



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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**Statement
of
THE NATIONAL ASSOCIATION OF REALTORS®
BEFORE THE
UNITED STATES SENATE
BANKING, HOUSING, AND
URBAN AFFAIRS
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
PRESENTED
BY
TOM MURPHY
REALTOR® WITH CHELL REALTORS®
PRESIDENT SOUTH DAKOTA ASSOCIATION OF REALTORS®**

May 23, 2002

**STATEMENT OF THE
NATIONAL ASSOCIATION OF REALTORS
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U.S. SENATE
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MAY 23, 2002**

Chairman Johnson, Senator Bennett, and members of the Subcommittee, my name is Tom Murphy. I'm a Realtor with Chell Realtors – a small residential real estate firm in Sioux Falls, South Dakota. I'm also president of the South Dakota Association of Realtors. Our State Association membership of over 1400 Realtors are engaged in helping people buy, sell and manage real estate every day.

I'm here on behalf of the National Association of Realtors, which represents more than 800,000 members engaged in all aspects of commercial and residential real estate. I want to thank you for the opportunity to testify today on this critical issue.

It's important for all of us to take a good look at how the economy and consumers would fare if banks are allowed into the real estate business. That's one reason why I am glad we have the views of consumer groups represented on this panel.

Mr. Chairman, you and your subcommittee members are to be commended for examining all perspectives on this proposed regulation—those of the little guy, as well as those of the big guy.

As I mentioned, my business is a small, one-office real estate firm, just like nearly 80 percent of Realtor firms. My colleague from Pennsylvania here represents a large regional, multi-office firm. Obviously, we come here today to present different perspectives of this nation's dynamic and diverse real estate market.

The fact that some of our members can differ on an issue, while respecting and supporting each other on most, is a great example of the vitality of the National Association of Realtors. It is a sign of the hearty competition of the real estate business today.

My comments today represent the overwhelming majority of NAR's members. Ninety-six percent of our members support the position of the National Association of Realtors to oppose this rule. Eighty-two percent of large broker/owners support this position, while 81 percent of our members believe we should be doing even more to stop the banks from unfairly entering our business.

We firmly believe that redefining real estate brokerage, leasing and property management as financial in nature is totally unacceptable because it mixes banking and commerce. If the nation's most aggressive megabanks are allowed to add real estate to their long list of approved activities, you can be sure that consumer choices in real estate services will shrink.

The nation's bankers, who petitioned the Federal Reserve and Treasury for this proposed rule, should not gain by regulation what they failed to gain by legislation. In 1999, Congress clearly went on record supporting the separation of banking and commerce.

Oddly enough, the American Bankers Association strongly supported an amendment you offered, Mr. Chairman, during the Gramm-Leach-Bliley debate to bar unitary thrift holding companies from engaging in commercial activities like real estate brokerage. It now appears that members of the ABA would like to corner the market on commercial businesses like real estate brokerage, leasing and management.

Currently, we have a balanced marketplace for commerce, banking and financial services. Let me direct your attention to the two charts set up here.

The first chart shows how the commercial and banking industries compete in the "financial services" arena. Realtors don't engage in banking. They don't take deposits or run ATM machines.

Again, Realtors are not engaged in banking. Banks don't sell real estate. Banking and commerce are separate. It is that simple. Otherwise, why shouldn't banks sell cars or appliances?

The second chart shows that in the arena where banks and Realtors do compete on mortgage originations, banks are already the winners. Realtor-affiliated mortgage lending companies only originate about 5 percent of mortgages, while the large banks handle 44 percent.

Today's competition occurs in the financial services arena where it belongs. Consumers benefit from this arrangement because the direct competition for financial services between commercial companies and banks results in greater consumer choice and customer service. When banks say they want "one-stop shopping" what they are really saying is they want "one-bank shopping."

The reality is that the entry of federally chartered banks into the real estate brokerage business would tilt this balanced marketplace toward the nation's megabanks. It would pit government subsidized banking companies against privately funded real estate enterprises. It would put taxpayer money at risk.

Mr. Chairman, the National Association of Realtors believes this issue is just too big to be decided by the regulators. The decision belongs with the nation's lawmakers. That's why we've called on Congress to enact "The Community Choice in Real Estate Act," S.1839, and H.R. 3424, a companion bill in the House, to clarify congressional intent.

Realtors from all over the country have sent more than 100,000 letters to their congressional representatives urging support for this bill. We've sent more than 40,000 letters to the Federal Reserve and the Treasury expressing our opposition to the proposed regulation. And we've sent more than 50,000 letters to President Bush urging his support.

So far, H.R. 3424 has generated tremendous support in the House, with more than 230 co-sponsors. So far, a dozen Senators have cosponsored S. 1839. Last month, Treasury Secretary O'Neill announced that he plans to postpone making a decision on this issue until next year. The ball is back in your court. It's time for Congress to resolve this issue.

