tens of thousands of dollars to buy our homes, yet the lot rent has increased exorbitantly. Next year, my lot rent is going to be $919 a month. Seven years ago, the lot rent was about $400. We have no control over the lot rent. If we don't want to pay it, one would expect we could pick up our homes and move but that is out of the question. Moving my home would cost about $20,000. There is also simply nowhere to move. There are no communities near me and I cannot afford to buy land.

For the nearly 3 million people like me who whose homes are on leased land, we are in a financially precarious position. When manufactured home communities close, homeowners are forced to either sell their homes at a fraction of their value; move them, which causes them to lose value; or abandon them altogether. Laws that grant residents a right of first refusal, require advance notice from the landowner or provide a tax incentive for owners that sell to residents can help promote resident purchase opportunities, help them preserve their homes and neighborhoods and build wealth. Virginia state law offers no protection against the sale of a manufactured home community—community owners are not required to notify residents at all when they decide to sell the land beneath their homes.

States need to consider policies that protect residents' rights to assemble and go door-to-door to form homeowner associations and to advocate on their own behalf. Without such policies, residents are likely to fear eviction and loss of their homes if they attempt to create a resident association, organize to purchase their community or advocate for policies that promote resident ownership. Virginia laws protect broadly against retaliation but do not provide any affirmative protections for homeowners. Virginia does have a statute restricting grounds for eviction from manufactured housing communities, but offers no protection that prohibits community owners from arbitrarily denying the right of a homeowner to sell their manufactured home in place.

There are practices of certain community owners that further erode the value of my investment if I want to sell. For example, landlords can refuse to sell to someone who wants to buy my home. They can limit how I market my home. They can steer potential buyers to the homes they own and not let them see my home. In my community, it has gotten so bad that elderly people are turning in the title of their home to the landlord and walking away. They cannot afford to pay the ever-increasing lot rent. We feel like prisoners in a feudal system.

The good news is that there is a real need for all of us – industry, advocates, communities and consumers to work together to improve the marketplace for manufactured home buyers.

In the past decade, we have seen many promising signs to support affordable housing through manufactured housing. These include:

- The establishment of the Manufactured Home Owners Association of America (MHOAA) of which I am a member. Nearly 20 state organizations exist representing community residents. The goal is to have all fifty states organized to become member states. Our community organization will be working with legislators and other organizations in Virginia to become a member state of MHOAA.

- The Corporation for Enterprise Development (CFED) developed the Innovations in Manufactured Homes Initiative (I'M HOME) to ensure that families who purchase manufactured homes reap benefits from the homeownership experience that enable them to live safely, securely and affordably and to build wealth.

- Resident Owned Communities USA (ROC USA®) has put together the financing and the technical assistance to enable residents of communities to buy the land and run the community cooperatively. If I could, I would buy my plot of land in a heartbeat! This would convert my home to real estate and my taxes would change from personal property to real property; the high lot rental would be eliminated, thereby putting more money in my pocket.

- Next Step™ is building a national network of nonprofit affordable housing developers to replace pre-HUD code manufactured homes with new ENERGY STAR manufactured homes through a partnership with my fellow panelist, Clayton Homes.

All of these partners are eager to share their ideas we have to make manufactured housing living a key component of the affordable housing landscape. We want potential purchasers to buy a manufactured home secure in the knowledge that the loan product is beneficial to them and that their home will have value for years to come. With an improved market, you might even encourage your child to buy a manufactured home.

Manufactured housing can be part of the solution to our need to create jobs, save energy and provide attractive and affordable housing in a way that enables families to have economic mobility. There is much that Congress can do to improve the regulatory marketplace so buyers get the best possible loans, ensure that federal agencies can use their resources to help homeowners buy a quality home that they can afford and require protections for owners living in communities. Everyone, the people who build the homes, the people who sell the homes, the people who finance the homes and the people who buy these homes should work together to improve the outcomes for buyers like me. We would love to provide an unqualified recommendation for manufactured housing. Until we fix the financing, provide equal access to benefits and ensure secure tenure, manufactured home sales will remain slack.

Finally, as an owner of a manufactured home, I really look forward to the day when we have equal rights under the law as any other home owner, whether, stick-built, town home or condominium. We are also petitioning our local representatives in Virginia to pursue some sort of rent control or restructuring so that land owners cannot raise lot rents without some sort of ceiling.

Thank you for listening and allowing me to testify.

Testimony of Mr. Kevin Clayton
Secretary, Manufactured Housing Institute

Before the
Subcommittee on Housing, Insurance and Community Opportunity
Committee on Financial Services
U.S. House of Representatives

Field Hearing on
"State of the U.S. Manufactured Housing Industry"
November 29, 2011

Danville, Virginia

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Thank you, Chairwoman Biggert, Ranking Member Gutierrez and members of the subcommittee for the opportunity to testify this morning on the state of the manufactured housing market.

My name is Kevin Clayton. I am appearing here as the Secretary of the executive committee of the Manufactured Housing Institute. I am also the President and CEO of Clayton Homes headquartered in Maryville, Tennessee. I have a lifetime of experience in the manufactured housing industry dating back to the founding of the company by my father, Jim Clayton in 1966. I have served as President and CEO of Clayton Homes since 1999.

The Manufactured Housing Institute (MHI) is the national trade organization representing all segments of the factory-built housing industry. MHI members include home builders, lenders, home retailers, community owners, suppliers and others affiliated with the industry. MHI's membership includes 50 affiliated state organizations.

Since our founding 35 years ago, Clayton Homes has built more than 1.5 million homes and won multiple awards for design and construction. In fact, we are the largest home builder in the country. The Clayton family of companies build, sell, finance, lease and insure manufactured and modular homes as well as re-locatable commercial and educational buildings. We employ approximately 10,000 team members, and have 33 home building facilities that support more than 1,000 retail home centers. Our financial services companies finance home purchases for more than 325,000 customers and insure approximately 160,000 families. We also own and operate 18 subdivisions. Though we are still family-led, in 2003, Warren Buffett and Berkshire Hathaway Inc. acquired Clayton Homes.

My testimony this morning will focus on three key financial, policy and regulatory challenges facing the manufactured housing market:

- Improving the flow of capital and access to credit in the manufactured housing market
- Minimizing unintended consequences in the regulatory arena that could potentially eliminate access to affordable manufactured housing
- Promoting innovation and preserving affordability through the promulgation of timely and flexible construction codes and standards

<u>About Manufactured Housing</u>

Manufactured housing is a key source of quality affordable housing for 19 million Americans. During this critical time for our nation's housing markets, manufactured housing can play an even greater role in providing reliable sustainable housing for current and future homeowners looking to meet a variety of housing and lifestyle needs.

Manufactured housing is a highly regulated industry, with three distinct qualities: manufactured homes are safe, they are energy efficient, and they are affordable.

Manufactured homes are built almost entirely in a controlled environment, transported to the building site, and completed at the home-site in accordance with federal building codes and enforcement regulations administered by the Department of Housing and Urban Development (HUD). These governing rules are commonly referred to as the "HUD Code".

