

Comments related to Docket Number R-1305

Comments related to Docket Number R-1305

April 8, 2008

Three Pages Total

I'm currently a mortgage broker and the owner of Residential Loan Star Mortgage, Ltd. I began my career in the mortgage industry after servicing 13 years as a USAF pilot. I started as an entry level loan officer (originator) with a national mortgage banking company and worked my way to the position of Senior Vice President, overseeing development of training and promotional items for our loan officers who originated about three billion dollars a year of residential mortgages. Our servicing portfolio topped 16 billion.

Consequently I've seen the industry from a multitude of angles and perspectives. I understand what it is to look at hopeful homeowners across my desk, and I understand what it takes to successfully deliver bundles of loans in the secondary market. I know what it is like to enter into dialog with HUD about their concerns and develop a plan that provides solutions to market problems. I certainly don't know everything about the mortgage industry, but I know enough to provide pertinent and practical comments about the industry and proposed legislation or rule changes.

In the interest of readability I will seek to keep my comments and illustrations as concise as possible with the open offer to promptly provide additional data, illustrations, or further explanation upon request.

My primary concern any time we enter into a situation where decisions will be made that have long range substantial impact on our country, its economy, and its citizens is that the results are typically the conclusions of well-intentioned people who lack well-intentioned comments and street level industry experience. I will make special note of those things that I think are extremely important from the street level perspective.

Use of ANNUAL PERCENTAGE RATE and the TRUTH IN LENDING Disclosures

My first comment takes aim at the use of APR and the Truth in Lending. Frankly, it never fit the mortgage industry, and today it is so far removed from any ability to provide even a modest benefit to either the borrowers or lenders in the mortgage industry that it should either be dramatically changed or deleted.

This is an example where street level experience is very important. When borrowers come to our office and want to know the APR of our mortgage programs, it is very clear that they have no idea how to effectively shop for a mortgage. Here's just a few of the severe limitations of the APR:

Comments related to Docket Number R-1305

- There is not a truly standardized method of calculating APR. Even if such a standard could be developed, there are too many "loopholes" that allow manipulation of the APR.
- Due to varying business structures, one company may be required to use certain fees in the APR calculation where its competition may not have to include the same fee. So borrowers that "shop for APR" could easily choose the wrong company or product based on an inconsistent APR calculation method.
- Points paid by the seller to buy down the rate for the borrower are not part of the APR calculation. This invites deception in the construction industry. A builder can offer to provide a mortgage with a fabulous APR if the borrower uses the builder-owned mortgage company. Yet, the builder has priced into his sale the cost of the contribution to the borrower's buy-down rate. The buyer/borrowers think they are getting a great deal when in reality they are getting nothing more than an overpriced house with the excess funds used for a rate buy-down on the loan in which the true APR is far higher than indicated. This is just one of many issues created with the trend toward builder owned mortgage companies.
- The APR calculation is valid only if the loan goes to full term. Whenever the APR is higher than the note rate, the true APR will continue to climb as the borrowers make extra payments to accelerate the loan payoff, or the loan is paid off early due to sale, refinance, or due to a large infusion of cash into the borrower's lives such as an inheritance. This alone makes the use of APR impractical. If we are serious about trying to make the APR useful, and if we insist on using the APR in some form (to which I remain strongly opposed) we need to at least recognize the effect of early payoff or curtailment on the APR, and disclose that effect. I would suggest we call the new calculation the "Effective APR" and I would suggest we disclose what the "Effective APR" is on proposed loans if the loan is prepaid in 3, 5, 10, and 15 years as well as the APR for the full term of the loan.

PREPAYMENT PENALTIES

While I believe prepayment penalties should be very clearly disclosed such that borrowers are able to make a prudent decision about their loan, the underlying perspective that prepayment penalties are 'evil' and punitive to borrowers should be discarded. Prepayment penalties are simply a financing tool that allows some borrowers to secure more advantageous financing when they are confident they can meet the terms that avoid the penalties. Putting a series of limits and requirements for loans with prepayment penalties only makes it more difficult for the borrower to understand the various options available. And, for every potential negative consequence for the borrower that a rule or requirement seeks to protect against, there are unseen "countermeasures" that unscrupulous lenders can employ to circumvent those borrower protections. My point is that it's extremely difficult – if not impossible – to legislate against borrow ignorance in the mortgage industry. The time, effort, and expense expended in the creation of borrower protections would far better be spent on borrower education.

Comments related to Docket Number R-1305**Disclosure of Yield Spread Premiums and Related Issues**

There is an unfortunate trend that suggests mortgage BROKERS are not honest about the way they are compensated and that they seek only to help themselves – not the borrowers. This is based on an entirely and fundamentally flawed conception of how the industry works, particularly at the street