Mr. Chairman, Realtors aren't alone on this issue. A diverse group of trade associations and consumer groups stand with us on this one.

Passage of The Community Choice in Real Estate Act will set the record straight. At the same time, it will ensure more balanced competition and more consumer choice.

This legislation will help to keep local entrepreneurs and businesses operating in our communities. It will help to keep some of our best community leaders and volunteers in place.

Realtors are more than business people. We are community leaders. Look in countless cities and townships across America and you will find it's a Realtor serving as a den mother; a Realtor who is leading the city-wide clean up; a Realtor who is hosting the candidate meet-and-greet; and a Realtor who is coaching Little League. Realtors are linked to their communities in more ways than simply through their businesses. Realtors have a stake in the same neighborhoods where their clients live or want to live.

Finally, this proposal just doesn't make sense. Banks have it backwards. Real estate brokerage is not incidental to a financial activity. It is the mortgage that is, in fact, incidental to buying a home. Twenty percent of all the homes sold in America involve no lender financing at all.

America's system of homeownership is the envy of the world. Homeownership is at an all time high. Five out of six homebuyers and home sellers are satisfied with their real estate agent and they would use him or her again. Let's not destabilize this pillar of our economy and relationship that works in communities throughout America.

Well over a year ago, the Federal Reserve and the Treasury Department issued a proposed rule that would allow financial holding companies (FHCs) and financial subsidiaries of national banks to engage in real estate brokerage, leasing, and property management activities. The NATIONAL ASSOCIATION OF REALTORS® (NAR) strongly opposed this regulation on the grounds that real estate brokerage and property management are not financial activities, nor are they incidental to finance, and approval of the proposed rule would thus effect a mixing of banking and commerce. This regulation would not only result in negative market and consumer consequences. An affirmative decision by the Federal Reserve and Treasury on this proposal would also violate Congressional intent, evident in several key banking laws which make it very clear that Congress specifically intended to maintain the separation of banking and commerce.

Congress adopted the Gramm-Leach-Bliley Act in 1999, which established a legal and regulatory framework for financial subsidiaries of banks and financial holding companies to engage in designated financial activities under the new law. The Act created a new entity, the financial holding company that would compete in the financial services area offering services that were prohibited to bank holding companies. By distinguishing the permissible activities of

bank holding companies from financial holding companies, the Act also reaffirmed the longstanding national policy that separated banking from commerce because of the unique powers and advantages granted to banking institutions by their federal charters.

NAR-supported legislation was introduced in both the U.S. House of Representatives and the U.S. Senate (H.R. 3424 and S.1839) that will clarify Congressional intent that real estate brokerage and management are not incidental or complimentary to a financial activity. The proposed legislation, *The Community Choice in Real Estate Act*, will maintain the status quo regarding FHCs ability to expand into real estate brokerage and property management activities through regulation. *The Community Choice in Real Estate Act* returns the issue back to its proper forum – the U.S. Congress.

The NATIONAL ASSOCIATION OF REALTORS®-supported legislation and its position on this issue is based primarily on two strong beliefs:

- 1 The Congress, *not* the Board of Governors of the Federal Reserve or the Secretary of the Treasury, is the proper judge of what is commerce and what is banking or financial services. The 535 elected Congressional representatives, not the seven Federal Reserve Board Governors or the Secretary of the Treasury, should be responsible for any changes in current law that would result in a dramatic restructuring of the real estate industry. Real estate brokerage and property management are clearly *commercial activities*. This view was central throughout the 25-year debate on the Glass-Steagall Act and the passage of the Gramm-Leach-Bliley Act of 1999, and clearly is reflected in historical and present Congressional intent.
- 2 Permitting financial holding companies and national bank subsidiaries to enter the real estate brokerage and management industry would have wide-ranging, adverse market effects. Industry concentration would increase, competition would decline, and consumer choice would be limited with no real benefits from economies of scale or scope. The unprecedented expansion of banking powers into the real estate brokerage/management industry would clearly expose the financial holding companies' and their banking subsidiaries' inherent conflicts of interest in selling financial services (banking products) rather than serving customers in the brokering of real estate property.

NAR's position was eloquently stated by Congressman Jim Leach of Iowa, the sponsor of the Gramm-Leach-Bliley Act:

“The movement to go beyond the integration of financial services and eliminate the traditional legal barriers between commerce and banking is simply a bridge we should not cross. It is a course fraught with risk and devoid of benefit and one for which there is no justification.

Such a step would open the door to a vast restructuring of the American economy and an abandonment of the traditional role of banks as impartial providers of credit, while exposing the taxpayer to liabilities on a scale far exceeding the savings and loan bailout. At issue with financial services modernization is

increased competition. At issue with mixing commerce and banking is economic conglomeration, the concentration of ownership of corporate America.”

