

Proposal: 1723 (AF94) Reg BB - Community Reinvestment Act

Description:

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Comments:

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Your comment: RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

To Whom it May Concern:

As a university professor who lectures regularly about the history of inequality in America, and as a professional U.S. historian who has published about our country's history of federal housing policy and discrimination, I strongly urge you to carefully consider any proposed changes to requirements of the Community Reinvestment Act (CRA).

Passed in 1977, the CRA has done more than any other piece of legislation to create transparency in how banks and other financial institutions allocate investments, and to incentivize lending in neighborhoods that historically were not only underserved but in fact systematically denied loan monies on largely specious grounds.

In 1933, Congress passed the Home Owners Loan Act to assist homeowners who stood to lose their houses during the Great Depression. The Home Owners Loan Corporation (HOLC) established by this legislation refinanced over 1 million mortgages, bailing out their creditors and freeing up investment capital in the process. Upon its final liquidation in 1951 HOLC basically broke even, and is widely credited with having saved the Depression-hit housing market. And in what might come as a surprise, African American homeowners were eligible and participated in the program, with HOLC finding their record of repayment to be no different than anyone else's. Even so, HOLC began a City Survey project as its lending program wound down in 1935 that included color-coded maps on which all neighborhoods inhabited by African Americans were marked in red and declared to be "risky" investments. In effect, it was catering to already-existing racial prejudices and the reluctance of large institutional lenders like commercial banks and insurance companies to lend on the longer-term loans that we have come to think of as the standard mortgage arrangement today.

Even more insidiously, starting in 1934 the Federal Housing Administration (FHA) established guidelines that favored investment in newer, suburban areas over city neighborhoods. These guidelines included recommendations to utilize racially-discriminatory deed restrictions forbidding sales to African Americans and other minorities. Even after such racial restrictions were invalidated by the Supreme

Court in 1948, the FHA continued to underwrite (guarantee) mortgage loans by housing developers who discriminated until a 1962 executive order from President Kennedy forbade this. The initial federal legislation banning racial discrimination in lending was not passed until 1968 Fair Housing Act, and was not fully amended to enable strict enforcement until 1988. In fact enforcement has generally been lax over the lifetime of the Fair Housing Act, with the result that discrimination and redlining practices by banks and other lenders have remained a problem issue to this day.

In effect, these and other federal housing policies from the 1930s-1960s created a self-fulfilling prophecy: urban neighborhoods and especially those inhabited by racial minorities were deprived of access to credit and investment on the belief they constituted "poor investment risks," an assessment based more in prejudice than on an objective record of repayment or any understanding of the structural discriminatory factors affecting communities inhabited by people of color. I could provide an even longer and more detailed explanation but following the activism of neighborhood activists in the 1960s-70s, public awareness of this history was increased to the point where legislation including the CRA was passed in an attempt to counteract decades of reinforcing disadvantages.

For the CRA to continue its crucial work, it should actually be strengthened to improve reporting requirements and further incentivize lending to underserved areas. For example, using smaller units (like census tracts) for reporting would help ensure that the needs of smaller businesses would be prioritized over large corporations and chains active in geographic areas defined more expansively. This legislation has helped to encourage billions of dollars of reinvestment in neighborhoods previously denied credit, at least partially helping to reverse decades of federal policies promoting investment outflows to suburban areas, most notably by FHA. However CRA regulations are modernized, these should remain true to the spirit of the original legislation in promoting community equity and especially racial equity; for this reason, I would urge that demographic data be taken into consideration (and especially race) when evaluating targeted areas and the impact of investments there, instead of just income levels.

To reiterate, the CRA's crucial role as a policy and information-gathering tool must be not only retained but also strengthened. We can modernize, but should not in any way water down this time-tested legislation in the mistaken belief that private actors with a longstanding record of discrimination -- despite federal protections on the books since 1968 -- will effectively police themselves and extend credit on a nondiscriminatory basis of their own accord. With many cities having just barely recovered from the 2008 Great Recession, and with the current uncertain economic climate, a strong Community Reinvestment Act is needed as much now as it ever has been.

Sincerely,

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