From: Stockton Turner Mortgage, Deborah Gilbert

Subject: Reg Z - Truth in Lending

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Comments:

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Proposal: Regulation Z - Truth in Lending - Closed-end Mortgages
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Name: Deborah Gilbert
Affiliation: Stockton Turner Mortgage
Category of Affiliation: Other
Address:
City:
State:
Country: UNITED STATES
Zip:
PostalCode:

Comments:

Regulation Z _ Truth in Lending - Closed -End Mortgages [R-1366] From everything I have read in this proposal, it is being proposed to help protect the consumer from unfair practices. An unfair practice defined by the FTC Act "is an act or practice is considered unfair when it causes or is likely to cause substantial injury to consumers that is not reasonably avoidable by consumers themselves and not out weighed by countervailing benefits to consumers or to competition." The board has stated in this proposal that it considers the practice of basing a loan originators compensation on the credit transactions terms to be an unfair practice. What is "substantial injury"? The proposal uses the example of originator not being able to be compensated on a loan that could of had a 6% rate but charged a 7% rate. Let me put that example in real terms and dollar amounts for you. In todays market based on a wholesale rate sheet from today 9-28-2009 a difference of 1% in rate from 6 to 7 or in
the case of todays rates 4.5 -5.5% that would be a Yield of 3.625% of the loan amount in compensation. Sounds great, except for the fact the lenders/originators or limited to 3% total compensation on any loan by the lender. So, this example is not valid and does not represent the true real world scenario. Their is another reason for yield spread premiums- it is used to pay the "LLPA"s" imposed on loans by Fannie Mae ,Freddie Mac. Let"s talk about Substantial Injury for a moment. The new Home Affordable Refinance, the new Freddie Mac Relief refinance program for borrowers who are upside down, on their mortgage due to the decline in housing prices. Yes this let consumers refi at todays low affordable rates, if their loan is paid on time and owned by Freddie Mac. This sounds great, refi at todays low rates, rates are currently at 4.875% for a typical 30 year fixed conventional loan. But under this new Freedie RELIEF refinance your home is valued by a computer that uses comparable sales data it has on-line, to come up with a value, and if the computer hapens

