



GOVERNMENT AFFAIRS

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The Honorable Christopher J. Dodd
Chairman
Banking, Housing and Urban Affairs
Committee
United States Senate

The Honorable Richard C. Shelby
Ranking Member
Banking, Housing and Urban Affairs
Committee
United States Senate

Dear Senator Dodd and Senator Shelby:

I am writing on behalf of the 235,000 members of the National Association of Home Builders (NAHB) to urge you to strike a provision currently included in the Senate Substitute to the House amendments to H.R. 3221, the *American Housing Rescue and Foreclosure Prevention Act*, that would ban seller-funded downpayments in conjunction with Federal Housing Administration (FHA)-insured loans.

Section 2113 of the Senate Substitute would prohibit seller-provided downpayment assistance for a home purchase financed with an FHA-insured mortgage loan. Under this provision, sellers could not provide funds for a buyer's downpayment, either directly or through a third party.

NAHB believes that sellers should be permitted to provide downpayment assistance to buyers under appropriate circumstances that would include prudent credit analysis and underwriting and adequate home buyer information and counseling. NAHB is concerned that an outright prohibition on seller downpayment contributions would unnecessarily impede efforts to improve homeownership opportunities. Thus, NAHB urges the Senate to refrain from an absolute prohibition of seller-provided downpayment assistance.

For nearly a decade, regulations and policies of the Department of Housing and Urban Development (HUD) have permitted qualified charitable organizations to provide "gifts" to pay all or part of purchasers' required cash contributions toward home purchases when using FHA-insured mortgage loans, regardless of the ultimate sources of the funds for these gifts. During this time, thousands of home purchase transactions have been assisted by gifts and the majority of the resulting loans have performed according to the terms of the mortgage.

A number of NAHB builder members have participated in downpayment assistance programs to provide homeownership opportunities to buyers using FHA-insured mortgages. It is typical for builders to provide downpayment assistance as one of a variety of sales incentives, particularly for entry-level homes.

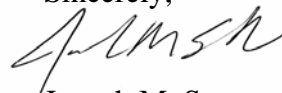
Studies continue to show that lack of a downpayment is a major, if not primary, obstacle to homeownership. A number of federal and state programs have been established to help first-time home buyers clear this imposing hurdle. While these programs have been effective, their capacity is severely limited in comparison to the need for such assistance. This gap has been partially filled by seller-assisted downpayment programs. A sudden shutdown of this supplementary source of assistance would have a devastating impact on efforts to provide homeownership opportunities. It would also have a serious adverse impact on FHA's role in support of homeownership.

Home builders have a strong interest in, and commitment to, the communities in which they build and, therefore, take a long-term view of their home sales transactions. It is certainly not in a builder's interest to have a recently sold home to return to the market through foreclosure. That is why NAHB is committed to finding ways to continue seller provided downpayment assistance in a manner that is in the best interest of home buyers, builders and the FHA.

As you are aware, HUD has proposed and re-proposed rules which, if enacted, would prohibit seller assistance with downpayments in conjunction with FHA-insured mortgage loans. In its comment letter to HUD dated July 10, 2007, NAHB urged HUD to institute reforms in lieu of a complete prohibition of seller-provided downpayment assistance. Such reforms should include requirements of pre- and post-purchase counseling for FHA borrowers whose transactions will be seller-assisted; inclusion of seller assistance for home buyers' downpayments under the six percent limit currently imposed on seller financing concessions in FHA-insured transactions; and, stronger appraisal and underwriting standards and oversight for loans with seller-assisted downpayments. Appraisal criteria should require comparison of the price on homes with downpayment assistance to prices on similar homes without such assistance. In addition, borrowers should receive full disclosure and information on all of the features of their mortgage.

NAHB believes that steps can be taken as outlined above to improve the effectiveness of seller-assisted downpayment programs and strongly urges you to remove Section 2113 before final passage in the Senate. Thank you for consideration of our views.

Sincerely,



Joseph M. Stanton