As the only federally-regulated national building code, the HUD Code regulates home design and construction, installation requirements for strength and durability, resistance to natural hazards, fire safety, electrical systems, energy efficiency, and all other aspects of the home. Homes are inspected every step of the way and our industry adheres to a robust quality assurance program which offers far greater controls than anyone else in the home building industry.

Affordability

Our greatest attribute is delivering quality and value to consumers. Through cost savings and technological advancements in the factory-building processes, the manufactured housing industry can produce homes for 10 to 35 percent less than the cost of comparable site-built construction.

The affordability of manufactured housing can be attributed directly to the efficiencies emanating from the factory-building process. The controlled environment and assembly-line techniques remove many of the challenges encountered during traditional home construction, such as poor weather, theft, vandalism, damage to building products and materials and unskilled labor. Factory employees are trained and managed more effectively and efficiently than the system of contracted labor employed by the site-built home construction industry.

Manufactured housing's affordability means it has long been the housing choice for many low- and moderate-income families, including retirees on fixed incomes and first-time homebuyers. When compared to all homeowners, the median annual income of manufactured homeowners is nearly 50 percent less—$60,000 vs. $32,000 (Source: 2009 American Housing Survey).

Manufactured housing's importance as a sustainable source of affordable housing is reinforced by data indicating that in 2010 it accounted for:

- 72 percent of all new homes sold under $125,000;
- 47 percent of all new homes sold under $150,000; and
- 27 percent of all new homes sold under $200,000.

Manufactured homes serves many housing needs in a wide range of communities—from rural areas where housing alternatives (rental or purchase) are few and construction labor is scarce and/or costly (nearly two of three manufactured homes are located in rural areas), to higher-cost metropolitan areas as in-fill applications. Without land, the average purchase price of a new manufactured home is $62,800 versus $272,900 for a new site-built home (Source: U.S. Census Bureau), which is affordable by almost any measure.

In addition to the valuable role it plays in providing reliable, efficient and affordable housing for 19 million Americans, the manufactured housing industry is an important economic engine. In 2010, the industry produced 50,000 new homes, which were produced in more than 120 home building facilities, operated by 45 different companies, and sold in 4,000 retail home sales centers across the U.S.—generating 75,000 full-time, good-paying, jobs.

The Economic and Regulatory Challenges

Despite its role as a valuable source of affordable housing; a driver of the U.S. economy; and a model of efficiency and sustainability in the larger housing industry, the manufactured housing industry has had ongoing challenges over the past decade. Since 2005, the pace of new manufactured homes sold in the U.S. has declined by 65 percent (146,881 in 2005 vs. 50,046 in 2010) and there has been a decline of nearly 80 percent since 2000 (when 250,419 new manufactured homes were produced).

While the pace of sales for new single-family site-built housing has also declined by roughly 75 percent since its peak in March 2005, the decline in manufactured home sales actually pre-dates the 2007 housing market crash.

The decline in home sales and activity within the manufactured housing market coincides with a number of challenges:

- the growth of subprime lending in the traditional site-built lending market diminished the affordability advantage of manufactured housing;
- the lack of liquidity and credit in the manufactured housing finance sector has limited financing options for our homebuyers;
- the uncertainty and impact of new financial services and mortgage finance regulations has hindered growth; and,
- slow pace of adoption for new standards within the HUD Code has prevented the manufactured housing industry from remaining on the cutting-edge of design and construction.

Like the site-built housing market, the manufactured housing industry can appreciate the difficulty and uncertainty of operating in a stressed environment. New manufactured home construction has fallen roughly 80 percent over the past decade, which has accounted for more than 160 plant closures, more than 7,500 home center closures, and the loss of over 200,000 jobs. More importantly, thousands of manufactured home customers have been left unable to buy, sell or refinance homes. Without action in the following key areas, the people who live in manufactured homes and whose livelihood is connected to this industry are at significant risk.

Improving the flow of capital and access to credit in the manufactured housing market

Over 60 percent of manufactured homebuyers finance their purchase using a personal property loan where the dwelling alone is financed. The ability for lenders to securitize manufactured home loans in the secondary market, particularly those secured by personal property, has been very limited.

MHI and its members have long demonstrated to rating agencies, investors, Fannie Mae, Freddie Mac, the Federal Housing Administration (FHA), Ginnie Mae and others that manufactured housing lenders operate within a disciplined lending environment.

Despite this performance, the government-sponsored enterprises (GSEs) have had little involvement and displayed little interest in financing and securitizing manufactured home loans. Less than one percent of GSE business comes from manufactured housing and none of that comes from manufactured home personal property loans. This is in spite of data indicating that since 1989 manufactured housing has accounted for 21 percent of all new single family homes sold in America.

This barrier has effectively shut off the development of a viable secondary market for manufactured home loans leading to higher financing costs. The development of a viable secondary market would dramatically improve liquidity in the credit-constrained manufactured housing market and provide potential buyers with more ready access to loans to purchase affordable manufactured housing.

As federal policymakers debate the form, shape and structure of a new housing finance system and secondary market mechanism, MHI agrees with many in Congress and other housing stakeholders that any secondary market housing finance structure should be supported by private capital. In addition, MHI believes that any secondary market –particularly if it is supported by a government backstop –should provide equal and open access to manufactured home loans secured by either real or personal property.

As part of the Housing and Economic Recovery Act of 2008 (HERA; P.L. 110-289), Congress directed Fannie Mae and Freddie Mac to establish a secondary market for manufactured home loans, including those secured by personal property. However, given the conservatorship status of the GSEs, the continued sluggishness of the housing market, the uncertain regulatory environment, and concern over taxpayer exposure this mandate has remained unimplemented by GSE's regulator and conservator —the Federal Housing Finance Agency (FHFA).

In moving forward, we encourage Congress to support the creation of a secondary market that allows for loan products, including all manufactured home loans, to compete on a level playing field absent barriers and prejudicial treatment. Improving the prudent flow of capital to the manufactured housing financing sector will lower lenders' cost of capital. This will draw more lenders to the market, increasing competition, lowering financing prices, and enabling more consumers to choose manufactured housing.

Correct the Regulatory Threats to Affordable Manufactured Housing

The manufactured housing industry has always been fully committed to protecting consumers throughout the home buying process. MHI recognizes the importance of responsible lending and improving the consumer experience. MHI has also consistently urged Congress to consider the unique nature of manufactured housing lending and to avoid measures that would inadvertently curtail lenders' ability to make manufactured housing loans.

Over the past year, MHI has been working on a bipartisan basis to educate Members of Congress and the Administration of some of the unforeseen impacts recently enacted legislation would have on limiting access to credit for the purchase of affordable manufactured housing.

Specifically, provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd Frank Act; P.L. 111-203) and the Secure and Fair Enforcement of Mortgage Licensing Act (SAFE Act; P.L. 110-289) would have the unintended consequence of limiting the availability of and access to credit for the purchase of low-cost affordable manufactured housing.

First, the manufactured housing industry is concerned that the significant revisions to mortgage finance and anti-predatory lending laws outlined in the Dodd-Frank Act will disparately impact manufactured home lending. The Act adds significant new requirements on residential mortgage loans, including limitations on mortgage origination activities and high-cost mortgages, which will make it more difficult for manufactured home buyers to obtain affordable financing.