Financial holding companies, their representative associations and other groups, including some large real estate brokerage companies, argue against the NATIONAL ASSOCIATION OF REALTORS® position. They claim that the Association is being “protectionist,” and that the entry of banks into real estate would encourage more open competition in the real estate marketplace. On the contrary, the NATIONAL ASSOCIATION OF REALTORS® position promotes open and fair competition. Indeed, its members would welcome FHCs as competitors if FHCs truly competed in a free market without the advantages of their bank subsidiaries’ federal charters and without creating the risks outlined by Chairman Leach.

Currently we have a balanced marketplace for commerce, banking and financial services. Real estate brokerage firms do not engage in banking. Financial holding companies do not engage in commercial activities, such as real estate brokerage and property management. Banking and commerce are separate. The arena of financial services allows competition from both financial holding companies *and* commercial firms. Both real estate brokerages and financial holding companies (banks) have diversified their business lines into financial services that have served as a buffer between commerce and banking activities. This was the intent of Congress throughout its deliberations on financial modernization.

The reality is that the entry of federally chartered banks or financial holding companies into the real estate brokerage business would tilt this balanced marketplace toward the FHCs. It would pit government-subsidized banking companies (putting taxpayer money at risk) against privately funded real estate enterprises. Furthermore, if FHCs are permitted to enter the real estate business, REALTORS® and builders would be placed in the awkward position of having to go to banks which are subsidiaries of FHCs – their direct competitors – for loans and financial services.

WHY REALTORS® SUPPORT
THE COMMUNITY CHOICE IN REAL ESTATE ACT

The Community Choice in Real Estate Act of 2001 was introduced by Congressmen Ken Calvert of California and Paul Kanjorski of Pennsylvania. The Act, H.R. 3424 was introduced with more than 30 original cosponsors and today has more than 225 co-sponsors. The legislation, along with its companion bill in the Senate, S.1839, is designed to address concerns expressed by both real estate professionals and consumers if financial holding companies and subsidiaries of national banks (FHCs) are permitted to engage in real estate brokerage and property management activities.

In brief, The Community Choice in Real Estate Act stipulates that federal regulators prohibit these financial institutions from engaging in real estate brokerage and management activities. More specifically, H.R. 3424 and S.1839 specify that the Federal Reserve Board and the Secretary of the Treasury may not determine that real estate brokerage or real estate management activities are financial in nature, incidental to any financial activity, or complementary to a financial activity.

THE COMMUNITY CHOICE IN REAL ESTATE ACT
RETURNS THE ISSUE TO THE PROPER FORUM – THE U.S. CONGRESS

The NATIONAL ASSOCIATION OF REALTORS® position on banks entering the real estate business aligns with both historical and current Congressional intent. The legislative history of banking laws demonstrates that real estate brokerage has been consistently interpreted as a commercial, not a financial activity. Although the Gramm-Leach-Bliley Act of 1999 (GLB) made specific reforms in the nation's banking and financial services laws, the separation of banking from commerce remains a tenet of national policy. And while the Federal Reserve and the Secretary of the Treasury are authorized by Gramm-Leach-Bliley to expand the list of financial activities, Congress has clearly indicated its intent to maintain the separation of banking and commerce.

Financial modernization – the term that advocates used to characterize the legal changes that allowed banks, securities firms and insurance companies to enter each other's businesses – has been interpreted by some as removing all barriers to banks entering non-banking businesses. But in its deliberations on the Gramm-Leach-Bliley Act, Congress stopped short of mixing banking and commerce. The GLB Act was quite specific from the outset in describing what a financial activity may be. The current activities of banks and financial holding companies principally relate to financial instruments: loans, checking accounts, mortgages, etc. While these represent value between two parties (usually a bank and a depositor or borrower), they are not tangible goods and rarely take any physical form.

Commercial activities, such as real estate brokerage and property management, offer to consumers something that is tangible – a house, an appliance, a car, for example. Although banks argue that real estate has financial attributes, even the Federal Reserve Board and the Secretary

of the Treasury in the proposed real estate regulation observed that bank-ascribed financial attributes might not be enough to treat real estate as a financial asset.¹ And while purchasing tangible assets, such as a car, computer, or a home, may entail the use of financial instruments – usually cash or loans – this does not mean that commerce is “financial in nature” or “incidental to a financial activity.” Rather, it can be argued that financial activity *is incidental to the real estate transaction*.

In the GLB Act, Congress enumerated those activities that it deemed to be financial in nature, but *specifically omitted real estate brokerage and management*. (For specifics, see 12 *U.S.C. 1843 (k)(4)*).² Congress did make provisions to expand the list of financial activities. It devised specific criteria that such activities must meet, based on new technological developments to deliver financial products to consumers and how the marketplace itself evolved. Congress also authorized the Federal Reserve Board and the Treasury Department to agree on such new financial activities.

