The National RV Dealers Association
Powered by Dealers

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Submitted Online @ Regulations.gov

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System,
20th Street and Constitution Avenue, NW.,
Washington, DC 20551.

Re: Docket No. R-1390 - Regulation Z; Truth in Lending Commentary Reviews

Dear Secretary Johnson:

A. Statement of Interest

RVDA represents an industry with over 3,100 RV dealerships with annual sales over $19 billion dollars employing almost 43,000 individuals with a payroll in excess of $1.6 billion dollars (2007 Economic Census). RVDA's membership s ells roughly 80% of national travel trailer sales, and 90% of motor home sales. The vast majority of our dealer members are small businesses as defined by the Small Business Administration.

The National RV Dealers Association ("RVDA") submits the following comments in response to the Board of Governors of the Federal Reserve System ("Board") notice and request for comment on the Board's proposal to amend Regulation Z, which implements the Truth in Lending Act ("TILA"), and the staff commentary to the regulation, as part of a comprehensive review of TILA's rules for home-secured credit. This proposal would revise the rules for the consumer's right to rescind certain open-end and closed-end loan secured by the consumer's principal dwelling.

RVDA believes the Federal Reserve's Staff Commentary addressing the definition of "Dwelling" to include Recreational Vehicles in certain situations, specifically as it applies to the SAFE Act escrow requirements, is inaccurate. RVDA requests the Board's review of the Federal Reserve's Staff Commentary interpreting "dwelling" and its references to the recreational vehicle industry.

B. Recreational Vehicles Transactions are More Like Motor Vehicle Transactions, and Not Like Manufactured Housing Transactions

Recreational vehicles are somewhat unique products, and have attributes similar to both motor vehicles and homes. However, in practice, RVs are much more related to automobiles than to manufactured housing. RV Dealers are franchised businesses, and follow the financing and product distribution franchise systems used by automobile dealers.

1. NHTSA, Not HUD, Oversees RV Building Standards

Recreational vehicles include both motorized units (motorhomes) and travel trailers pulled behind a tow vehicle (travel trailers and 5th wheels, as well as slide-in campers)[1]. According to state and federal definitions, including the U.S. Department of Housing and Urban Development ("HUD") definitions, RVs are not designed to be used as a permanent dwellings, but as temporary accommodations for recreational, camping, travel or seasonal use.

HUD understands the temporary (not permanent) nature of recreational vehicles, and in fact has exempted RVs from its residential building codes. This exemption from HUD building codes certainly indicates that HUD does not see a recreational vehicle as a permanent "Residential Structure." In contrast, manufactured housing is not exempt from HUD building standards, and would therefore be considered a residential structure. For RVs, the National Highway Transportation Safety Administration ("NHTSA") has primary authority over regulating safety codes for RVs in its Federal Motor Vehicle Safety Standards.

2. RVs are Discretionary Purchases, Not Inexpensive Housing Alternatives

Unlike manufactured housing (which may be an economical permanent housing option for many families), RVs are a discretionary purchase for people looking to enjoy the "on the road" lifestyle for some amount of time. RVs are treated differently from manufactured and other types of factory-built housing by states and the federal government. An RV purchase is more related to a consumer's second home purchase than an individual's continued primary residence.

3. RV Loan Transactions are Very Different From Home Loan Transactions

Whereas all states levy a real property tax on houses, there are only a handful of states that levy personal property taxes on RVs. In states with an RV personal property tax, this tax is often paid when the customer registers and licenses their vehicle at the time of purchase and then some states require yearly property tax payments. Personal property taxes on RVs are treated the same as personal property taxes paid on a consumer's automobile.

RV Insurance is like automobile insurance and is provided by the same insurance carriers. RV Physical Damage and Liability Insurance is always paid for outside the retail installment contract and is required by the lenders at the time of purchase. This insurance payment is not part of the RV loan payment, but is separate from that payment. The RV purchaser is aware of the cost of insurance associated with their purchase.

