

REMARKS

BY

THE HONORABLE HARRISON A. WILLIAMS, JR.

PUBLIC SECURITIES ASSOCIATION

HAY-ADAMS HOTEL

Washington, D. C.

Wednesday, March 5, 1980

It is a pleasure to be here this afternoon to address the Public Securities Association at this Legislative Conference.

In the few short years since its creation, PSA has become an important spokesman for a key segment of our overall capital markets. As the intermediaries in public finance, the members of PSA play a pivotal role in the financing, and therefore, the operation of government.

Public securities dealers and legislators have long shared a mutual concern about the quality and the integrity of the public securities markets. This mutual concern has frequently made us allies -- the establishment of the Municipal Securities Rulemaking Board in 1975, and the current mortgage revenue bond legislation are two illustrations. At other times, we have been advocates and even antagonists -- the most notable example of this is the legislation I have sponsored in the past to prescribe Federal disclosure standards for municipal securities, and PSA's reaction to it. In retrospect, I believe that together we have worked for and we have achieved a better public securities market.

This afternoon, I would like to discuss three basic subjects. The first is the trend in disclosure and financial reporting by State and local governments. Second, I want to lift my sights from municipal securities to talk about the regulatory activities of PSA Self-Regulation, Inc. in connection with mortgage-backed securities and the need for additional Federal legislation. Then, as Chairman of the Senate's Subcommittee on Housing, I want to mention the significance of mortgage revenue bonds as an important weapon in the Nation's continuing struggle to adequately house its growing population.

Let me now turn to each of these subjects, starting with municipal disclosure legislation. For the better part of the last decade, the Congress has devoted a lot of attention to municipal securities and to the financial condition of State and local governments. The reasons are obvious. First, there was the epidemic of fraudulent selling practices in the early 1970's that led to the creation of the Municipal Securities Rulemaking Board. Then, New York City's near bankruptcy occurred, disrupting the entire municipal market, and requiring the Congress to pass two unprecedented bills to keep the city solvent. And for the first time in its history, the SEC turned its attention to municipal securities and began prosecuting cases with a vengeance.

As Chairman of the Senate Subcommittee on Securities during this active period, I had first-hand knowledge of the problems and the firing line responsibility to pose solutions. And I did sponsor several bills intended to promote investor confidence in, and maximize issuer access to, the bond markets through improved disclosure. While these bills have not been enacted, the message has been received. Issuer officials, their financial advisers and underwriters have come to understand that investors are entitled to more professionalism and better information as part of the process of municipal finance.

Needless to say, the debate over my mandatory disclosure legislation sparked a spirited and vigorous debate. It served as the sparkplug for the improvements in municipal reporting achieved through the cooperation of the Municipal Finance Officers Association, PSA, and others. As a result, the quality of disclosure available in the marketplace has improved. And I am satisfied that the continued development and refinement of disclosure standards can be left to these organizations.

There is one area where legislation is still imperative, however. In my judgment, financial statements are at the very heart of effective disclosure. Yet today there are serious deficiencies in government accounting and financial disclosure that have eluded both notice and resolution for too long.

Despite all of the debate in the past decade, the accounting principles and practices employed by State and Local governments remain embroiled in controversy and confusion. This stands in marked contrast to the well-settled field of corporate and commercial accounting. The current issue of Forbes notes that “even with a doctorate in accounting it’s hard to make sense of municipal accounting.” It then asks the question “Is Chicago really more complex than GM?”

The reality is that accounting for State and local governments is in a state of disarray. Within a single state, it is often difficult to find uniformity and consistency in the accounting procedures. Even basic terms remain in dispute. There is no effective government or private mechanism to develop and enforce accounting standards in the public sector. Voluntary compliance carries no rewards and non-compliance comes without penalty.