However, Congress did not anticipate nor intend for that list of financial activities to include commercial ones. There has been no significant change in the relevant technology, or in the business of real estate brokerage or management, since enactment of the GLB Act in late 1999. The businesses of real estate brokerage and management remain, for all practical intents and purposes, the same today as they were on the date of enactment: the transfer of real property and such commercial activities related to such transactions. The very purpose of the regulation proposed by the Federal Reserve and the Treasury Department is to overturn the long-held understanding that real estate is commerce by re-designating it as a financial activity for purposes of the Gramm-Leach-Bliley Act. The proposal from the Federal Reserve and the Secretary of the Treasury runs counter to Congressional intent.

The proposal to redefine real estate brokerage as a financial activity has met opposition from a full spectrum of consumer and industry groups. In support of that opposition, Congress is reasserting its authority in the arena by introducing *The Community Choice in Real Estate Act*. This bill amends the Bank Holding Company Act to preclude any such action by the Federal Reserve or Treasury, and clarifies Congressional intent by prohibiting banks and financial holding companies from entering real estate brokerage or property management. The bill’s intent is to maintain the status quo; it does not seek to preclude any current activities that banks and their affiliated businesses are authorized to do. It reasserts Congressional intent in maintaining the separation of banking and commerce.

Members of Congress overwhelmingly are signaling their support for retaining the commercial distinction of real estate activities and their intention to maintain the separation of banking and commerce. In fewer than five months after *The Community Choice in Real Estate Act* was

¹ See Federal Register, Vol.66, No.2, Wednesday, January 3, 2001, p.310.

² Further evidence of Congressional intent regarding holding company expansion into non-financial areas can be discerned by the vote in the House of Representatives in 1998 in which an effort to permit banks to engage in commerce – up to five percent of their annual net revenue and five percent of their total assets – was defeated by a vote of 229 to 193.

introduced in Congress, more than 225 members of the House of Representatives and at least 10 members of the Senate signed on as co-sponsors of the bills.

THE ACT SUPPORTS A DIVERSIFIED REAL ESTATE SERVICES MARKETPLACE

During the past two decades, the financial services marketplace has grown substantially due, in part, to the entry of both commercial firms and banking companies. Commercial firms that are involved in the selling and/or brokering of durable goods (such as refrigerators, automobiles and homes) have naturally expanded into financial services to facilitate the transaction by offering consumer financing that is complementary to their primary service – the brokering/selling of a tangible product. Similarly, banking companies that are involved in the selling of banking services (such as consumer loans and commercial and industrial loans) have also expanded into financial services so that they can capture a greater market share by offering their customers financial services that complement their primary service – banking.

However, unlike a commercial firm, which risks its own capital funds, a bank’s ability to expand its powers and diversify into financial activities has historically been constrained by Congressional oversight. Because of the “special nature” of banks and the many federal subsidies that flow through a bank (e.g., deposit insurance, privileged access to credit), Congress has continually repeated its intent to separate banking activities from commerce activities in an effort to avoid conflicts of interest, adverse market outcomes and fairness issues that can be caused by a bank’s special privileges.

The Gramm-Leach-Bliley Act provided an opportunity for financial holding companies to expand their product/service lines into financial activities and activities that are incidental to finance. It is very clear that the GLB Act set the foundation for a shared competitive playing field for both commercial firms and banks—the financial services marketplace. Commercial firms that have subsidiaries involved in financial activities compete head on with bank-owned financial subsidiaries. This competition was not “created” by the GLB Act; it already existed because bank-affiliated mortgage lenders already existed and, in fact, dominated – and still dominate – mortgage originations. (In 1999, commercial banks and subsidiaries of commercial banks accounted for the largest market share – 44 percent – of mortgage originations, according to the Home Mortgage Disclosure Act. The top 25 diversified real estate brokerage firms accounted for only 0.8 percent of mortgage originations.) For example, the General Motors Acceptance Corporation (GMAC) – a financial services subsidiary of General Motors competes against Wells Fargo and other banks to sell financing services to customers purchasing a General Motors automobile. Similarly, Circuit City competes directly with Bank America to sell financing services to customers purchasing Circuit City- electronic products.

In the real estate marketplace, companies like John Doe, REALTOR®, compete directly with banks, like BankAmerica, in the financial services marketplace by providing real estate-related financial services – principally mortgage brokering services and title insurance – to customers purchasing a home that was brokered/sold by John Doe, REALTOR®. Both the real estate brokerage company and the bank offer a number of real estate related financial services to homebuyers and sellers.

In the post-GLB Act marketplace, the real estate brokerage company does not offer banking services and banks do not offer commercial services – real estate brokerage and management. The separation of banking and commercial activities is intact. The *competition is in the financial services arena where it belongs*. Consumers benefit from this arrangement because the direct competition for financial services between commercial companies and banks results in greater consumer choice and customer service. Prohibitions against the encroachment of federally subsidized banks into the world of commerce limit conflicts of interest or unfair competition.