[1]Photos of RVs may be found here: http://www.gorving.com/explore-rvs/default.aspx

4. *RVs are Distributed Through Franchised Dealers, Licensed by State DMVs*

Similar to automobile dealers, RV dealers conduct their operations on a business model that involves state franchise laws, and state and federal F&I regulations that apply to motor vehicles. RV dealers use many of the same finance forms as automobile dealers and use the same financing sources. RV dealers comply with the same finance practices as automobile dealers in their states. RV dealers are usually licensed by the state's department of motor vehicles (or an equivalent). And in most cases, they are titled as motor vehicles under state department of motor vehicle rules and have state issued license plates.

C. Niche Lifestyle Where RVs are Used as Fulltime Housing

There is a unique lifestyle that involves the use of recreational vehicles, usually motor homes, where individuals consider the RV to be their home. The industry calls these individuals "fulltimers." The RV industry does not track the number of consumer who chose the fulltimer lifestyle, and is unable to establish accurate numbers for these comments. Much of the problem is that there is not a functional definition of a fulltime RVer. This RV lifestyle is popular with retirees, and those whose jobs relocate often such as construction or contract workers or people who just want to simplify their life.[2] Many are called snowbirds and will travel in their RV during the winter months to the South to enjoy the warmer climates in beautiful settings. Fulltimers are not individuals who live in their RV as economical housing option, since manufactured housing is generally a larger and cheaper alternative for inexpensive housing. RVs are considered a discretionary purchase, full of amenities such as big screen TVs, and are targeted to a different demographic.

For fulltimer demographic information, please visit the www.Escapees.com website. A 2005 demographic study details ages, salaries, miles used, months traveled, and types of RVs preferred by fulltimers.[3]

However, speaking with RV dealers, lenders formerly involved in RV fulltimer financing, RV insurance companies, and other industry professionals, there seems to be a consensus that **less than one-percent of people who finance a recreational vehicle from a dealer intend to use it as their principal residence.** Many of the individuals buying RVs will not disclose to the selling dealers that they intend for the RV to be their principal dwelling since it often creates difficulties with insurance and financing. A significant percentage of the fulltimers do not finance their RVs, and instead pay cash.

It is very unlikely there are situations where an individual intends to finance a towable RV from an RV dealer, to place the vehicle in one location and live in it permanently as their "house." First, it is doubtful such a consumer would be successful in obtaining financing for a luxury depreciating asset (they would more likely be financed for less expensive manufactured housing); second, many localities have ordinances prohibiting RV owners from keeping the RV in a campground year-round; and third, a person looking to turn a travel trailer in to a permanent housing option would likely purchase a used

[2] http://www.time.com/time/printout/0,8816,1682288,00.html
[3] http://www.escapees.com/edocs/demographics.pdf

travel trailer – and nearly seven out of ten used RV purchases are consumer to consumer[4], and do not involve financing through a dealer.

Maybe in the future, we will have more of an idea of the number of fulltimers. The recent 2010 US Census identifies people in "Transitory Locations" and includes RV parks and campgrounds as one of the transitory locations.[5]

D. The Federal Reserve's "Dwelling" Definition Interpretation Harms the RV Industry

The Federal Reserve Staff Commentary, as detailed below, has created severe problems for financing the fulltimer niche in the RV industry. This was a small market niche that did not attract many lenders. To date, all known lenders to this market niche have stopped lending to known fulltimers.

> Truth In Lending Act section 103(v) (v) The term "dwelling" means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.
>
> > PART 226 - TRUTH IN LENDING (REGULATION Z)
> > 226.2 - Definitions and rules of construction.
> > (a) Definitions. For purposes of this regulation, the following definitions apply: (1) Act means the Truth in Lending Act (15 U.S.C. 1601 et seq.).
> > (19) Dwelling means a residential structure that contains 1 to 4 units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.
> >
> > > Commentary on Regulation Z (Truth in Lending Act) - (226.2(a)(19)-2) **Use as a residence.** Mobile homes, boats, and trailers are dwellings if they are in fact used as residences, just as are condominium and cooperative units. Recreational vehicles, campers, and the like not used as residences are not dwellings.