Many of the new regulations that would be imposed on mortgage lenders by the Dodd-Frank Act are designed to curtail questionable lending practices such as zero down payment loans, balloon notes, and stated income loans, which helped bring about the recent decline in the housing market. While the manufactured housing industry and manufactured homeowners played no role in this decline and for the most part maintained prudent underwriting standards, the Act would unfairly lump small balance loans used to purchase affordable manufactured housing into the same category as subprime predatory site-built mortgages.

Section 1431 of the Dodd-Frank Act expands the range of loan products that could now be classified as "high-cost mortgages" under the Home Ownership and Equity Protection Act (HOEPA). A loan would be considered "high-cost" if the Annual Percentage Rate (APR) or "points and fees" exceeds certain thresholds. Unfortunately, the limits established in the Dodd-Frank Act were set without a full understanding of the economics of originating and servicing small balance manufactured home loans.

While drafters of the Dodd-Frank Act recognized that large multi-national banks and small community banks could not be regulated in identical ways; the same realization was not reached for manufactured housing loans. Specifically, statutory thresholds for a $200,000 loan and a $20,000 loan cannot be set and evaluated in the same fashion, which is the effect of Section 1431 as it is now written. The cost of originating and servicing these two different size loans is essentially the same in terms of real dollars. However, the cost, as a percentage of each loan's size, is significantly different. It is this difference that causes the smaller-sized manufactured home loan to potentially exceed the thresholds in the Act and be categorized as "high-cost" or predatory under HOEPA, even though there is nothing predatory about the features of the loan.

In addition, the lack of a secondary market means lenders are typically forced to hold manufactured home loans in their portfolios, which makes cost of capital associated with originating manufactured home loans higher for these lenders versus those which are able to securitize real property mortgages through the GSEs or through asset-backed securities.

Under this new provision, the propensity for a loan to be classified as "high-cost" greatly increases as the loan size diminishes. According to the American Housing Survey (AHS), the median purchase price of a manufactured home (including new and existing home sales) is $27,000 (versus $107,500 for all occupied units according to 2009 American Housing Survey data). Potentially half of all loans to purchase manufactured homes, or more than four million (out of 8.7 million nationwide), could be at risk of being categorized as "high-cost mortgages."

An internal analysis of our company's lending activities yields similar results. Of all loans made year-to-date, more then 50 percent would be classified as "high-cost mortgages" under the HOEPA revisions outlined in the Dodd-Frank Act.

Due to the increased liabilities, responsibilities and stigma associated with making and obtaining a HOEPA "high-cost mortgage," it is likely that a majority of these loans would not be made. Potentially millions of families could see the ability to sell their homes effectively wiped out because lenders would be unwilling to provide the financing needed to sell them.

While a significant percentage of manufactured home loans may have rates higher than traditional site-built mortgages, the terms typically associated with manufactured home loans—namely fixed interest rates, full amortization, and the absence of alternative features (such as balloon payments, negative amortization, etc.)—allow them to satisfy the requirements of what the Dodd-Frank Act would consider conservative and prudent underwriting standards as outlined under the "qualified mortgage" definition in Sec. 1412.

In addition, based on existing regulatory requirements and additional statutory guidelines outlined in the Dodd Frank Act, provide significant consumer protections and disclosures while prohibiting many predatory loan features. These provisions ensure substantial protections are available to consumers without having to subject a majority of manufactured home loans to the onerous HOEPA "high-cost mortgage" designation.

Fortunately, MHI has been working with majority and minority leaders of the House Financial Services Committee to develop a bipartisan solution to this issue that will provide technical correction and relief while maintaining adequate consumer protections.

The manufactured housing industry also has concerns over the lack of clarity provided in implementing the SAFE Act. The SAFE Act was designed to enhance consumer protection and reduce fraud by requiring states to establish minimum standards for licensing mortgage loan originators.

There has been substantial confusion among states in applying the SAFE Act to manufactured home retailers and their salespersons; those financing the sale of their own manufactured homes; and, those engaging in a minimal level of loan origination.

Prior to enactment of the SAFE Act (or issuance of final federal regulations), states began adopting versions of a model/uniform act. HUD issued a final rule in July 2011 that provides some regulatory clarification in recognizing the delineation between the treatment of individuals who undertake the sale of manufactured homes and individuals who engage in the loan origination business, but uncertainty in application of the rule still exists.

Specifically, additional statutory guidance is necessary to ensure that individuals who assist and aid customers in the manufactured home buying process are not categorized as loan originators for purposes of the SAFE Act.

The process of purchasing a manufactured home has some substantial differences from purchasing a site-built home. The ability of a manufactured home retail salesperson to provide key technical assistance in the home buying process absent the risk of being arbitrarily classified as a mortgage loan originator for purposes of the SAFE Act is critical.

Similar to real estate brokers whose activities Congress specifically exempted from SAFE Act licensing requirements, manufactured home retailers are fundamentally in the business of selling homes; they are not in the loan origination business. However, like real estate brokers, manufactured home retailers and sales personnel are fundamentally engaged in providing technical assistance throughout the home buying process. Their core mission is to help a customer through the home buying process. It is not to originate mortgage loans.

In addition, due to the limited financing options available to manufactured home buyers, the ability of retailers and sellers of manufactured homes to provide buyers with adequate information regarding lending options available or to allow manufactured homeowners to finance the sale of their own homes is critical to preserving the availability of manufactured homes as an affordable housing source.

MHI has been working to educate Members of Congress and the Administration, including the new Consumer Financial Protection Bureau (CFPB), which has now assumed jurisdiction over the SAFE Act from HUD, on the need for enhanced clarity and certainty in the SAFE Act implementation process.

MHI is grateful for the diligent support Chairman Bachus and Ranking Member Frank have provided on this issue over the years. Last year, during HUD's rulemaking process, Reps. Bachus and Frank formally requested that HUD provide clearer guidance to states on the treatment of manufactured home retailers and that HUD clarify that states have the ability to provide exemptions to those engaging in minimal levels of loan origination or activity that is occurring outside of a commercial context. The manufactured housing industry and MHI hope to build on this guidance so that both the statute and regulation can provide clearer guidance and relief to manufactured home sellers.

Promote Innovation and Affordability with Timely Construction Codes and Standards

A fundamental reason manufactured housing can serve as a viable source of affordable housing is because of its uniform preemptive building code (The HUD Code) and efficient procedural and enforcement regulatory system, which was established by the Manufactured Housing Construction and Safety Standards (MHCSS) Act of 1974 (42 U.S.C. 5401 et seq.). Federal preemption is essential to the manufactured housing industry's reliance on interstate commerce to produce and distribute housing. A clear advantage for keeping homes affordable is to utilize a single building code and enforcement system.

As with all things, the industry believes the HUD-Code is a "living" code, which needs constant attention and updates in a timely and logical manner.