to believe that you are now underwater and based on your current loan balnce you are at a Loan to Value ratio of 110% then it is fine using this program. So as a consumer you think great I can refi at the current great rates. The mortgage Originator / Broker then informs you that FREDDIE MAC charges .5% for a High LTV and a Credit score of xxx , and 2.00% for the LTV being over 110%, and since you took out a second mortgage to help avoid Mortgage insurance when you bought your home, they is additional charge of 1.5% of the loan amount. So, the grand total is 4.00% charge from Freddie Mac, and we have not even begun to talk about any of the other closing costs, like paying the mortgage originator. Now that seems to be substantial, and unfair, and deceptive. 4.00% charge because you had good credit.  I do not see that mentioned any where on the Home affordability website, or recovery.gov or any other government website. Now in this same example we could increase the rate of 4.875% to 5.875% to cover 3.625% of the cost as mentioned earlier, but then the home owner has to pay the rest at his own exspense.  The proposal also, mentions that it recognizes that some loans may need more time and resources when originating them, so the boards proposal is to compensate a loan originator on an hourly basis for those loans. The only problem with that is that none of the smaller mortgage companies can afford to pay a loan officer hourly for working on a loan, and for that matter I can not see any of the larger banks or mortgage companies doing this either, it doesn''t make good business sense. Mortgage originators / lenders/ brokers don''t make any money if the loan doesn''t close. So, if an originator works a solid month and doesn''t get any of these hard , difficult loans to close, the company this originator works for is out thousands of dollars, which is then passed on to the consumer. So, in the end the consumer that has blemished credit or has a difficult situation to document do not get serviced or helped in any way under the boards new proposed way of protecting the consumer.  The word Yeild Spread Premium is used over and over as if it is a bad word.  Their is a simple concept that the board seems to be missing or does not understand. When someone lends money i.e. a mortgage originator helps a first time home buyer purchase their first home with arranging a mortgage for them, that originator has ''sold'' these customers some money so they can use that money to buy a home. The originator has given this couple some money for an expected return. Much like your local grocier gives you food for your family for a return, usually money. The car dealer also sells you a car for something in return, usually money. And in some cases the Car Dealer or grocier would like a profit from selling your family these things. That means that the car dealer and the grocery stoe owner has sold the car and the food for more than they actually paid to obtain them. Now in the boards example this would also, be considered an unfair practice, with Substantial injury. Check the numbers but it is estimated that car dealers have a 20 % mark up on their car price and also recieve Factory incentives , such as hold backs all of which help pay the salesman''s commission, and make a profit. If you use 20% of the average car price say $30,000 which is $6,000. That wuld be the difference the consumer over paid for the car. Now if you use the boards example of a loan originator increasing the rate by 1% , which is not even allowed in the industry, on a $125,000 home purchase , 20% down for 30 years and use rates of 6% and 7% that payment difference would be $65 per month, which would take 92 months before it would equal $6000, which is the mark up we used in our example. In 7 1/2 years that consumer probably have bought a new car and the paid 20% more than necessary. Now if the consumer financed that $30,000 car then you can easily add $2000 to that $6000 overage the dealer made on the consumer. That would take or mortgage 10 years to equal the overage the car dealer received on the $30,000 car sale, as compared to the home purchase of $125,000. Keep in mind that the 1% example is not even feasable in the mortgage market. Or if you look at the charge from Freddie Mac , that sme loan happened to be a relief refinance - it would carry a $5,000 charge , for a loan Freddie Mac already owns and is now lowering the rate on the same loan which makes it even less risky than before the refi. It seems to me that Freddie Mac should be paying the consumer for putting Freddie Mac in a better situation. This loan orginator does have some ability to offer higher rates to make more commission, but that amount is controlled by competition. If you have ever turned on the TV , Computer, or radio you will see that mortgage rates and advertisements are every where, I believe Mortgage is on top of the list as top searches by Google and Yahoo. The consumer has more information and ability to research, shop and compare rates than any other industry. And the boards study that says consumers rely on recomended mortgage brokers to give them the best deal and don''t compare other lenders is incorrect. If, consumers don''t conscienciously shop for rate they are bombbarded with commericals, and advertisements telling them what the rates are. I can''t tell you how many times a good friend or family member that I was working on a loan for , would call in the middle of the process to tell me that they had just seen a bill board on the freeway quoting a 2% rate on a 30 fixed loan and ask why their rate was 4.5% .  If the originator does get a rate sheet that has YSP listed for different rates and programs , you have to ask your self  where does those rate sheets come from? If the mortgage market pays the same price for 30 year fixed rate motgages with the same rate , term and LTV''s , why does each lender that puts out a rate sheet on the same day, at the same time have such different rates? For example, today Wells Fargo is offering to pay .63% for a 4.875 30 year fixed conventional vanilla mortgage and Provident Funding is offering 1.25 % for that same 4.875% 30 year fixed Conventional rate.   Now if I worked for Wells Fargo I would quote the customer 4.875% and I would make .63% in overage which I would split with Wells Fargo. And if I was an Independent Mortgage broker I could offer the consumer that same 4.875% rate and make 1.25%, now is the consumer being Substantially injured by the broker? Let''s say the Mortgage broker offered the customer the same 4.875% rate and paid .5% of the 1.25% in YSP to help the customer pay closing costs. So, theBroker would make .75% in YSP and the consumer would get 4.875% rate , and .5% lower closing costs, than the Wells Fargo Loan. The Mortgage Broker would make more YSP than the Wells Fargo Loan Originator, but the Wells Fargo Orginator doesn''t have to pay for the Wells Fargo Office or Advertising.    Now , let''s say the independent mortgage broker was not there at all, Not an Option to the consumer, would the customer be getting a better deal. So, why is their a difference between the Wells Fargo Rate and the Provident Rate, if the mortgage originator is prohibited from raising the rate to make extra commission shouldn''t the lenders also be prohibited from doing the same. I have been in the business for 14 years and I have never had a lender disclose what their YSP/Overage/SRP was on the rates they quoted. It is obvious the banks have the ability to upsale the ratebecause if they didn''t, they would all offer the same YSP on any given day. If the YSP is prohibited it will make the business of mortgage originating to expensive for the smaller mortgage firm to stay in business, and that will lead to a few banks, dictating rates. If you work for a bank , you only get to see one rate shee, so you have now way of truly knowing if you have competitve rates or not, so if a bank originator can''t tell if his rate is competitive unless he calls someone that brokers loans thru several lenders to truly know. If the Independent mortgage company is not their who is going to be able to say if the five large banks are competitive or not.