The Federal Reserve's Staff Commentary interpreting "dwelling" has caused unforeseen problems in the RV industry:

1. The SAFE Act Relies on the Federal Reserve's Dwelling Definition

The Dodd-Frank Bill transfers jurisdiction and oversight of a number of mortgage-related laws from the Department of Housing and Urban Development (HUD) to the CFPB. Included in the regulatory transfer is the shift of enforcement over the SAFE Act from HUD to the CFPB. HUD maintains jurisdiction over the SAFE Act until the designated transfer date of July 21, 2011. It is unclear if HUD will issue a final rule on the SAFE Act. However, regulatory oversight of the statute will eventually shift to the CFPB.
The SAFE Act has taken a general TILA disclosure obligation, and has turned it into a stringent licensing requirement. Based on the Federal Reserve's Staff Commentary, the SAFE Act arguably

[4] A 2005 University of Michigan Study on "RV Demographic Profile" by Richard T. Curtain
[5] http://www.census.gov/population/www/cen2010/resid_rules/resid_rules.html#TWENTYTWO

encompasses any RV dealer that may (knowingly or unknowingly) finance an RV to a fulltimer. Financing to a fulltimer, a minor market niche in our industry, now requires strict licensing requirements and many other obligations by the RV dealer. These costs are well out of proportion to the market niche served. **RVDA has submitted comments to HUD seeking an exemption for RV Dealers from this licensing requirement.** HUD has not answered the comments to date.

It may be important to note that RV dealers, along with automobile dealers, motorcycle and boat dealers are specifically exempted by Congress from oversight by the newly created Consumer Financial Protection Bureau ("CFPB") under the Federal Reserve. The specific exemption includes all types of recreational vehicles, and references the NHTSA definitions for "recreational vehicle trailer" and "motorhome". Although exempt from oversight by the CFPB, the same exemption now allows the FTC enhanced powers to regulate motor vehicle (i.e. RV) loans. **The RV industry is concerned about the conflict of a specific congressional exemption for RV dealers from the CFPB versus the Federal Reserve Staff Commentary referencing RVs in certain situations as dwellings.**

2. Niche Lenders to Fulltimers have Left Due to the October 2010 Escrow Provisions

The same Federal Reserve Staff Commentary of the definition of dwelling now requires RV dealers to calculate and collect one year's worth of insurance and property taxes for closed-end credit escrows for higher priced mortgages on a motor vehicle. This is an impractical / impossible requirement that drove fulltimer lenders out of this niche lending market. Since RVs are motor vehicles, they are highly mobile, capable of traveling and visiting many different counties and states. The fulltimer may not even know where they intend to reside in the RV, and for what amount of time. This makes the RV Dealer and the bank's task of escrowing the appropriate required funds impossible.

a. Commencing October 1, 2010, a new regulation of the SAFE Act in Reg. Z (Truth in Lending Act) Section 226.35(b)(3) entitled, "Escrows" states:

> a creditor may not extend a loan secured by a first lien on a "principal dwelling" unless an escrow account is established before consummation for payment of property taxes and premiums for mortgage-related insurance required by the creditor.

Official Staff Interpretation to 226.35(b)(3) of Regulation Z-Truth In Lending Act entitled "Escrows," states:

> Section 226.35(b)(3*) applies to principle dwellings*, including structures that are classified as personal property under state law. For example, an escrow account must be established on a higher-priced mortgage loan secured by a first-lien on a mobile home, boat or a trailer used as a consumer's principle dwelling. See the commentary under Sec. Sec. 226.2(a)(19), 226.2(a)(24), 226.15 and 226.23.

b. The SAFE Act defines a Residential Mortgage Loan as any loan primarily for personal, family, or household use that is secured by a mortgage…on a "dwelling" as defined by Section 103(v) of the Truth in Lending Act.