All of this may seem hard to believe but it is true. Accounting for State and local governments remains a wilderness. And as taxpayers and voters, we are all paying a very dear price for preserving this natural state. The reasons should be clear. First, in fiscal year 1981 the

Federal government will spend almost \$100 billion on grant in aid programs for State and local governments. Keep in mind that most of these grants are based on information supplied by grant recipients. Second, better State and local accounting standards seem essential in maintaining stability and access to capital markets for many cities. Third, there is of course the possibility that the Federal government may become the lender of last resort to other cities unless their access to the capital markets is maintained. It is unfortunate, yet true, that a serious economic downturn could expose the serious financial distress which afflicts too many American cities and states.

After much reflection, I believe legislation is essential. And I have designed legislation to create at the Federal level an entity whose only mission would be to develop accounting standards for State and local governments and to assure uniformity in those standards. These are the objectives of my State and Local Government Accounting and Financial Reporting Standards Act. It would essentially create an accounting standard-setting body that would promulgate accounting standards and work with existing organizations, such as the FASB and the National Council on Government Accounting.

As underwriters, you know better than I the value of this data and the difficulty and danger of laboring without it. A recent court decision involving New York City's securities is a stark reminder of the responsibility and liability that underwriters of municipal securities must shoulder as policemen in the marketplace. For this reason alone, I would urge PSA, as an influential trade association, to consider this legislation and support it.

As Chairman of the Housing Subcommittee, I have a great admiration for the success of the Ginnie Mae program. In its 10 years, this program has attracted huge amounts of capital into the housing market. There are now nearly \$100 billion in Ginnie Mae securities outstanding.

Over one-fourth of the total amount was issued just in the past year. Through the mortgage-backed securities program, financing for nearly 3 million home purchases has been obtained. And it is estimated that more than 9 million Americans have lived in homes financed through the program. By any yardstick, this program is a success.

Unfortunately, the well-deserved reputation that Ginnie Mae has earned over the years has been called into question by an epidemic of fraudulent and unconscionable practices. The losses to individual and institutional investors have been staggering, not to mention the difficulties dealers have experienced. The incidents of high pressure sales techniques and excessive speculation have been well-publicized, enough to attract the attention of every Federal agency involved with this program, ranging from the issuers to the regulators of the financial institutions that are among the largest investors -- credit unions, thrifts, and commercial banks.

I need not elaborate for this audience the seriousness of these problems. Nor is it necessary to beat the drum for a solution. PSA is well aware of both. The PSA detected several years ago the need for remedial steps and it has committed itself to the very difficult task of persuading an unregulated industry to accept a more formal degree of regulation on a voluntary basis. I commend you for the creation of PSA Self-Regulation, Inc. and compliment the many individual firms that have supported its efforts.

However, the efforts of PSA notwithstanding, I have concluded that new legislation may be the only workable and permanent antidote to the serious problems that continue to plague this market.

These problems are not confined to any one segment of the market, nor are they isolated. They afflict every participant in this vast market, from the originators of the securities to the investors, large and small, individual and institutional. Because of its size, its complexity and

the number and nature of its participants, only a coordinated and comprehensive solution can successfully protect the GNMA program and the market for its securities.

I want my position to be as clear as possible and to avoid any misunderstanding. In my judgment, legislation is needed not because the industry's efforts have failed. Rather legislation is possible and desirable because the industry's efforts have been stymied by both practical and legal impediments that cannot be overcome except by congressional action. Like a majority of forward-looking industry leaders, I believe the Congress appreciates the need for an industry-run self-regulatory body. And only an act of Congress can provide the industry with the authority and the tools to establish such a self-regulatory body.

By now, the legal and practical impediments PSA Self-Regulation, Inc. has encountered should be well understood. One is the obvious fact that those who operate on the outer limits of the law have no incentive to join any self-regulatory effort. If they do join voluntarily, it is probable that the anti-trust laws would operate to preclude any enforcement, or the imposition of any sanctions, against an errant member. Yet, mandatory membership and enforceability are the key ingredients of successful self-regulation. So is the ability to regulate the economic activities of its members, by either prescribing margin requirements or by imposing economic sanctions.

