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Proposal: 1417 (RIN 7100-AD75) Reg Z - Mortgage Repayment Standards

Subject: Reg. Z

Comments:

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Comments:

Title XIV Section 1401 (2) (E) To the Federal Reserve Bank I am offering brief comments to the proposed changes as contemplated under this new ruling. I am neither an attorney nor have I sought legal assistance to help draft my comments. I am a small businessman who is engaged in providing assistance with the manufacturing and selling of seller-financed notes; thus my livelihood is at stake as these rules are being contemplated. Hence, I have a real vested interest and wish to be heard accordingly. I have read these proposed changes and frankly, I'm highly concerned over the potential impact they could impart on the one area of the real estate market that is still working today, and believe the rule makers should be concerned, too, if they truly understood the potential impact of these new rules on the real estate markets. Please permit me to elaborate. Regretfully, the proposed changes may impose unintended consequences on those, perhaps 3-5% of the mortgage market who even successfully utilize seller financing to convey their property, and will unfortunately eliminate a valuable and viable financing alternative that is thankfully filling some of the void left by the implosion of the mortgage markets and the dramatically stricter underwriting guidelines, where as many as 70% of all applicants who could get a mortgage five years ago can't get one today. To have the government now impose new rules that will make seller financing even more difficult is happening at precisely the wrong time given the horrific real estate market conditions that seem destined to get still worse before there might be any glimmer of hope and makes on sense at all. It is imposing new disclosure rules that far-exceed current industry practice, whereby a buyer would have to disclose their financial information to a seller before the seller could even consider the merits of their bid on the property. Does this possibly violate privacy issues for the buyers let along defy common sense? Does anyone really expect sellers and buyers to understand a 169 page rule that reportedly defines the ability to repay underwriting requirements - doesn't that seem just a little bit excessive and unrealistic to you? Worse yet, should the seller and buyer deviate in the least from these rules, the buyer has up to three years to rescind the sale and demand the return of all monies paid to the seller. Really? Seriously?? This could be financially devastating to the seller and not very realistic. With all due respect, this is just plain ridiculous to expect that anyone of average intelligence could possibly comply with these requirements or be in a position to bear the consequences of a mistake should the buyer be able to rescind the transaction at any time in the next three years. How do you spell "litigation?" It's a landmine and is just plain wrong. Further, why should the buyer be required to divulge their income and assets to the very person with whom they are negotiating the terms of the sale? Not only does this invite predatory lending opportunities, but nowhere else in our financial system is this onerous and incredibly ill-advised requirement made. Certainly not when dealing with a 3rd party lender. Where is the protection for the buyer in this disclosure? Are they not afforded equal rights under the law to be able to negotiate in good faith without having the cards stacked against them? That's what real estate agents, escrow, purchase agreements, and deposits are all for - to protect BOTH parties in a transaction. And remember, probably 80+% of all properties being sold today in the U.S. even if they are offering seller financing are also employing the services of a licensed real estate broker. Another restriction being proposed involves limiting the ability to negotiate for a balloon payment; rather, requiring the loan to be fully amortizing. Since the demographics of property sellers offering owner financing probably involves a median age of 60, there is a reasonable chance that they would not live long enough to collect the back-end of their 30 year payment given their shorter life expectancy. Hasn't the government taken a dim view of insurance companies who sell 30 year annuities to seniors, and isn't this just about the same sort of situation? Further, the Act has granted community banks the right to offer five year balloons as a way to hedge against inflation and rising interest rates. Don't private property owners deserve this same protection?? If a buyer could qualify for a conventional loan, in most all instances, they would certainly pursue it over seeking and purchasing a property utilizing seller financing. But for the tens or hundreds of thousands of buyers who can't qualify today, if you eliminate most of the inherent flexibility of seller financing, where the buyer and the seller responsibly negotiate the terms of a sale, you are going to eliminate a powerfulsegment of the market that is helping sell tens and tens of thousands of properties, both residential AND commercial, each year, and is likely destined to become even more prominent once Freddie Mac and Fannie Mae disappear and the mortgage market becomes "privatized." The SAFE Act was set up to protect borrowers from dishonest sellers, and defined them accordingly based on the number of properties they might sell in any given year, but it specifically carved out sellers who were selling their own residences. Dodd-Frank allows a property owner to use seller financing without having to become a mortgage loan originator as long as they don't use it more than three times in a 12 month period. I contend that similar provisions should be permitted in these rules so that Ma and Pa Main Street won't be negatively impacted by these changes that other regulators in other equivalent situations (including HUD which reportedly is responsible for much of our house financing) saw in their infinite wisdom to carve out of their laws. It seems the Fed. has contemplated certain carve-outs in such segments as time shares and reverse mortgages to name just two. It only seems logical that they should provide a similar carve-out (or appropriate cap) for seller financed properties or there will be no alternatives left for our American homeowners to work their own way out of this financial mess without having to go through the same financial institutions that got us to this bad situation in the first place or follow disclosure restrictions that are almost humanly impossible to implement. Thank you for your every consideration.