Lawmakers Omitted Downpayment Rule

Lawmakers have noted that nothing in the Dodd-Frank Act stipulated a downpayment rule for the QRM provision and they have expressed concern that the regulators did not follow the clear legislative intent behind the provision.

"This misinterpretation of our intent could unnecessarily slow the housing market's recovery and prevent well-qualified, middle-class families from securing an affordable mortgage," said Hagan. "We are urging regulators to go back to the drafting table."

Giving the issue a local perspective, Hagan said that in Raleigh, N.C., where the median house price is $217,000, home buyers would need more than $43,000 for a downpayment under the proposed rule.

"That's almost equal to the median annual income in my state," she said. "Many families in North Carolina and across the country cannot afford such an onerous downpayment. In fact, according to the 2009 data from the Center for Responsible Lending, it would take the average American 14 years to come up with that 20% downpayment."

In a written press statement, Sen. Landrieu said that the "proposed rule is inconsistent with the drafters' legislative intent. As I have mentioned to the regulators on several occasions, we intentionally and explicitly omitted a downpayment requirement."

Lawmakers Write to the Regulators

Last month, Isakson, Landrieu and Hagan led a bipartisan group of 39 senators in writing a letter to federal regulators urging them to modify the proposed risk retention rule because it imposes unnecessarily tight downpayment constraints that would restrict credit to middle-class families working to own a home.

"These restrictions unduly narrow the QRM definition and would necessarily increase consumer costs and reduce access to affordable credit," the letter said.

"Well underwritten loans, regardless of downpayment, were not the cause of the mortgage crisis. The proposed regulation also establishes overly narrow debt-to-income guidelines that will preclude capable, creditworthy home buyers from access to affordable housing finance," it said.

Reps. Campbell and Sherman spearheaded a similar effort in the House, garnering a strong majority of lawmakers to join together to write a subsequent letter opposing the rule.

"The qualified residential mortgage definition regulators have proposed is so restrictive it threatens to cut off millions of otherwise eligible consumers from the dream of owning a home and will drive the bulk of real estate lending in this country to the largest institutions that enjoy the lowest cost of capital," said Sherman.

“That’s why Congressman Campbell and I persuaded over 280 of our House colleagues to sign a letter to regulators opposing the rule as it has been drafted,” he said.

“This economy cannot recover if housing does not recover. It’s one-sixth of the economy,” added Campbell.

“If this regulation as proposed goes into effect, we not only won’t have a strong housing market, we’ll have a weaker one. We cannot set up a system that is so onerous and so difficult that the average American won’t be able to get financing to buy a house, which will further drop the price of housing and will further sink this economy,” he said.

Coinciding with the news conference, joint letters from 44 senators and 282 members of the House of Representatives have been sent to the federal regulators.

Weighing in on the Issue

NAHB has strongly weighed in on this matter as a member of the Coalition for Sensible Housing Policy and in testimony before Congress, urging regulators to come up with a fairer QRM definition that does not unduly impact credit-qualified home buyers.

On June 22, the coalition also submitted a white paper to regulators as a joint comment letter.

The 44 organizations that signed on to the white paper are calling on regulators to “redesign a QRM that comports with congressional intent: encourage sound lending behaviors that support a housing recovery, attract private capital and reduce future defaults without punishing responsible borrowers and lenders.”

Federal regulators recently extended the comment period for the 20% downpayment rule until Aug. 1. In their announcement, the agencies cited "the complexity of the rulemaking" and the need "to allow interested persons additional time to analyze the proposed rules."

NAHB is currently drafting comments for submission ahead of the new deadline.

For more information, email Jessica Lynch at NAHB, or call her at 800-368-5242 x8401.