To make self-regulation work, new legislation is needed. I am now developing legislation to confer such powers on a government Securities Rulemaking Board. The notions in the bill are not yet final, but I can share with you some of the broader concepts. First, an entity like the Municipal Securities Rulemaking Board should be established to regulate the dealer community for mortgage-backed as well as other Federally-guaranteed securities. The framework of self-regulation leaves it to the industry to develop rules to promote the highest standards of business conduct and procedure, requiring expertise the Federal government just

does not have. Second, the new self-regulatory body will operate within a framework of Federal supervision that will vest in the SEC and other Federal agencies a residual voice in its activities. Third, this new regulatory scheme will be streamlined and harness the apparatus that already exists in government to conduct other regulatory functions, such as examinations and enforcement. Fourth, to avoid any inadvertent consequences on this important market, the closest consultation must be assured between the self-regulatory body regulating dealers and the agencies which supervise the issuers and investors in these securities. Fifth, and finally, given the advanced stage of PSA Self-Regulation, Inc., its current rules should be seriously considered to serve as interim rules upon the creation of the new self-regulatory body by Congress. This will recognize the efforts of the industry to date and avoid any delay in meaningful industry self-regulation.

I will soon introduce this legislation. Based upon my contacts with other interested industries and authorities, I hold out some hope that this bill can be passed in this Congress.

Finally, I would like to touch briefly on the continuing controversy over tax exempt single family mortgage bonds. For over a year now, the burgeoning use of these bonds has provoked considerable debate in Congress. Proposals to ban or severely restrict mortgage bonds were introduced early in the Congress in response, primarily, to a single concern: that mortgage bonds represent a loss of tax revenue. These proposals resulted in an abrupt halt in the proliferation of these issues.

In order to allow consideration of the housing and community development implications of mortgage bond programs, I introduced a bill -- S. 2064 -- to allow use of mortgage bonds where targeted to moderate income people, or as part of revitalization or redevelopment programs. From my perspective as Housing Subcommittee Chairman, I believe these programs

can be an effective supplement to both Federal housing programs and to the private mortgage industry.

In recent months, the confusion and controversy over this issue has continued. Early in January, in a somewhat unique approach to the legislative process, the Windfall Profits Tax conference came close to adopting a proposal to restrict mortgage bonds -- which had never been voted on in either House! Fortunately, we were able to persuade the conference to leave the question to the normal process of debate and deliberation.

In addition to the political controversy, the recent difficulties of the bond market have had a devastating effect on the ability of housing agencies to sell their issues. Recent reports indicate that several state housing finance agencies have had to pay either unheard of interest rates to sell their issues, or simply had to pull their issues off the market because costs were too high.

From this experience we have learned that excessive restrictions on bond issues are not necessary because the market will impose natural limitations. To me, this is the strongest argument against unduly restrictive legislation. As a housing person, my belief is, that in a limited bond market, we should make sure that the issues which can be absorbed in the market are only those which most effectively promote valid housing and community development goals. My legislation would accomplish this.

My hope now is that full consideration of this issue by the Finance Committee -- and by the whole Senate -- will help focus the debate on the constructive bond programs which need to be preserved.

The PSA has an important perspective on the mortgage bond question. As underwriters and financial experts, you have a large stake in the success of these programs -- and you have an

equally large stake in seeing that these programs remain socially, as well as financially, responsible. I commend PSA for recognizing this by endorsing my legislation.

Your first legislative conference is an excellent opportunity to let the Congress know your views on the important issues affecting the public securities market. I hope that my views on some of these issues now are clear. Since I believe that a continuing dialogue between groups, individual citizens, and their representatives is vital to the success of the democratic process, I urge you to actively participate in this process. Because even if we don't always agree on each issue, we can't solve any of our Nation's problems without cooperating in the search for solutions.