Reg. 226.2(a)(19)-2). Definitions: Dwelling means a residential structure that contains 1 to 4 units, whether or not that structure is attached to real property. The term includes a …mobile home, and trailer, if it is used as a residence.

Commentary to this regulation in Reg. Z clarifies that "mobile homes, boats, and trailers are dwellings if they are in fact used as residences, just as are condominium and cooperative units. Recreational vehicles, camper and the like not used as residences are not dwellings."

E. The Federal Reserve's Staff Commentary Makes Several Implausible Leaps to Cover Recreational Vehicles as Dwellings

The Federal Reserve Staff Commentary has taken the colloquial term "trailer," which was synonymous with Mobile Home when the Truth In Lending Act was created, and has inappropriately applied it to an entirely different industry. RVDA believes that to be considered a "residential structure" under the TILA definition of dwelling, at a minimum, the residential structure should be built to relevant state or federal housing building codes. Without this minimum threshold, any structure such as a tent, tee-pee, cardboard box or igloo where an individual resides could be covered under these rules.

1. Recreational vehicles, due to their intended temporary use, are exempt from HUD building codes required for residential structures.

HUD has previously made the determination that recreational vehicles are not regulated by HUD. HUD has provided federal definitions to address the recreational vehicle industry. In Title 24 CFR Part 3282.8(g)

> **Recreational Vehicles:** Recreational Vehicles are not subject to this part, Part 3280, or Part 3283. A recreational vehicle is a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) self-propelled or permanently towable by a light-duty truck; and (4) **designed primarily as temporary living quarters for recreational, camping, travel or seasonal use, not as a permanent dwelling unit.** (Emphasis added)

This definition clearly indicates that HUD does not consider RVs as permanent living quarters since it exempted RVs from the building codes. With the small size of RVs, it is virtually impossible to build a structure that can meet HUD residential building codes, and still be able to drive down a highway and handle necessary wind shear requirements. RV Consumers are still protected by ANSI A119.2 standards when they purchase an RV from an Recreation Vehicle Industry Association, a.k.a. RVIA member and NHTSA's Federal Motor Vehicle Safety Standards.

There are no state residential building code requirements for recreational vehicles.

RVDA does not believe that recreational vehicle products, generally less than 320 square feet for travel trailers, and 400 square feet for 5th Wheels are appropriate to be considered dwellings. They are not designed for, nor are they intended to be used as dwellings. They are designed to move freely along America's highways and are intentionally overbuilt to be moved frequently on highways and roads – unlike manufactured housing, which is intended to be moved once and sited onto real property.

2. NHTSA Defines RVs as Temporary Accommodations

HUD is not the only federal agency to determine that a recreational vehicle should not be regulated as a permanent dwellings, but instead as temporary residential accommodations. The National Highway Traffic Safety Administration ("NHTSA") has similarly defined recreational vehicle types as temporary residential accommodations.

- **Recreation vehicle trailer means** a trailer, except a trailer designed primarily to transport cargo, designed to be drawn by a vehicle with motive power by means of a bumper, frame or fifth wheel hitch and **designed to provide temporary residential accommodations**, as evidenced by the presence of at least four of the following facilities: cooking; refrigeration or ice box; self-contained toilet; heating and/or air conditioning; a potable water supply system including a faucet and a sink; and a separate 110-125 volt electrical power supply and/or propane. ``Recreation vehicle trailer'' includes trailers used for personal purposes, commonly known as ``sport utility RVs'' or ``toy haulers,'' which usually have spacious rather than incidental living quarters and provide a cargo area for smaller items for personal use such as motorcycles, mountain bikes, all terrain vehicles (ATVs), snowmobiles, canoes or other types of recreational gear. 49 CFR 571.3

- **Motor home means** a multi-purpose vehicle with motive power that is **designed to provide temporary residential accommodations**, as evidenced by the presence of at least four of the following facilities: cooking; refrigeration or ice box; self-contained toilet; heating and/or air conditioning; a potable water supply system including a faucet and a sink; and a separate 110-125 volt electrical power supply and/or propane. 49 CFR 571.3

State definitions for recreational vehicles follow the same intent, indicating that recreational vehicles are intended for temporary accommodations.