Subsequent changes to the law with the enactment of the Manufactured Improvement Act of 2000 (P.L. 106-569) made significant enhancement to the MHCSS Act by:

- establishing a balanced consensus process for the development, revision and interpretation of construction standards;
- creating a 'Non-Career' position within HUD to oversee the manufactured housing program
- establishing model manufactured home installation standards; and

- establishing a program to enforce standards in states that choose not to implement their own programs and enhancing the federal preemption of the HUD-Code.

Despite these improvements, HUD has been unable to keep the HUD Code updated in a manner consistent with other building codes. This has made it difficult, if not impossible, for the industry to utilize state-of-the-art building products and technologies. In addition, outdated building codes have left the industry vulnerable to discriminatory zoning and local regulatory restrictions.

Even with Congressional action to significantly strengthen preemption of the HUD Code and its enforcement regulations, HUD has failed to change its outdated 1997 policy guidance on preemption. More importantly, HUD has been unwilling to intervene when state and local regulators attempt to mandate requirements above and beyond the HUD Code or when communities use local zoning to unlawfully prohibit or restrict the placement of manufactured housing.

Next, despite the industry's importance to millions of Americas, HUD has lagged in establishing manufactured housing as a key component of its overall housing mission. For example, HUD's FY 2010-2015 Strategic Plan fails to mention the manufactured housing program as one of the tools for meeting HUD's mission and goals. In the plan, HUD has identified 5 major goals and 18 sub-goals to fulfill its mission, yet the manufactured housing program is mentioned only once— "to protect and educate consumers when they buy, refinance or rent a home."

The manufactured housing program has been without a 'Non-Career' Administrator for several years. Congress intended the Administrator to oversee the development of codes and standards to ensure that the program is managed in accordance with the law, and to act as an advocate for manufactured housing in HUD's overall mission, policies and programs. Appointment of a Non-Career Administrator would serve to enhance the role manufactured housing plays within HUD's overall mission.

Finally, since 2009, HUD has not appointed collective industry representatives to the Manufactured Housing Consensus Committee (MHCC), even though other program stakeholders continue to be represented by appointees from collective organizations. This has severely impaired representation of the industry on the MHCC, depriving it of the benefit of the knowledge, know-how, expertise and institutional memory that the industry's national trade organizations uniquely possess. Appointment of these industry representatives is essential to the maintenance of standards that will properly balance safety, workability and affordability.

Chairman Biggert, Ranking Member Gutierrez and members of the subcommittee I thank you for the opportunity to testify and welcome any questions you may have.

VAMMHA

Testimony of Mr. Tyler Craddock

Executive Director, Virginia Manufactured and Modular Housing Association

Before the

Subcommittee on Housing, Insurance and Community

Opportunity

Committee on Financial Services

U.S. House of Representatives

Field Hearing on

"State of the U.S. Manufactured Housing Industry"

November 29, 2011

Danville, Virginia

Thank you, Chairwoman Biggert, Ranking Member Gutierrez and members of the subcommittee for the opportunity to testify this morning on the state of the manufactured housing industry.

My name is Tyler Craddock, and I am the Executive Director of the Virginia Manufactured and Modular Housing Association (VAMMHA). Founded in 1965, VAMMHA is the voice of the factory-built housing industry in Virginia. We represent producers and retailers of manufactured and modular housing, community owners, lenders, suppliers and others involved in providing Virginians with well-constructed, factory-built affordable housing choices.

While most of our work is at the state and local level, we recognize that manufactured housing, by its very nature, requires a great deal of attention to federal legislative and regulatory activity. For that reason, we are active members of and work in close partnership with the Manufactured Housing Institute (MHI), very ably represented here this morning by Kevin Clayton with Clayton Homes.

My testimony this morning will center on the overall state of industry in Virginia as well as some of the specific challenges our members are facing. I anticipate that much of it will dove-tail with the national perspective that Mr. Clayton is bringing to you. In addition, two of our members, Stan Rush of MHD Empire and Scott Yates of Yates Homes, will provide testimony about how current policies are affecting the industry's ability to meet the housing demands of our customers.

Manufactured housing is an important component of the housing stock here in Virginia. According to the 2010 Census, it comprises about 5.6 percent of the overall housing stock in the Commonwealth. But, that does not tell the entire story. In many rural localities, especially in Southside and Southwest Virginia, according to 2000 Census data, the latest data we have available on a county-by-county basis, the proportion of manufactured homes exceeds 15-20 percent of the housing stock. That is no small wonder given the relative lack of construction labor in many rural communities and the affordable nature of manufactured homes in Virginia. In 2010, the average cost of a new manufactured home (minus land) was $58,500. Indeed, manufactured housing is a wonderful choice for Virginians looking for a high quality home at an affordable price.

But, given the strong presence of manufactured housing in Virginia and its status as an affordable choice for many Virginia families, the manufactured housing sector of our industry is limping along at present. In 1990, over 5,400 manufactured homes were shipped into Virginia. That number rose to over 7,000 homes in the mid-to-late 1990s and dropped over time to only 1,155 homes in 2010. Thus far in 2011, we are approximately 30 percent off of our numbers from 2010, having only 670 shipments as of the end of September. Additionally, factory-built home shipments have shifted dramatically to modular homes. To date, our modular shipments exceed 2010 shipments by over 30 percent. While it is not uncommon to see modular shipments exceed manufactured home shipments in Virginia, this swing is quite remarkable in that it contains both a pronounced increase in modular shipments and a pronounced decrease in manufactured home shipments, something that has usually not been a part of the mix.

The decline in shipments is mirrored in the decline we have seen in the number of manufactured homes produced in Virginia. In 1990, 3,595 homes were produced here in the Commonwealth. In the years that followed, that number went as high as 4,422 homes in 1998, but declined to only 113 homes in 2009.

To be sure, manufactured housing, modular housing and site-built housing are all facing declining numbers as a result of the economic conditions in which Virginia finds itself. Even with the up-tick in modular shipments, the longer trend is downward. So, some of the decline in manufactured housing can be fairly attributed to the overall economy and to factors that are affecting housing in general, or at least affecting factory-built housing in general. But, we are seeing something more within the housing industry -- a distinct swing to modular homes away from manufactured homes. And this, we believe, is indicative of some issues that particularly affect manufactured housing.

Today, you will have the opportunity to hear from three professionals in the manufactured housing industry who will be able to provide real-world examples of the more general factors that affect factory-built housing overall and those things that have a particular impact on manufactured housing.

While many of the issues we face are state or local in nature and others testifying today can offer more in-depth perspectives on the federal issues affecting our industry, I would be remiss if I did not highlight a couple of issues that have arisen as I have visited with VAMMHA members around the state.

First and foremost, the lack of financing for manufactured home purchasers is putting many of our customers and our industry in a pinch. Time and time again, retailers tell me that they have customers who are ready and willing to purchase a new home, but they cannot get financing for the purchase. In many cases, these are families who in years past would have had no trouble qualifying for a loan, but they cannot do so now.

In addition, for our customers who qualify, there remains the real threat that their home will not appraise out. More and more, I am hearing from retailers who are having trouble with their customers' homes appraising for a value that will allow their home purchase to move forward. While appraisals are tighter across the board for the entire housing industry, a number of my members report that the problem lies not with appraisals in general, but with specific appraisers who do not understand our product. As such, there may be an opportunity for the industry and HUD to work in partnership to help ensure that appraisers are well-educated with respect to manufactured homes.

