

Statement on H.R. 2446: RESPA Home Warranty Clarification Act

Congressman Luis V. Gutiérrez

Subcommittee on Insurance Housing & Community Opportunity – Markup

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I respectfully disagree with the proponents of H.R. 2446, the RESPA Home Warranty Clarification Act. Since I believe that HUD's interpretation of this issue is correct, I cannot support this bill.

My opposition to H.R. 2446 is not about the value of home warranties – I agree that they can be very valuable for many homeowners. My opposition is about kickbacks, pure and simple. If realtors are offered commissions just for making referrals to home warranty companies, this creates a very strong financial incentive for them to push home warranties on potentially vulnerable consumers. We have seen this movie over and over again...

Instead of paying realtors kickbacks, I think it is appropriate for home warranties to be covered as a settlement service under RESPA.

The disclosure provision included in H.R. 2446 might help, but it is not enough. We cannot allow these kickback arrangements at a time when consumers are making complicated decisions involving what may very well be the largest monetary transaction of their lives. This is a basic consumer protection.

I have not yet heard a compelling argument about why home warranty companies need kickback arrangements with realtors in order to be successful.

If home warranty companies are providing the valuable services that many of us acknowledge they are, then they should be able to market those services to homeowners without exclusive, paid arrangements with realtors that can easily be confused with the settlement services that homeowners are required to purchase.

When you sell or buy a house, the realtor might recommend several settlement companies or closing attorneys. They can give you a list of trusted inspectors in your area to perform the required inspection. But they cannot get kickbacks for steering you to one of these people in particular. Why should home warranty companies be any different?

I should point out that the coverage of home warranty services under RESPA does not totally prohibit exclusive arrangements or compensation of realtors by home warranty companies. But the compensation has to be for actual services, like inspecting the items to be covered by the warranties or recording serial numbers.

In their testimony before this subcommittee last July, HUD recommended a study to assess business practices around the sale of home warranties, the value of typical warranty contracts to homeowners, and any needed consumer protections.

I urge my colleagues to follow this recommendation and to vote against this bill.