3. TILA's Use of the Term "Mobile Home" and "Trailer" is Dated, and is Not Part of HUD or Industry Technical Use, And was never intended to cover Travel Trailers or Motorhomes

The HUD use of the word "manufactured home" is now regarded as the correct term to describe the "mobile" or "trailer" home of the past. This change in definition came to the industry in the late-1980s and early-1990s, as the architecture of many manufactured homes changed to include vaulted ceilings and covered porches. The term "mobile home" was retired because it no longer described the types of homes being manufactured. Today's manufactured homes offer much more diverse options in features and design.[6]

According to the Manufactured Housing Institute:

What exactly is a manufactured home? The answer may surprise you.

[6] http://www.ehow.com/about_5033420_hud-definition-manufactured-home.html

A manufactured home is a single-family house constructed entirely in a controlled factory environment, built to the federal Manufactured Home Construction and Safety Standards (better known as the HUD Code).

Factory-Built Homes

Many types of structures are built in the factory and designed for long-term residential use. In the case of manufactured and modular homes, units are built in a factory, transported to the site and installed. In panelized and pre-cut homes, essentially flat subassemblies (factory-built panels or factory-cut building materials) are transported to the site and assembled. The different types of factory-built housing can be summarized as follows:

Manufactured Homes: These are homes built entirely in the factory under a federal building code administered by the U.S. Department of Housing and Urban Development (HUD). The Federal Manufactured Home Construction and Safety Standards (commonly known as the HUD Code) went into effect June 15, 1976. Manufactured homes may be single- or multi-section and are transported to the site and installed. The federal standards regulate manufactured housing design and construction, strength and durability, transportability, fire resistance, energy efficiency and quality. The HUD Code also sets performance standards for the heating, plumbing, air conditioning, thermal and electrical systems. It is the only federally-regulated national building code. On-site additions, such as garages, decks and porches, often add to the attractiveness of manufactured homes and must be built to local, state or regional building codes.

Modular Homes: These factory-built homes are built to the state, local or regional code where the home will be located. Modules are transported to the site and installed.

Panelized Homes: These are factory-built homes in which panels - a whole wall with windows, doors, wiring and outside siding - are transported to the site and assembled. The homes must meet state or local building codes where they are sited.

Pre-Cut Homes: This is the name for factory-built housing in which building materials are factory-cut to design specifications, transported to the site and assembled. Pre-cut homes include kit, log and dome homes. These homes must meet local, state or regional building codes.

Mobile Homes: This is the term used for manufactured homes produced prior to June 15, 1976, when the HUD Code went into effect. By 1970, these homes were built to voluntary industry standards that were eventually enforced by 45 of the 48 contiguous states."[7]

And according to a publication co-produced by HUD in 2005:

Trailer. Trailers are technically recreational vehicles that do not conform to local building or HUD Code standards. Although considered antiquated and often derogatory, the term trailer is still colloquially used when referring to manufactured or mobile homes.[8]

[7] http://www.manufacturedhousing.org/lib/showtemp_detail.asp?id=446&cat=1

The 1968 TILA definition of dwelling that references mobile homes, the related Rules of Construction, carried on through the Federal Reserve Commentary interpreting dwelling and referencing mobile homes and trailers was outdated in 1976.[9] Even FEMA has updated its text in the federal flood insurance statutes to ensure mobile home and manufactured home have the same meaning.[10]

History for the word "Trailer Home" show that the term "mobile home" and "trailer home" were synonyms describing the same type of manufactured home. [11] "In the United States, this form of housing [Mobile Homes] goes back to the early years of cars and motorized highway travel. It was derived from the travel trailer, a small unit with wheels attached permanently, often used for camping. **Larger units intended to be used as dwellings for several months or more in one location came to be known as home trailers**.[12]"

It would be reasonable to assume that if references to mobile homes are out of date and need corrections that inappropriate and dated references to trailers need to be reviewed as well.