Another issue that continues to concern our membership is the SAFE Act. While the final rule promulgated by HUD earlier this summer provides some helpful guidance and flexibility for our state regulators, it does not entirely clarify issues of critical concern to the industry.

The industry is seeking additional statutory language to clarify that licensed manufactured home salespersons not engaged in loan origination activities are not mortgage loan originators (MLOs) and thus subject to licensing. As it stands, given the unique nature of the retail side of our industry, manufactured home retailers, who are not in the business of making loans, could be on the hook for thousands in licensing fees at a time when they can least afford it.

In addition, the industry is seeking relief for those that originate only a small amount of manufactured home loans on an annual basis and for those sellers financing the sale of their own manufactured homes. At a time when financing options are very limited for manufactured home buyers, regulatory burdens imposed by the SAFE Act are further limiting the few financing options available to low- and moderate-income manufactured home buyers.

Chairman Biggert, Ranking Member Gutierrez and members of the subcommittee, thank you for the opportunity to testify; I welcome any questions.

Testimony of Henry S. Czauski
Acting Deputy Administrator
Office of Manufactured Housing Programs
U.S. Department of Housing and Urban Development (HUD)

Hearing before the House Committee on Financial Services
Subcommittee on Insurance Housing and Community Development
on the
Manufactured Housing Program
administered by the U.S. Department of Housing and Urban Development
November 29, 2011

I want to thank Chairman Hurt and the other distinguished Members of the Subcommittee for the opportunity to testify before you today on the manufactured housing program administered by the U.S. Department of Housing and Urban Development. My name is Henry Czauski and I am Acting Deputy Administrator for the Office of Manufactured Housing Programs.

In 1974, Congress enacted the National Manufactured Housing Construction and Safety Standards Act, which was later amended by the Manufactured Housing and Improvement Act of 2000. Congress found that manufactured housing plays a vital role in meeting the housing needs of the Nation and that manufactured homes provide a significant resource for affordable homeownership and rental housing accessible to all Americans.

The law directed the Secretary of HUD to establish a program to administer and carry out the purposes of this legislation which was to protect the quality, durability, safety and affordability of manufactured homes; to facilitate the availability of affordable manufactured homes; to provide for the establishment of practical, uniform Federal construction Standards that preempt standards of States or political subdivisions of States; to encourage innovative and cost-effective construction techniques; to protect the residents of manufactured housing with respect to personal injuries; to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety Standards; to ensure uniform and effective enforcement of the Federal construction and safety Standards; and to ensure that the public interest in, and need for, affordable manufactured housing is duly considered in all determinations relating to the Federal Standards and their enforcement.

To carry out these purposes, Congress included stakeholders to assist HUD in carrying out its mission, consisting of manufacturers, retailers, consumers, State regulators, administrative and monitoring contractors and others.

A manufactured housing "consensus committee", also known as the MHCC, was established as a Federal advisory committee to provide recommendations to the Secretary of HUD to adopt and revise Federal manufactured housing construction and safety Standards, as well as procedural and enforcement regulations; and conducts business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and public participation. This committee is composed of twenty-one voting members which includes seven producers/retailers, seven persons representing consumer interests and seven persons representing public officials and general interest. To assist the committee, Congress provided for the Secretary to contract with an "administering organization" to administer the process for establishing Federal Standards, and Procedural and Enforcement Regulations. In Fiscal Year 2011, the entire consensus committee met on four occasions to discuss the Federal Standards and subcommittees held ongoing meetings throughout the year.

The Federal Standards have been the subject of ongoing review and updating. Over the years, HUD promulgated Standards to limit formaldehyde emissions in manufactured homes; enhanced flame spread and fire safety protection requirements; improved wind safety requirements after Hurricane Andrew; enhanced smoke alarm Standards; added special moisture protection provisions for Southern climates; and upgraded the electrical safety requirements. These Federal Standards, which are pre-emptive of State or political subdivision standards, ensure that disparate State and local requirements do not affect the uniformity and comprehensiveness of the Federal Standards. More recently, the Model Installation Standards and Enforcement Installation Regulations for manufactured homes have been developed and published.

In order to assure compliance with the Standards for quality, durability, safety and affordability of manufactured homes, manufacturers contract for design and in-plant inspection services with Primary Inspection Agencies accepted by HUD. The Department, which is charged with nationwide monitoring and inspection to assure that the Standards are maintained, utilizes States and independent contractors to carry out this work and report to HUD.

In addition, Congress authorized that States may assume responsibility for enforcement of the Federal Standards upon approval of a State plan submitted to the Secretary of HUD. In such cases, the Secretary contracts through cooperative agreements with State agencies that have established a plan. At the current time, thirty-seven (37) states have established plans approved by the Secretary and receive funding. As a result, HUD assumes responsibility for enforcement of standards in the thirteen (13) States that do not have established plans. During the past two fiscal years, HUD has held two national and four regional meetings with these State regulators to provide leadership, guidance and ensure uniformity of Standards administration among the States.

Once a manufactured home is determined to meet the Federal Standards, a "certification" label is permanently affixed to each home. This assures the consumer that the home was constructed in accordance with the Federal Standards.

Congress authorized the Secretary to establish and collect a fee for this label to offset the expenses incurred in carrying out the responsibilities of the Department. The current label fee is $39 for each transportable section of a manufactured home, set in 2002. For example, a double-wide home consists of two transportable units and would generate a total fee of $78.00. Thus, label fee collections are directly linked to manufactured housing production.

Unfortunately for the industry and for the regulatory program, production has been steadily declining since that time. For example, in Fiscal Year 2000, prior to the fee increase in 2002, label fee collections totaled$11 million. Fiscal Year 2008 saw collections dropping to $ 5.7 million. In Fiscal Year 2011, the label fee income fell to less than $3 million.

In Fiscal Year 2009, Congress responded to declining program support in the form of label fees by providing a direct appropriation of $5.4 million. Congress has continued to provide a direct appropriation, rising to $9 million in Fiscal Year 2011. The ''Consolidated and Further Continuing Appropriations Act, 2012", signed by President Obama on November 18, 2011, includes a direct appropriation of $2.5 million to supplement label fee receipts in Fiscal Year 2012.

The use of the label fees was specified by Congress in the 2000 Act and HUD has adhered to those uses in carrying out its responsibilities. The label fees have been allocated for use in: conducting inspections and monitoring; providing funding to the States that have approved plans; administering the consensus committee; facilitating the acceptance of quality, durability, safety and affordability of manufactured housing; and the administration of the enforcement of installation standards and a dispute resolution program.

In closing, I would like to state that the ongoing adoption and updating of the Federal Standards and the dedication of the stakeholders in manufactured housing have served the purpose of the 2000 Act to protect the quality, durability, safety and affordability of manufactured housing. On behalf of HUD, I want to thank you for the opportunity to provide testimony before the Subcommittee today and would be pleased to answer any questions.

MHD
Empire Service Corp.