Congress Determined that Banking & Commerce are Separate



The ability of real estate brokerage companies to diversify their business lines into the financial services marketplace has produced a number of diversified real estate services companies to better serve consumers. Even the smaller and less diversified real estate brokerage companies now look to offer ancillary services to their homebuying and selling clients. Moreover, there are examples where banks and real estate brokerage companies have joint ventured in the financial services marketplace. A prominent example is Prosperity Mortgage, which couples Wells Fargo Bank and Long and Foster, REALTORS®.

Diversified real estate brokerage companies compete directly against the large financial holding companies (banks) in the financial services marketplace each and every day. The competitive dynamics in this marketplace are no different from the competitive nature of the automobile and electronics marketplaces. The beneficiaries in all of these markets are consumers.

THE COMMUNITY CHOICE IN REAL ESTATE ACT **WILL BENEFIT CONSUMERS AND THE REAL ESTATE INDUSTRY**

The Community Choice in Real Estate Act will help to maintain a competitive, efficient, and balanced real estate marketplace, providing consumer choice at low cost and with no risk to the U.S. taxpayers. The entry of federally insured depository lending institutions into the real estate brokerage business would tilt the competitive playing field by pitting government-subsidized financial holding companies and national bank subsidiaries against privately funded real estate enterprises. Passage of the Act will help preserve a fiercely competitive real estate brokerage marketplace.

The real estate brokerage industry as it exists today has large numbers of independent real estate professionals and brokerages actively competing for prospective buyers and sellers. Competition is fierce, efficiencies are high, and there are relatively few barriers to entry. These characteristics make it highly unlikely that the proposed regulation would benefit either business or consumer interests.

The residential real estate brokerage industry is a competitive marketplace, where more three quarters of a million REALTORS®³ and tens of thousands of real estate brokerages compete for customers' business each day. The underlying cost structure of the industry and the relative ease of entry into the market serve as checks to the concentration of market power. The large number of industry players ensures homebuyers and sellers access to service providers who best meet consumers' needs at the lowest price possible.

Real estate firms tend to compete actively for business in three different arenas. First, firms compete for the best real estate agents. Second, firms compete for sellers' listings and homebuyers against other real estate firms in their market area. Finally, real estate firms and agents compete against the other homebuying and selling options, including For Sale by Owner (FSBOs). The result of this three-pronged competition revenue and cost pressures that limit profitability for most real estate brokerages. But this competition also results in excellent service provided efficiently by real estate firms and agents for both buyers and sellers. *The Community Choice in Real Estate Act* would preserve this system.

MIXING BANKING AND COMMERCE WILL STIFLE COMPETITION IN THE REAL ESTATE INDUSTRY

Today any commercial firm can enter real estate brokerage, but FHCs have government-imposed barriers to entry. National banks and financial holding companies have long been able to own mortgage companies and engage in joint ventures with real estate firms. They now claim that real estate brokerage and management are financial activities, without acknowledging their current competition in this area through their existing mortgage lending affiliates. Financial holding

³ There are approximately two million people who hold real estate licenses. However, not all of those are active practitioners. It should be noted that REALTOR®, REALTORS®, and REALTOR-ASSOCIATE® are registered collective membership marks that identify, and may be used only by, real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.

companies now want to directly own commercial firms in the form of real estate firms and compete with other commercial firms using the federal subsidies available to their banking subsidiaries. This is not the sort of competition that Gramm-Leach-Bliley envisioned.

The expansion of banking powers that would permit FHCs to engage in real estate brokerage activities will have a detrimental effect on the real estate brokerage industry. The federal banking charter provides federal deposit insurance and privileged access to credit – advantages not offered to real estate brokerage firms. Most of the advantages of the bank charter directly add to bank profitability that would flow up to the financial holding company, thus offering FHCs and their real estate brokerage subsidiaries a competitive advantage over commercial firms in the real estate industry.

Allowing FHCs to provide brokerage, funding and investment services for real estate would increase the power of these integrated firms. This power could be used to limit the entry of new real estate firms and thus limit the competition characterizing the market today in two distinct ways.

First, FHCs would have the ability to fund new real estate brokerages with revenues from the banking side of the business, thus tilting the playing field towards FHCs. Financial holding companies would be able to use banking fees or even profits from their mortgage operations both to increase profitability and to subsidize their entry into insurance and other financial services. Few traditional real estate brokerages have access to outside income streams to subsidize the real estate brokerage business. The result could be an increase in industry concentration as real estate brokerages exit the industry unable to respond to their well-financed new competitors. The same dynamic would limit entry of new real estate firms.

