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H.R. 650, the Preserving Access to Manufactured Housing Act of 2015

FLOOR SITUATION

On Tuesday, April 14, 2015, the House will consider H.R. 650, the *Preserving Access to Manufactured Housing Act of 2015*, under a closed rule. H.R. 650 was introduced on February 2, 2015 by Rep. Stephen Fincher (R-TN) and was referred to the Committee on Financial Services, which ordered the bill reported by a vote of 43-15.[1]

SUMMARY

H.R. 650 amends the Truth in Lending Act (15 U.S.C. 1601) to allow for the first mortgage on a homeowner's principal home to not be considered "high cost" if (1) the mortgage annual percentage rate (APR), at the time of consummation of the loan, does not exceed 10 percent of the average prime offer rate (APOR)[2] (2) the transaction does not exceed $75,000 and, (3) the mortgage points and fees paid to the mortgage originator[3] do not exceed 5 percent of the transaction or $3,000. The Consumer Financial Protection Bureau (CFPB) will have the ability to adjust designated amounts to reflect changes in the Consumer Price Index (CPI). This will allow consumers of small-balance residential loans to have increased access to mortgage credit.

This legislation also clarifies that the definition of "mortgage originator" does not include retailers of manufactured or modular homes, unless a retailer receives compensation from the sale of the loan or assists the consumer during the loan application process.

BACKGROUND

The Home Ownership and Equity Protection Act (HOEPA) was enacted in 1994 as an amendment to the Truth in Lending Act to address abusive practices in refinancings and closed-end home equity loans with high interest rates or high fees.[4] Since HOEPA's enactment, refinances or home equity mortgage loans meeting any of HOEPA's high-cost coverage tests have been subject to special

[1] See House Report 114-53 at 4
[2] As defined in 15 U.S.C. 1639c(b)(2)(b) , the term "average prime offer rate" (APOR) means the average prime offer interest rate for U.S. Treasury securities with a comparable maturity on the date the interest rate for the transaction is set.
[3] As defined in 15 U.S.C. 1602 (cc) (2), the term "mortgage originator" means any person who directly or indirectly gains compensation or takes a residential mortgage application, assists a consumer in obtaining or applying to obtain a residential mortgage loan, or offers or negotiates terms of a residential mortgage loan.
[4] See 15 U.S.C 1601

disclosure requirements and restrictions on loan terms, and consumers with high-cost mortgages have had enhanced remedies for violations of the law.[5]

The Dodd Frank Act, and the implementing rule, changed certain tests for determining if a loan is considered “high cost” under HOEPA. Previously, a loan was covered by HOEPA if the APR exceeded the average prime offer rate by more than 10 percentage points, or if the points and fees paid by the consumer exceeded the greater of 8 percent of the loan amount or $400, which was set in 1994 and has been adjusted for inflation. The Dodd-Frank Act lowered the rate threshold for HOEPA coverage. Since the law has been implemented, a loan will now be covered by HOEPA if the applicable APR exceeds the APOR by more than 6.5 percent for a first-lien mortgage; or by more than 8.5 percent for a first-lien mortgage if the transaction is for less than $50,000.[6]

The Committee on Financial Services found that the new tests in determining if a loan is “high cost” have resulted in reduced access to credit for consumers of affordable manufactured and modular housing.[7] Due to increased lender liability associated with making small-balance loans applicable to HOEPA standards, some lenders reduced or stopped providing such loans to some consumers.

Lenders have argued that they frequently need to charge higher interest rates to consumers of manufactured homes because those consumers oftentimes carry a higher risk of default. Lenders have also argued that cost discrepancies occur because the cost of servicing a larger-balance loan is very similar in real dollars to that of servicing a small-balance loan, while the service cost as a percentage of a loan is much higher for small-balance loans.[8]

H.R. 650 is similar to H.R. 1779, *the Preserving Access to Manufactured Housing Act of 2013,* which was ordered reported by the Committee on Financial Services by voice vote during the 113th Congress.[9] The House did not consider the bill in the 113th Congress.

COST

CBO estimates that enacting H.R. 650 would increase direct spending by less than $500,000 for the Consumer Financial Protection Bureau (CFPB). Because H.R. 650 would affect direct spending, pay-as-you-go procedures apply. CBO estimates that the bill would not affect revenues. Implementing H.R. 650 would not affect spending subject to appropriation because the CFPB is permanently authorized to spend amounts transferred from the Federal Reserve System.

STAFF CONTACT

For questions or further information contact the House Republican Policy Committee at 6-5539.

[5] See House Report 114-53 at 2
[6] Id.
[7] Id.
[8] Id.
[9] http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=378782