VAMMHA

Testimony of Mr. Stanley Rush

Account Executive, MHD Empire Service Corporation, and

Vice-Chair, Virginia Manufactured and Modular Housing Association

Before the

Subcommittee on Housing, Insurance and Community

Opportunity

Committee on Financial Services

U.S. House of Representatives

Field Hearing on

"State of the U.S. Manufactured Housing Industry"

November 29, 2011

Danville, Virginia

Thank you, Chairwoman Biggert, Ranking Member Gutierrez and members of the subcommittee for the opportunity to testify regarding the state of manufactured housing personal property financing.

My name is Stanley Rush. I am an account executive with MHD Empire. I am also currently serving as vice chair of the Virginia Manufactured and Modular Housing Association. I have worked in many different areas of the manufactured housing industry since 1981, with almost 20 years in manufactured housing personal property financing.

The most serious obstacle that exists with personal property financing is the Safe Act and its inherent regulations. Primarily, states do not know how to enforce the new regulations. Most states, especially Virginia, already had predatory lending laws that were passed years ago. The Safe Act has confused a situation that was working. The Safe Act creates confusion for manufactured housing salespeople assisting customers with the process of obtaining financing for the affordable home they want to purchase. There is great uncertainty about how the Safe Act applies with respect to the need for manufactured housing salespeople to obtain a mortgage loan originator license to be able to assist with a credit application. Manufactured housing salespeople are licensed and regulated by the state. Any additional licensure is costly and unnecessary as the salespeople are not making any lending decisions, merely helping with paperwork. The Safe Act is also preventing manufactured housing community owners from doing their own financing, which is necessary because so many sources of money are no longer available.

While the recent guidance from HUD and conversations between our industry and state regulators have been helpful, they are based only on current interpretations, and as such, subject to change in the future. Additionally, these positive first steps do not completely address the industry's concerns. That is why we strongly encourage you to support clarifying language to state the manufactured home salespersons not engaged in loan origination do not need to be registered and language that provides some relief to folks making only a few loans and sellers financing the sale of their own homes.

At one time there were more than a dozen national lenders doing manufactured housing personal property financing – now we are down to four. One of the reasons personal property financing has become so scarce is that banks are being told by regulators that if it is the least bit out of the ordinary, don't do it. Manufactured housing personal property financing is out of the ordinary, and thus, the banks stay away. The new financial regulatory reform act is only making this situation worse.

Our industry is by no means perfect -- none is -- but we have gotten caught up in a perfect storm of unintended consequences that, on top of the prolonged poor economy, is keeping our customers out of the most affordable housing today.

Thank you, again, for the opportunity to testify. I would be glad to answer any questions that you may have.

United States House of Representatives
Committee on Financial Services
Subcommittee on Insurance, Housing and Community Opportunity

"The State of Manufactured Housing"
November 29, 2011
Danville Municipal Building
Danville, Virginia

Submitted by Adam Rust
Research Director
Community Reinvestment Association of North Carolina
110 E. Geer St.
Durham, NC 27701

Dear Committee Members:

Thank you for inviting me to testify before your panel today.

I am the Research Director for the Community Reinvestment Association of North Carolina. We are a 501 © 3 organization with a mission to help underserved communities gain access to capital. I am the author of "*This is My Home: The Challenges and Opportunities of Manufactured Housing*." The book highlights recent means applied across the country to address systemic problems facing residents of manufactured housing communities. Since 2010, I have served as a general member of HUD's Manufactured Housing Consensus Committee.

Today there is no better example of a redlined community than the local manufactured housing park. Inside most parks, there are systemic obstructions to accessing credit. This applies not just to individual homeowners but also to the owners of the park itself.

This neglect should provoke the attention of more people. Manufactured housing makes up two-thirds of new affordable housing produced in the United States. In North Carolina, these homes provide housing to almost one in six households. Absent the needed presence of builders capable of creating an adequate supply of new site built housing, manufactured housing constitutes more than one-third of new housing starts in many of our rural counties.

I appreciate the interest held by the House Committee on Financial Services to the plight of people living in manufactured housing. I hope that my comments can put some light on the issues faced by this sector.

> <u>"What has caused the manufactured housing industry to go from 300,000 units produced in 1999 to approximately 50,000 units in 2010?"</u>

The manufactured housing industry finds it hard to ship more units because fewer people can get the financing that they need to buy these homes.

In an ideal system, the secondary market should create liquidity for lenders and thus encourage the availability of more money for the purchase of homes. Yet the secondary market for manufactured housing, both for mortgage-backed securities ("MBS") and for asset-backed securities ("ABS"), continues to stumble.

It is no coincidence that the peak year for shipments – 1999 – was followed shortly by the year when there was more outstanding manufactured housing ABS on the market. Between 1996 and 2000, the sum of manufactured housing ABS issuance increased from $6 billion per year to more than $13.6 billion (Bond Market Association, 2000). Outstanding issuances reached a peak of $51.3 billion in 2001. Since then, the sum of outstanding debt has shrunk every year. In 2010, only $16 billion in manufactured housing ABS remained outstanding (Securities Industry and Financial Markets Association, 2010). Lenders made those loans because there were people waiting to buy them.

Who buys an ABS or an MBS? Traditionally, a few large private corporations bought debt side-by-side with the Government Sponsored Enterprises ("GSEs"). Conseco and its subsidiary GreenTree securitized billions in ABS. Conseco filed for bankruptcy in 2002. Today, private investors still buy manufactured housing securitizations but the dominant players are essentially only the GSEs.

If demand for manufactured housing is to be resurrected, any solution begins with addressing the functionality of the secondary market. The first place is to begin is with the GSEs. The GSEs redline the manufactured housing market. In 2005, less than one-half of one-percent of Fannie and Freddie's portfolio is invested in manufactured housing ABS (Wirtz, 2005).

The general principle that people have a hard time getting a loan for a manufactured home is true right here on the ground in Danville, Virginia. The difficulty with Danville homes starts with a lack of interest by private investors on the secondary market and extends to troubles for individual families. In Danville, eighty mortgages were made for manufactured homes in 2010. About half (42) were securitized. Fannie Mae purchased one loan. Freddie Mac did not buy a manufactured home loan in Danville in 2010. Thankfully, Ginnie Mae did guarantee 27 loans.

Access to credit is difficult. In Danville, a person applying to buy a manufactured home is three times more likely to be turned down by a lender than is a person applying for a loan to buy a single-family site-built residence[1].

In 2010, the Federal Housing Finance Administration initiated a proposed rule-making that set back the prospects for the industry. The proposed rule clarified how the GSEs would realize their longstanding duty-to-serve (*Section 1335 (a) (1) (b) of the Safety and Soundness Act)* under new expectations for service to manufactured housing as required by the 2008 Housing and Economic Recovery Act.

The FHFA determined that the duty to serve would only apply to homes titled as real property. Given that sixty percent of manufactured homes are never titled as real property, this interpretation thwarted the ability of HERA to resuscitate the manufactured housing finance markets.