Second, FHCs could leverage their privileged access to capital, access to numerous subsidiaries and outside income streams to engage in a sustained period of below-cost pricing designed to eliminate other firms providing the same service. This could damage any real estate brokerage firms that do not have the resources to defend themselves against a well-financed and subsidized FHC. Again, formerly viable real estate brokerages could be forced to dissolve – not because of an inability to provide efficient and quality service to consumers, but because below-cost pricing can unfairly eliminate the competition. The result could be a smaller number of firms that are less likely to provide the benefits that competition brings to today's real estate brokerage market.

MIXING BANKING AND COMMERCE HURTS CONSUMERS

The NATIONAL ASSOCIATION OF REALTORS® agrees with the message sent by the U.S. Congress: mixing commerce and banking will adversely affect the real estate industry. If big banks are allowed into the real estate business, the market could soon be dominated by a smattering of large banking conglomerates whose primary goal is to cross-sell various financial products, not to put people in homes and commercial properties. The end result could be fewer choices for consumers, higher fees and less competition.

In the banking industry a few dominant firms control a significant share of the total market. FHCs' entry into the real estate brokerage market would likely increase concentration and

introduce unfair competition because of their federal subsidies. There is likely to be a significant decline in the number of firms and the number of small firms that represent a key segment of the industry. The real estate brokerage business could change from a localized, highly competitive industry to one that is dominated by nationwide federally chartered firms.

It is unclear what FHCs could bring to the market that would increase competition. Any additional entry will not necessarily lower costs. FHCs claim that consumer costs will go down, but those lower costs can only be realized by introducing economies of scale or scope, cross-subsidization, or predatory pricing. The latter two reasons are not permanent benefits for consumers. Only the first – economies of scale – enhances consumer welfare. Without an increase in efficiency, there would be no cost savings to pass along to consumers. But there are limited economies of scale in the real estate brokerage industry.

Even if FHCs were able to reduce real estate brokerage fees temporarily, any savings to homebuyers would be offset by higher costs for bank customers. Absent economies of scale, lower real estate brokerage fees can only come via cross-subsidization from other business arenas. The higher banking fees are likely to become permanent features of the banking system, given barriers to entry and concentration of market power, while reductions in real estate brokerage fees could be temporary as firms exit the industry.

The expansion of banking powers that would permit financial holding companies into the real estate brokerage business could also limit consumer choice in the selection of a real estate professional and other real estate-related service providers. FHCs have an inherent conflict of interest in selling financial services (banking products) rather than serving customers in the brokering of real property. The parental relationship between FHCs and their subsidiary real estate brokerage business would likely steer consumers to the FHCs' subsidiaries. Agents working for an FHC-owned real estate brokerage firm would have less incentive to find an outside loan provider or other real estate settlement service vendor that best fits their customers' needs.

There is also the likelihood that FHCs entering the real estate brokerage industry would retain their real estate agents as salary-based employees, rather than as commission-based independent contractors. As FHC employees, these real estate agents would focus on the FHC's profits, cross-selling the holding company's other services. This is contrary to the current real estate market where there is fierce competition among a large number of firms ensuring that consumers receive valuable, *impartial* advice when they most need it.

THE ACT BENEFITS CONSUMERS AND THE REAL ESTATE INDUSTRY

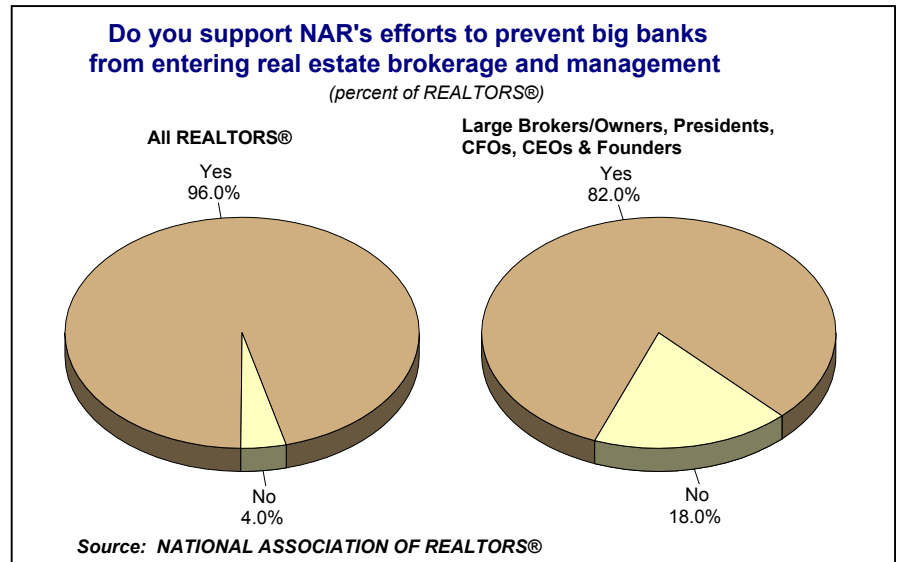
In summary, passage of *The Community Choice in Real Estate Act* will ensure more competition, and thus more consumer choice. More competition will maintain the lowest cost real estate brokerage services as well as lower banking fees. Taxpayers will be protected from risks associated with commercial endeavors underwritten by federally insured depository lending institutions. Consumers will continue to be served by real estate professionals whose interests are aligned with theirs.