4. Recreational Vehicles Are More Than Just Travel Trailers

Federal Reserve Staff Commentary makes a large jump from the word "trailers" in 226.2 - Definitions and Rules of Construction to now encompass all motorized, 5th Wheel, and towable RVs by using the term "recreational vehicles" in its Commentary on Regulation Z (Truth in Lending Act) - (226.2(a)(19)-2) Use as a Residence. The term recreational vehicle includes all recreational vehicle products, and not just travel trailers. Motorhomes are the vehicle of choice for fulltimers when living the fulltimer lifestyle – travel trailers are less popular with fulltimers.

There is a category of recreational trailers, called "Park Trailers / Models" that exists between Recreational Vehicles, and Manufactured Housing, and arguably look more like manufactured housing than an RV.[13] They are larger than RVs, and often include decks and lofts, but are smaller than manufactured housing. Park Trailers are not as transportable as recreational vehicles, but are still considered a recreational type product and can be exempted from HUD building codes. Park Trailers are often set up to reside in a certain location for longer lengths of time, such as six months. Campgrounds often require Park Trailers to be moved every three to six months to avoid the park trailer being considered a "residence" under state laws. The largest growth area for these Park Trailers is campgrounds, which purchase these trailers to rent out to families.[14]

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[8] www.ruralhome.org/storage/documents/movinghome.pdf (Moving Home, Manufactured Housing in Rural America, December 2005, by the Housing Assistance Counsel (in cooperation with HUD, page 2).
[9] http://www.minneapolisfed.org/publications_papers/pub_display.cfm?id=1479
[10] appendix to 44 CFR part 61
[11] http://www.ehow.com/how_5348839_buy-trailer-home.html
[12] http://en.wikipedia.org/wiki/Mobile_home#History
[13] http://media.rptia.com/photos.php
[14] http://media.rptia.com/showrelease.php?id=100

F. Closed-end Credit Higher Priced Mortgage Loan Rules Are Intended to Protect Subprime Buyers, Not Prime Retail Buyers in a non-real estate industry.

Motor vehicle loans are made at market rates that are competitive in the motor vehicle industry. Prime Motor vehicle loan rates are historically higher than prime real estate loans rates. There are multiple reasons for there to be different rates between the two industries, such as the length of the loans, the depreciating nature of vehicles, versus the appreciating nature of real estate, and the difficulties in locating a motor vehicle after a loan default, versus locating real estate at a particular address. A competitive prime rate loan in the motor vehicle industry could be incorrectly regulated as a higher priced mortgage loan under the Board's 2008 HOEPA Final Rule in Sec. 226.35.

Many claim that the current economic crisis was created, in part, by a speculative bubble of ever increasing prices in the residential real estate market. Too many people assumed that housing prices would never lose value, and therefore the government and mortgage lending institutions created loan products and processes in order to allow the maximum number of people to finance and own residential real estate loans and take advantage of home ownership. Again, this was based on a model that home prices would always increase in value.

In stark contrast, the RV industry has always tailored its financing products and processes with the understanding that recreational vehicles are depreciating assets. The same model followed by the automobile industry. An RV customer does not enter negotiations with an RV dealer with an assumption that the customer could resell the RV in a couple of years to make a profit. Rather, banks and creditors in the RV industry have always had to rely upon an individual's income, credit history and down payment to make financing decisions to protect their interests in a depreciating asset. Recreational vehicles have not, and will never be considered a speculative housing industry.