I understand the concern of the FHFA. Almost one in five chattel loans ends up in default. Buying chattel debt presents a legitimate challenge to safety and soundness. Nonetheless, that performance is really a product of how loans are made. Chattel loans use most of the unsound features (interest-only adjustable –rate mortgages, balloon payments) that brought down our mainstream mortgage financing system.

The better approach is to use GSE participation as a lever to reform loans on homes titled as personal property. If the GSEs only bought 'high-quality" loans with fixed-rate fully-amortizing features and with strong consumer protections, than they would have the effect of cleaning up lending. Fewer borrowers would default. Most likely there would be less depreciation in the value of manufactured homes.

Walking through a "waterfall" of GSE neglect, the next step is to consider the poor policy approaches that apply to how the GSE buys homes titled as real property.

The GSE "MH Select" program is designed to provide demand for loans with an LTV as high as 97 percent, *provided that they come with private mortgage insurance*. Unfortunately, in all but a few instances, PMI companies do not write insurance for manufactured housing. In 2009, only five PMI contracts were written in the Commonwealth of Virginia on a manufactured home. One was in Danville[2]. Only fifteen PMI contracts were written in North Carolina in 2009. The Federal Reserve reports that only 172 were written for all purchases of owner-occupied manufactured housing in the entire country in 2010. More than 10,400 were written in 2004 (Avery, 2011).

Absent a supply of private mortgage insurance for manufactured housing, low-income households are unable to take advantage of the willingness by the GSEs to buy mortgages with LTVs as high as 97 percent. The GSEs require PMI for loans when the LTV is greater than 85 percent. Since there is virtually no availability of the PMI product, the result is that when people seek a loan, they must put up a high down payment.

[1] 2010 Home Mortgage Disclosure Act: Federal Financial Institutions Examination Council
[2] 2009 PMI Database. Federal Financial Institutions Examination Council.

I have to agree with the comment made by the Manufactured Housing Institute: "The requirement to have PMI on any loan greater than 80% LTV places a reliance on a private insurance product that is generally unavailable and has had a tremendously negative impact on the GSEs financing of the industry's product. (Manufactured Housing Institute, 2009)"

The result is that the GSEs are only buying the safest of all manufactured housing loans – those on real property with more than twenty percent down.

Were the GSEs to remove the PMI requirement, a greater portion of manufactured housing residents would be able to get better financing. Ideally, this would change not just the availability of loans but also the pricing for those loans. Home purchase loan applications for manufactured housing are denied three times more frequently than are loans for site-built properties. The loans that are originated were 7.5 times more likely to have a high-cost [subprime] interest rate[3].

Suggested actions:

Eliminate the requirement for PMI in the MH Select Program

Revise the GSE duty-to-serve standard to include purchase of loans on homes titled as personal property. A better solution is to use the carrot of GSE securitization to encourage a host of improvements in the quality of financing. We know that many features of chattel loans contribute to their high default rates (almost twenty percent). Were the GSEs to only buy fixed-rate loans with no prepayment penalties and no balloon payments, it would be a great victory.

Create a new facility to enhance credit on second position loans for the acquisition of manufactured housing parks by co-operatives and non-profit owned resident groups. When vacancies are low, mobile home parks produce a substantial cash flow. Given their historical familiarity with mobile home parks, many banks in the South are ready to make loans for park acquisition. However, their appetite stops at 70 or 80 LTV. Many community groups (co-ops or non-profits) can offer low vacancy rates but fewer will have hundreds of thousands of dollars to cover a twenty percent down-payment. By creating an insurance against seconds, the GSEs could stimulate reinvestment in the supply of spaces in well-managed manufactured home parks.

Make the acquisition of land a valid use of federal funding that is routed through State Housing Finance Agencies. In our conversations with state housing finance agencies, some of their board members have told us that they cannot support investment in a property that will depreciate in value. Historically, land has held its value over the long-term horizon. It is not a risky proposition. Buying land for parks would create a low-cost and relatively simple way to foster the development of high-quality manufactured housing communities. It would be appropriate to use these funds for the redevelopment of existing communities as well. In New Hampshire, state agencies have created a financing vehicle for acquisition of parks. Vermont buys entire parks and then contracts with non-profits to do the property management.

[3] 2008 Home Mortgage Disclosure Act database. Federal Financial Institutions Examination Council

"How have underwriting standards changed in the last decade?"

Underwriting remains very stringent, particularly for refinance lending and for the purchase of a used home titled as personal property.

In 2010, 54.9 percent of applications made to buy a manufactured home were rejected (Avery, 2011). More than 80 percent had a subprime interest rate. By comparison, only 3.3 percent of conventional first lien home purchase loans made for site-built homes had a subprime rate of interest in 2010 (Avery, 2011).

When homes depreciate in value it becomes very difficult to refinance. The Loan Level Pricing Adjustments ("LLPA") instituted in 2008 by Fannie and Freddie lay out a system of additional fees paid by lenders upon delivery of a loan. The costs are passed on to borrowers through higher interest rates and higher closing costs. In instances when a loan bears too many risk factors, the loan is ruled ineligible for delivery. Conventional refinance loans on site-built properties generally must have an LTV that is no greater than 80 percent.

In the LLPA, there is a provision that triggers a higher delivery fee for any manufactured housing loan delivered to one of the GSEs. This has the effect of raising borrowing costs, as the fees paid by lenders are passed on to borrowers in the form of higher interest rates and or higher closing costs.

"The Dodd-Frank Wall Street Reform and Consumer Protection Act has instituted several changes which affected lending and appraisal standards for all classes of loans. What effect will these changes have on lending in the manufactured housing industry?"

The language of the Dodd-Frank Act contemplates that the CFPB will have supervisory authority over non-bank financial institutions that offer or provide any "consumer financial product." There are narrow exclusions.

One of the lessons of the HUD Code is that minimum standards protect well-intentioned businesses from a "race to the bottom." The HUD Code has been the locus for dramatic improvements in the quality of housing. The Dodd-Frank Act will hopefully eliminate some of the abusive lending practices that have given these products a bad name.

Manufacturers are victimized by unscrupulous sales persons that sully the image of the industry. Industry members on the Manufactured Housing Consensus Committee tell me that they would like to see retailers clean up their practices.

If chattel lenders are singled out for supervision by the CFPB, then we can expect to see a major impact on how loans are negotiated and originated. Chattel loans are frequently made by subsidiaries or affiliates of manufacturers. These non-bank entities offer terms with higher interest rates, shorter terms, and fewer consumer protections.

I expect that the CFPB will enhance disclosure requirements under RESPA. Currently, loan originators are not required to disclose the amount paid for closing costs on a home titled as personal property. Given that many finance companies are subsidiaries of either retailers or of manufacturers, this gap in RESPA puts borrowers at substantial risk for being taken advantage of by some lenders. This rule will help the good guys and hurt the bad guys.

Other statements

ABANDONED MOBILE HOMES

One hard truth to admit about manufactured housing is that we have no solution for removing nuisance properties. The power of condemnation gives municipalities the ability to eliminate blighted property. This power does not extend to a manufactured home sited on land with a separate owner. If ownership of a home cannot be traced, as is often the case when the HUD tag has been removed or when a home was built prior to the HUD code, then there is nothing that can be done provided that the land owner is unwilling to pay for the removal of the unit.