The Community Choice in Real Estate Act defines real estate brokerage and management as commercial activities, outside the scope of a federal bank charter. *The Community Choice in Real Estate Act* will limit banking institutions to activities permitted under their current charters, and maintain the current environment that provides for an efficient and competitive real estate brokerage market that benefits both the real estate industry and America's consumers.

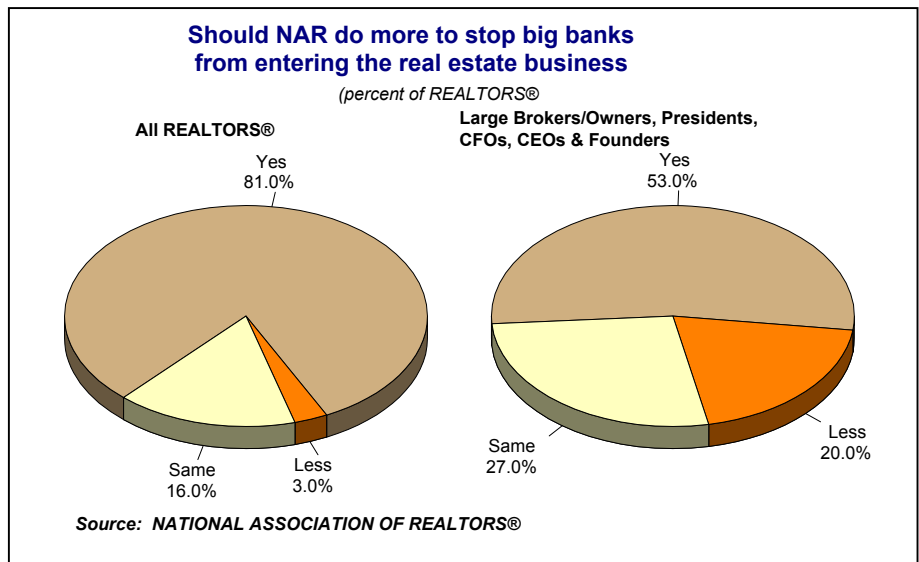
OVERWHELMING INDUSTRY SUPPORT FOR THE NATIONAL ASSOCIATION OF REALTORS® POSITION

The NATIONAL ASSOCIATION OF REALTORS® represents all of its members and the real estate industry as a whole. In the last 14 months, the Association has spoken for its 800,000 members with one voice, as *The Voice for Real Estate*. A unified voice is crucial in maintaining a competitive and highly efficient real estate industry that serves America's property owners. It is even more vital on the issue of allowing financial holding companies and national bank subsidiaries (FHCs) to engage in real estate brokerage and property management activities.

Recent research indicates that the NATIONAL ASSOCIATION OF REALTORS® *does* speak for an overwhelming majority of its members who oppose FHCs' entry into the real estate brokerage and management business. In a recent survey (February 2002), more than nine out of 10 REALTORS® oppose the pending Federal Reserve and Treasury Department rule that would allow big banking conglomerates to enter real estate brokerage and management. Perhaps more importantly, 96 percent support efforts by the NATIONAL ASSOCIATION OF REALTORS® to prevent FHCs from entering real estate brokerage management.