RVDA does not believe that congress intended to cover recreational vehicle loans as higher priced mortgage loans. RV consumers in general are middle class and higher income-earning households, who are making a discretionary purchase. They are able to manage their monthly bills, and are not the consumers that need protections from predatory loans.

G. RV Tax and Insurance Practices are Different from Real Estate Tax and Insurance

Recreational vehicles are taxed and insured more like automobiles than real property. RV purchasers do not face the surprises in the same manner as home purchasers. It appears the intent of the regulation was for home purchasers without prime-rated credit, to understand the true costs of their primary residence. Many consumers may have thought their only payment was the principal and interest on the loan – which they could afford from the beginning. These consumers were only later made aware that the true monthly cost of homeownership also included tax and insurance payments. This is because taxes and insurance on real property are typically settled out of escrow initially, but become an annual obligation of the borrower if they do not have an escrow account.

1. Most States Do Not Charge Personal Property Taxes (unless on a business)

In practice for the RV purchaser, the required escrow for the fulltimer will end up primarily being insurance since most counties and states do not have an annual personal property tax on RVs. For the majority of RV purchases (excluding personal property states), the primary tax obligation on an RV purchase is sales tax and that is a onetime tax paid up front in the sales transaction. If the intent of the escrow laws is to protect purchasers from tax obligations they may not be aware of, the majority of RV purchasers will never encounter this tax issue.

Where personal property tax is assessed against an RV, it is assessed on a historically depreciating asset - so the amount owed decreases every year. Real property tax assessments have historically increased year to year (the current economic crisis admittedly is different) and consumers may be surprised by the increase in the value of their asset, and the related real property tax increase. RV owners in personal property tax states are pleased with this decreasing obligation.

2. RV Owners are Very Aware of Their Monthly / Annual Insurance Costs

When a consumer purchases real property, the insurance is typically prepaid for a year through an established escrow account. Then, at the end of the first year, if the home purchaser does not have a continuing escrow account, the home-buyer receives a bill for the next year of insurance and will have to pay it themselves.

RV insurance, like automobile insurance, is not typically financed on the contract. The buyer typically must secure insurance prior to the execution of the contract and they typically pay the insurance company directly on whatever payment schedule is available (monthly, every 6 months, etc.). The motor vehicle purchaser is very much aware of the cost of the insurance and is not surprised by their first bill one year down the road.

H. RV Dealer F&I Practices are Already Heavily Regulated

In a similar manner to automobile dealers, RV Dealers are already covered by numerous state and federal laws intended to protect consumers from unfair business practices. RV dealers already face the same Finance and Insurance (F&I) department federal rules and regulations as auto dealers face when dealers sell motor vehicles. These include the Equal Credit Opportunity Act, Fair Credit Reporting Act, FACT Act, FTC Credit Practices Rule, Gramm-Leach Bliley Act, Truth in Lending and Consumer Leasing Acts, Adverse Action Notices, and Risk Based Pricing Notices to name a few. In addition, states develop their own regulatory scheme to protect motor vehicle purchasers during the finance transactions.

I. Most of These Arguments Equally Apply to the Boating Industry

RV dealers sell recreational products. Besides just recreational vehicles, some RV dealers sell boats to consumers. Just like fulltimers who chose a lifestyle of traveling on the road, there are also consumers who purchase boating products and live fulltime on their boats. They travel the intercostals waterway, navigable rivers and lakes, and move from marina to marina. Considerations to review staff commentary on dwellings and their application to recreational vehicles should also involve a review of the impact on boat dealers.