We have heard from many rural legislators upset by these homes. They believe that an abandoned home, let alone an entire mobile home park, hinders efforts to protect public safety. They say that these homes undermine efforts to attract business to relocate in their communities.

CRA-NC championed legislation to give our counties the power and the budget to remove these homes. Many counties have begun programs to remove those homes.

Everyone wins when these homes are removed. Communities are rid of houses that become the location for meth labs and prostitution. New land is suddenly available for re-development. Small towns have a better chance of landing job-producing industry. The removal of an eyesore removes one more strike against the image of manufactured housing.

DESIGN FEATURES FOR HANDICAPPED ACCESSIBILITY

One of the current discussions among the membership of the Manufactured Housing Consensus Committee is the response that should be taken by the HUD Code to prepare the sector for the aging of America. If people are going to "age in place," then they need to have a home that can come to accommodate their future infirmities.

Although this could be an opportunity to gain a foothold in a new consumer segment, the industry is dragging its feet.

Currently the minimum width of a hallway is only 28 inches. This is too narrow for a wheelchair to turn around. For a person bound to a wheelchair, the lack of space becomes an impediment to daily life and a threat to surviving a fire. The industry's argument is that a person should have the choice to buy a floor plan with the wider hallways. Unfortunately, this means that there will be many people will have to move out of their homes. No one can know if they will be bound to a wheelchair. A wide hallway is something you only know you need when you actually need it.

I am going to reference an excerpt from a letter submitted by the Paralyzed Veterans of America to the Manufactured Housing Consensus Committee on October 18th, 2011:

> *We are pleased that our committee recognizes the need to improve accessibility of manufactured homes. However, many individuals with disabilities who use wheelchairs or other mobility devices need more than a 30-inch clearance in order to navigate easily within their homes. A 36-inch minimum width for interior hallways would offer the greatest flexibility for so many people in need of the type of affordable housing that manufactured homes provide. We ask that the committee support the proposed change to require a minimum of 36 inches for interior hallways in multi-section homes.*

I am also going to excerpt a section of a letter sent to the Manufactured Housing Consensus Committee on October 19th, 2011 by the American Association of People with Disabilities:

> *"We applaud the recommendation for a 32" minimum clear opening in an entry door. But a 30' inch clear hallway width will not provide access. And widening a hallway seems structurally infeasible. AAPD believes adopting the minimum standard of 36" in homes wider than 14' is the only option for access, whether it is double or singlewide....accessibility standards have been around for decades and have proven necessary. A single passageway requires a minimum 36 inch clearance."*

I generally agree with industry about all issues related to financing. However, I believe that when it comes to accessibility, the industry is missing an opportunity to sell more homes. The hallway issue is not the only example of an opportunity for the HUD Code to catalyze a change in how manufactured housing is perceived by the public. There are others – door widths and bathroom dimensions are others. The HUD Code is not the specific interest of a committee commanded to address financial services, but it is an issue that will have an impact on the issue at hand - the sales of manufactured housing.

Conclusion

Financing is the greatest impediment to the restoration of our manufactured housing industry. Federal legislation could make changes that help industry and consumers. Both groups need a way for more homes to be financed at reasonable costs. We are talking about a sector of the housing market that has been systematically excluded from national efforts to expand home ownership. This is a sector where getting a loan is difficult, where interest rates are too high, and where consumer protections are scant.

Thank you for inviting me.

Testimony of Mr. Scott Yates

President, Yates Homes, and

Past Chair, Virginia Manufactured and Modular Housing Association

Before the

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November 29, 2011

Danville, Virginia

Chairwoman Biggert and Ranking Member Gutierrez, thank you for the opportunity to appear before you today.

My name is Scott Yates. I am the President of Yates Homes, a family-owned business that has operated in Pittsylvania County since 1986. Over the course of my career, I have sold manufactured and modular homes, and own and operate a manufactured housing community.

I am also a member of the Virginia Manufactured and Modular Housing Association, having served as its Chairman and also as a member of the Executive Committee, the Board of Directors and had the pleasure of being elected to MHI representing Virginia for a number of years.

From day one, I have sold manufactured homes because I knew there was a need for affordable housing and wanted to help consumers realize the American dream of homeownership. For quality of life and economic competitive reasons, every community needs a steady, well-built supply of affordable housing choices, and I decided early that I wanted to play a part in helping provide that in Southside Virginia.

Since 1986, I have seen our industry hit some of its highest points, and likewise, I have been through some of the toughest times as is the case today. At the peak of the industry our business sold 180 homes a year and employed 19 people. As the economy went into a tailspin and the housing market has slowed to a crawl, I have had to adjust our company to only 5 employees as we are selling only 30 homes a year. This being the third downturn we have been through and the longest in my career and I think we have outsmarted ourselves for the sake of fixing the housing problem and forgotten common sense resolutions.

With the constant pressure of government regulation at all levels and a lack of reliable financing sources for our customers, we have had to turn to modular homes instead of manufactured homes. The finance community has turned from manufactured homes because of secondary markets not wanting to buy the portfolios that contain this type housing. The true loser is the customer who wants to provide shelter for their family at an affordable price and who understands that manufactured housing is a viable option to do exactly that.

Four years ago, we recognized that lending sources for manufactured homebuyers were drying up. As such, we deemed it necessary to explore an alternative business model so that our company could survive. We moved into modular homes because they are built to the prevailing local building code, in this case, the Virginia Uniform Statewide Building Code, the same standard that applies to site-built homes. They have fewer restrictions for customers seeking financing and feature many of the same terms as site-built homes.

With manufactured homes, the interest rates are generally higher. In addition, we observed that the appraisals were coming in well below the price for which the home had sold. Finally, it got to the point that selling manufactured homes was a losing scenario from a financial point of view. We were selling at a lower margin and still being cut to the point that we could not make a small profit to keep our company at a profitable level.

In this scenario, however, the true loser is not me, nor is it my company. The true loser is the American people. Not every family can afford a home over 100,000 dollars. These are the families today who are suffering the most in our economy. They are being squeezed between job losses and the increasing cost of providing necessities like food, clothing and shelter for their families. In time, this leads to more people depending on our government to support them, thereby perpetuating the cycle of entitlement and spending that has brought our nation to the brink of financial destruction. This is certainly not what this country was founded on, and in my opinion, it is not the direction our forefathers had in mind when they bravely affixed their names to the Declaration of Independence.

In closing, I would like to share a story from the first year I started Yates Homes. A couple with two children came in. This loving father and mother wanted to provide a home for their family. We had a $4,000 used manufactured home for sale, and they wanted to put it on property their family owned. The father and mother had scrimped and saved so that they could purchase this home. When they wrote us a check for the $4,000, the notation in the memo line contained two very simple but powerful words: "a home." I never forget that family and those words that remind us that whether someone is purchasing a home with a $1,000,000 price tag or a $4,000 price tag, it is a home that meets their housing needs and provides a home for their family.

Chairman Biggert, Ranking Member Gutierrez and members of the subcommittee, thank you for the opportunity to testify; I welcome any questions.