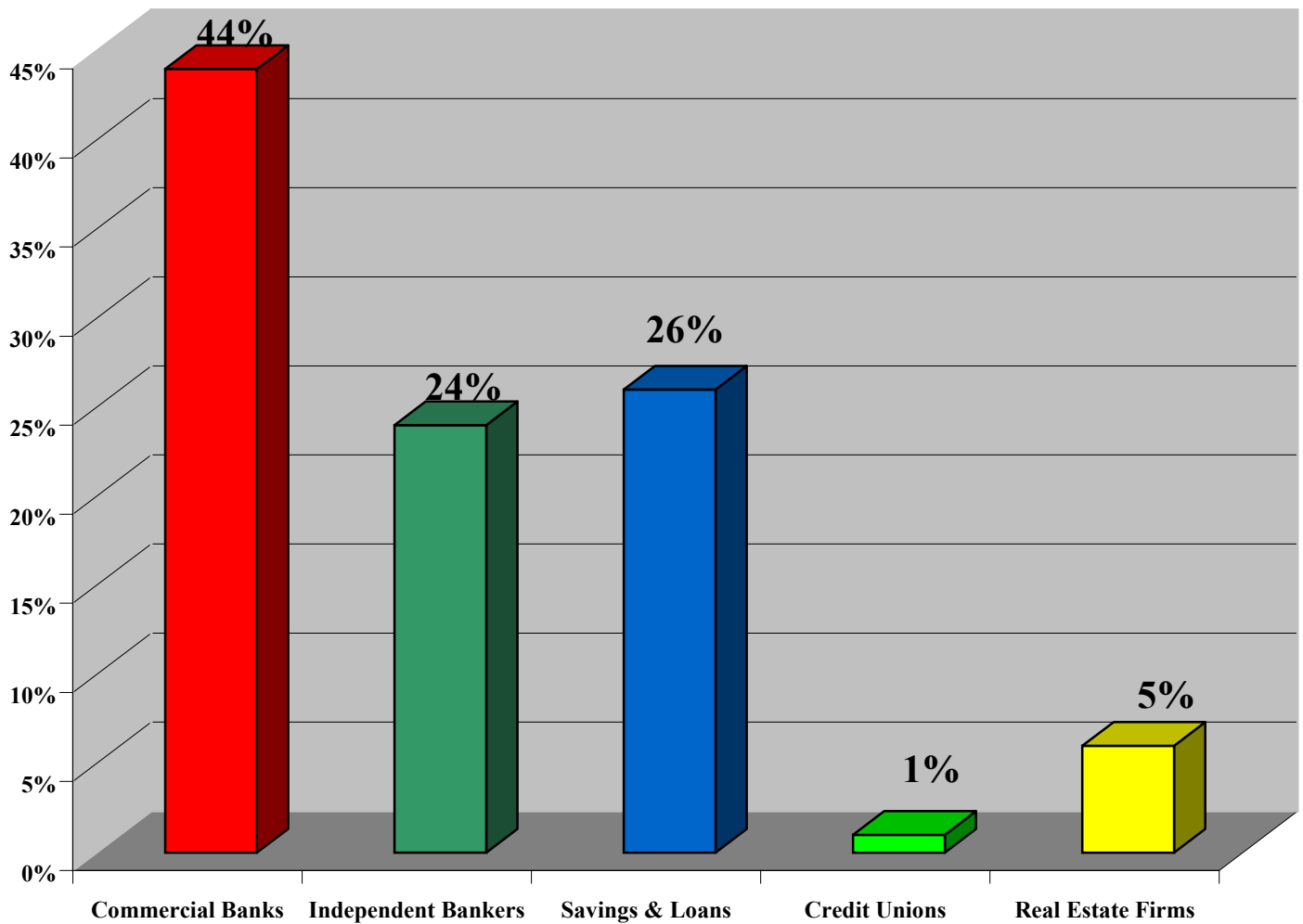


The survey found widespread support among broker-owners as well as sales agents. Some 82 percent of large brokers support NAR's position, according to the survey. The survey also found that 81 percent of REALTORS® want NAR to be even more aggressive in its efforts, and majority of large brokers also want NAR to do



more to stop FHCs from entering the real estate business.

Mortgage Loan Originations



* Data according to 1999 Home Mortgage Disclosure

State Banking and Real Estate Activity

Few state-chartered banks engage in real estate brokerage

- Only 6 states have banks with residential real estate brokerage operations
- Only 18 banks in these states have residential real estate brokerage operation
- These banks represent 0.2 percent of all banks and serve areas with 0.57 percent of U.S. population.

	<i>State</i>	<i>Bank Name</i>	<i>City</i>	<i>County</i>	<i>County Pop</i>
1	Iowa	Tama State Bank	Marshalltown	Marshall	39,311
2		Northwest Federal Savings Bank	Storm Lake	Buena Vista	20,411
3		Sac City State Bank Real Estate	Sac City	Sac	11,529
4		Mercantile Bank-Rock Rapids	Rock Rapids	Lyon	11,763
5		United Bank of Iowa	Odebolt	Sac	11,529
6		First Central Bank	Dewitt	Clinton	50,149
7		Maquoketa State Bank	Maquoketa	Jackson	20,296
8		Hardin County Savings Bank	Eldor	Hardin	18,812
9		St. Angar State Bank	St. Angar	Mitchell	10,874
10		First Federal Bank	Sioux City	Woodbury	103,877
11		Tranor State Bank	Tranor	Pottawattami	87,704
12	Georgia	Community Bank	Cornelia	Habersham	35,902
				Jackson	41,589
				Stephens	25,435
13	Wisconsin	Bank of Alma	Alma	Buffalo	13,804
14		Anchor Bank	Madison	Dane	426,526
15		Union State Bank	Kewaunee	Kewaunee	20,187
				Brown	226,778
16	Michigan	First Bank	Excanaba	Delta	38,520
17	North Carolina	People's Bank	Newton	Catawaba	141,685
18	Nebraska	Security First	Lincoln	Lancaster	250,291
				TOTAL POP	1,606,972

Source: Research conducted by the NATIONAL ASSOCIATION OF REALTORS® July 2001. Information collected through telephone calls with state banking and real estate regulators and state REALTOR associations.

