From: Cliff Tulpa

Subject: Reg Z - Truth in Lending

Comments:

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Proposal: Regulation Z - Truth in Lending - Closed-end Mortgages
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Name: Cliff Tulpa
Affiliation: Mortgage lender and Mortgage broker
Category of Affiliation: Commercial
Address:

City:
State:
Country: UNITED STATES
Zip:
PostalCode:

Comments:

Comment on Proposal for Regulation Z - Truth in Lending on Closed End Mortgages. (R-1366) Having been in the mortgage and real estate industry as mortgage lender, mortgage broker and real estate broker for the last 35 years, it is my professional opinion that this proposal is not in the best interest of the consumer or the mortgage industry. Most of the disclosures that are being proposed are already required now and would not improve the consumer's ability to understand the transaction. The consumer is already receiving, through current lending laws of RESPA and TILA, the disclosure of the type of mortgage loan, the rate of interest, the payment stream, term of the loan, Annual Percentage Rate (APR to combine closing costs and interest rate for a comparison number), closing costs, Yield Spread, Broker compensation and the many Adjustable Rate Mortgage (ARM) disclosures and potential rate and payment changes with examples of changes that could occur. This proposal is just duplicate legislation and unnecessary for disclosure of these items. Another item that is particularly disturbing is trying to eliminate the compensation structure for the mortgage broker. The elimination of yield spread and compensation from the mortgage broker's secondary market will cripple the mortgage broker industry as well as take away many mortgage financing options available to the consumer today. It will increase the cost of borrowing and upfront costs to the consumer when the mortgage broker cannot get compensated from the lenders through a yield spread. It will also create a very diverse cost structure in mortgages between the banks, mortgage lenders and mortgage brokers as the mortgage brokers would be prohibited from their normal compensation from the lenders. This would occur as banks and mortgage lenders are allowed to collect yield spread and do not have to disclose how much they are making from their yield spread of selling the loans, but mortgage brokers would be prohibited from that compensation. This would require the mortgage broker to charge more in upfront costs to the consumer for his compensation; or

in reality put the mortgage broker out of business as he has to charge more to the consumer than his competitor banks and mortgage lenders. The disclosure of yield spread by the mortgage broker has been a requirement under current laws for many years and the consumer does understand that the mortgage broker is being paid wholly or partially from the yield spread. The yield spread that the mortgage broker receives is disclosed on both the Good Faith Estimate required by RESPA within 3 days of making a loan application as well as in detail on the HUD Uniform Settlement Statement at closing. Since the yield spread is derived from the rate of interest, it is also disclosed in the Annual Percentage Rate required by TILA so the consumer can comparison shop. Many times the mortgage broker will structure the loan so that some of the yield spread is used to pay for closing costs to help the consumer to get into a house and close the loan with less cash required out of pocket. Some mortgage brokers use part of the yield spread to even pay all the closing costs, so the consumer essentially has no out of pocket closing costs. In many refinance transactions, some mortgage brokers use part of the yield spread to pay all the closing costs to allow the consumer to have a "no closing cost" loan. With this type of transaction, the consumer will start to save money immediately as he does not have to recover any closing costs paid through a reduction in his payments. In most cases the consumer will benefit more from this type of transaction than the many years it will take for him to recover the closing costs (even if added to his mortgage and not paid in cash out of pocket). The mortgage broker currently discloses that the interest rate will be a little higher for this type of transaction to allow for the payment of some of the
closing costs. Obviously this higher rate of interest is reflected in the APR so the consumer can comparison shop the actual cost of borrowing by the different types of mortgage loan structure. In most cases the actual cost of borrowing is much lower and with a lower APR on a "no closing cost" transaction and is more likely to have a higher net benefit to the consumer. This pending legislation would eliminate these very important options to be offered to the consumer from a mortgage broker. This legislation is bad for both the consumer, for the mortgage broker and for the mortgage industry. Mortgage brokers are usually the most regulated part of this industry and provide the consumers with the most choices and least expensive way of financing. This legislation will cause the loss of many good mortgage brokers that help the consumer to obtain lower cost financing than they could obtain through banks. The vast majority of the mortgage brokers that are still strugglng to stay in business, even after the collapse of the banks and the financial ruin they caused, are hard working people with integrity. They do want to have the consumer in the best loan for their situation. Unfortunately we cannot say the same for the banks that have caused this financial depression. More legislation and more stringent requirements on the mortgage broker are ill aimed, not necessary and adverse to the best interest of the consumer. The mortgage brokers are strapped with extra disclosures, extra regulation, extra fees of licensing, extra regulatory supervision and all putting them at a disadvantage for competition. Remember that banks, mortgage bankers and mortgage brokers all sell and arrange their loans for yield spread. That is the business of mortgage lending. Only the mortgage broker currently gives the disclosure to his compensation to the consumer. Eliminating yield spread compensation from only the mortgage broker is only putting the mortgage broker out of business.

The actual long term effect would be the same as to make it illegal to be a mortgage broker and let the consumer be fooled by the bank.