



NATIONAL
ASSOCIATION *of*
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August 2, 2011

Carole Gallante
Acting Assistant Secretary of Housing / FHA Commissioner
Department of Housing and Urban Development
Washington, DC 20410

Dear Acting Commissioner Gallante:

I am writing on behalf of the 1.1 million members of the National Association of REALTORS® (NAR) to urge you to eliminate the prepayment penalty for mortgages insured by Federal Housing Administration (FHA). The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

As you know, the Ability to Repay Proposed Rule would amend the Federal Reserve's Regulation Z, to implement amendments to the Truth in Lending Act (TILA) made by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act). The rule would prohibit any creditor from providing a mortgage loan without making a reasonable and good faith determination that the borrower has the ability to repay the loan. As amended, TILA also strictly limits or, in some cases, bars prepayment penalties. Where they are allowed, they must be phased out over three years¹.

NAR has long argued that FHA's policy of requiring a borrower to pay interest through the end of the month when prepaying a loan is a prepayment penalty. Apparently, the Federal Reserve agrees. In section 226.43(b)(10) of the Proposed Rule, a prepayment penalty includes "[a] charge determined by treating the loan balance as outstanding for a period of time after prepayment in full and applying the interest rate to such 'balance.'" ² FHA has such a prepayment penalty since FHA rules require FHA borrowers to pay interest charges based on an outstanding principal loan amount that has already been fully paid.

NAR has been urging FHA and Ginnie Mae to remove this prepayment penalty for more than eight years. No other traditional lending program, including the Veterans Administration's Loan Guaranty Program and the US Department of Agriculture's Rural Housing Service loans that are also securitized by Ginnie Mae, has such a requirement. According to recently obtained data, in the last 10 years alone, FHA borrowers have paid more than \$1.8 billion in excess interest/prepayment penalties. This penalty places an unreasonable and often unexpected burden on FHA consumers who already face high housing and closing costs. The mission of the FHA program is to serve those not fairly served by the private market. Imposing interest penalties on these consumers contradicts this goal.



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¹ See section 129C(c) of TILA, as added by section 1414(a) of the Dodd-Frank Act.

² 76 Fed. Reg. 27482 (May 11, 2011).

Thank you for the opportunity to weigh in on this important issue. We urge FHA to eliminate this requirement, which is universally understood to be a prepayment penalty and appears to be inconsistent with the changes made by the Dodd-Frank Act. American families rely on FHA insurance to obtain safe, affordable mortgage financing. They should not face a penalty to do so.

Sincerely,

A handwritten signature in black ink, reading "Ron Phipps". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

Ron Phipps, ABR, CRS, GRI, GREEN, e-PRO, SFR
2011 President, National Association of REALTORS®