

From: Peter Hebert
Subject: Regulation Z - Truth in Lending

Comments:

December 23, 2010

Peter Hebert

Re: Reject the Proposed Truth in Lending Act Amendment (FRB Docket Number R-1390)

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, Northwest
Washington, D C 20551

Dear members of the Board of Governors,

I am writing to insist that the Federal Reserve reject consideration of the proposed amendment to the Truth in Lending Act (TILA). Amending TILA would abolish the extended right of rescission, which is a key defense to foreclosure. I oppose the proposed amendment for the following reasons:

First, the foreclosure crisis was the result of an "inside job." The foreclosure crisis was not the result of the Community Reinvestment Act or the push to increase homeownership 2.5 percent from 65 to 67.5 percent. This media driven misinformation has dominated the narrative as a result of banks using public relations firms and sloppy journalism with no investigation. This foreclosure crisis was the result of predatory lending, layered risk in origination and underwriting, and loan officer directed mortgage fraud in many different forms. Refusing to amend TILA would permit defrauded borrowers with an opportunity to refinance their way out of a personal crisis that has become a national catastrophe.

Second, I know from first hand observation after having worked as a banker, correspondent lender, and as a broker that loan officer directed mortgage fraud was routine. Loan officer's directed the overstatement of income using loan origination software to get the borrower qualified, not to ensure that the borrower had an ability to repay. These practices were the result of absurdly loose underwriting standards across the industry. Baiting and switching borrowers with alternative mortgage products was also routine. Lenders further defrauded customers by failing to provide key disclosures. Borrowers may have signed them, but sometimes copies were not given to them afterwards. Changes in loan terms during an application process were not necessarily followed up with a redisclosure. Borrowers rarely had full understanding of the process or the system. The amendment to TILA that should be considered is that the banking regulators would handle the forensic loan audit on behalf of injured borrowers rather than burdening struggling households with the legal expenses paid to for-profit law firms that have carved out a niche as a result of regulatory failure.

Third, what the public wants to see is corporate accountability. Thus far, the public has witnessed legislative malfeasance in each law that addressed different aspects of the housing, finance, and economic crisis. The banks need

to be held accountable for their low hiring standards, poor training of their staff, and lack of adequate quality controls. Thus far, the free market alone has held the banks accountable, but government and regulatory intervention has distorted the free market. Let the banks borrow their way out of the crisis of their own making, and if they fail due to excessive debt, let them fail and be sold off to those capable of restructuring and better managing them.

Fourth, the foreclosure crisis and the circumstances around this is worse than many realize. Foreclosures are at three times the level of 1933. Abolishing TILA's defense to foreclosure would make the foreclosure crisis worse.

Fifth, the credibility of the Federal Reserve is on the line. Many mistakenly believe that the extended low interest rate policy created the housing bubble. I believe that this policy was only a contributing factor. The primary culprit for the bubble and the foreclosure crisis was financial engineering that produced "affordability products," which consumer advocacy groups have correctly labeled as predatory lending. In the beginning of the crisis, there was a blurred line between predatory lending and subprime lending, because predation in fact was at the heart of targeting products designed to fail into a credit market niche. Reverse redlining was routine due to list brokers that acquired and then sold consumer credit data to lenders. Refusing to amend TILA on behalf of the banks would serve to shore up public confidence in the Federal Reserve.

When borrowers discover they were defrauded by their lender, they have a three year right to block the lender's ability to foreclosure, they can refinance, and get a refund of fees and interest paid. Those refunds, obviously, have hurt the banks. The banks are responsible for the actions of their employees, who they hired and trained. Saying no to the member banks that have petitioned the Federal Reserve to amend TILA would serve as an ideal opportunity to restore credibility to the central bank as a regulator and protect injured borrowers, who have a right to defend themselves from inappropriate foreclosure actions.

Sincerely,

Peter Hebert

Author of Mortgaged and Armed, Freedom House Press, July 4, 2010
www.MortgagedAndArmed.com