J. Conclusion

Applying many of the new mortgage rules to recreational vehicle dealers is an unfair burden, which is not justified by the initial intent of the Truth in Lending Act, and has been incorrectly applied to the RV industry. HUD does not consider RVs to be residential structures, and has exempted RVs from the relevant housing building codes that apply to manufactured housing. The population of consumers who finance an RV through RV dealers (as opposed to paying cash) for a fulltimer lifestyle is extremely limited. These fulltimers use their discretionary income to purchase a lifestyle, and are not individuals who have trouble with their monthly payments. Fulltimers understand the costs associated with RV personal property taxes (when applicable) and RV insurance, since those are typically paid for outside of the loan's monthly payments. RV loans are already heavily regulated in the same manner as automobile loans. The recent SAFE Act escrow rules that went into effect in October 2010 have driven all financing sources for fulltimers out of this market niche.

For the reason listed above, RVDA believes that the harm to the RV industry, the shutting down of a consumer lifestyle, and compliance difficulty imposed on small businesses far outweigh the need for the Federal Reserve to regulate recreational vehicles as dwellings.

Therefore, RVDA asks the Board of Governors for the Federal Reserve to:

1. Remove Recreational Vehicles from the Federal Reserve's Official Staff Commentary Interpreting Dwelling

RVDA specifically asks that the Federal Reserve Board of Governors to review its staff commentary interpretation of the Truth In Lending Act's definition of dwelling. As discussed above, RVDA believes that any interpretation of dwelling that involves recreational vehicles is misplaced and misapplied to the recreational vehicle industry since "trailer" was initially synonymous with "house trailer" and not "travel trailer."

2. Exempt Recreational Vehicles from the SAFE Act and its Related Rules where Recreational Vehicles are Considered Dwellings

In the alternative, RVDA requests that recreational vehicle dealers be exempted from the following Escrow Rules under the SAFE Act:

1) Commencing October 1, 2010, a new regulation of the SAFE Act in Reg. Z (Truth in Lending Act) Section 226.35(b)(3) entitled, "Escrows" states:

> a creditor may not extend a loan secured by a first lien on a "principal dwelling" unless an escrow account is established before consummation for payment of property taxes and premiums for mortgage-related insurance required by the creditor.

Official Staff Interpretation to 226.35(b)(3) of Regulation Z-Truth In Lending Act entitled "Escrows," states:

Section 226.35(b)(3*) applies to principle dwellings*, including structures that are classified as personal property under state law. For example, an escrow account must be established on a higher-priced mortgage loan secured by a first-lien on a mobile home, boat or a trailer used as a consumer's principle dwelling. See the commentary under Sec. Sec. 226.2(a)(19), 226.2(a)(24), 226.15 and 226.23.

2) The SAFE Act defines a Residential Mortgage Loan as any loan primarily for personal, family, or household use that is secured by a mortgage…on a "dwelling" as defined by Section 103(v) of the Truth in Lending Act.

Reg. 226.2(a)(19)-2). Definitions: Dwelling means a residential structure that contains 1 to 4 units, whether or not that structure is attached to real property. The term includes a …mobile home, and trailer, if it is used as a residence.

Commentary to this regulation in Reg. Z clarifies that "mobile homes, boats, and trailers are dwellings if they are in fact used as residences, just as are condominium and cooperative units. Recreational vehicles, camper and the like not used as residences are not dwellings."

3) Another example of this intent arises in Reg. 226.3 which exempts credit transactions over $25K from TILA. The exemption does *not* apply if credit is "secured by real property, or by personal property used or expected to be used as the principal dwelling of the consumer…" This is the same construct used in the 226.2 definition and the Staff Commentary to that definition.

4) Another example where RVs could be considered a principal dwelling can be found in Reg. 226.23 entitled consumer's right to rescind. The consumer is entitled to a period of time to rescind if the loan creates a security interest in the consumer's "principle dwelling." The Comments reiterate that "principle dwelling" could be personal property and gives examples which include a mobile home or trailer.

3. Alternatively, Exempt Recreational Vehicles from the SAFE Act Higher End Mortgage Escrow Rules

RVDA would be happy to discuss additional / alternative options to reduce these unnecessary burdens on RV dealers.

Respectfully Submitted,

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