

Business / Affiliated Business 3% Cap on Fees and Points

NAR Committee:

Business Issues Policy Committee

What is the fundamental issue?

The Dodd-Frank Ability to Repay/Qualified Mortgage (QM) rule discriminates against various business models including mortgage bankers, mortgage brokers, and affiliates. Specifically, for a mortgage to be a QM and receive safe harbor protections, the mortgage's fees and points cannot exceed three percent of the loan amount. However, mortgage bankers, mortgage brokers, and affiliated companies are required to count more items towards fees and points than large retail financial institutions. This puts these smaller firms at a competitive disadvantage. Legislation is needed to make any changes to the QM rule because of the specificity of the Dodd-Frank statutory language.

I am a real estate professional. What does this mean for my business?

Real estate professionals' clients will have fewer choices in where they can obtain a mortgage or other settlement services and the service they can rely on.

NAR Policy:

NAR supports greater access to mortgage credit and consumer choice. The Dodd-Frank Qualified Mortgage definition of fees and points needs to be fixed in order to ensure continued access to a broad range of lending institutions and options that meet consumer needs.

Opposition Arguments:

Opponents of NAR policy believe consumers do not receive enough protection and need additional protections to control the prices they pay for title insurance, mortgages and other settlement services.

Legislative/Regulatory Status/Outlook

In the 114th Congress, H.R. 685, the "Mortgage Choice Act", introduced by Representatives Bill Huizenga (R-MI) and Gregory Meeks (D-NY) passed the House Financial Services Committee with a bipartisan vote of 43-12 and passed the House 286-140. The measure was not taken up by the Senate.

Representatives Huizenga and Meeks introduced the bill again in the 115th Congress as H.R. 1153, the "Mortgage Choice Act of 2017". The bill has also been incorporated into the "Financial CHOICE Act of 2017" introduced by Representative Jeb Hensarling (R-TX). The Financial CHOICE Act was approved by the House Financial Services Committee (HFSC) on April 27, 2017, and passed by the House on June 8, 2017. NAR also is pushing for inclusion of Mortgage Choice Act language in bills moving through the appropriations process.

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NAR continues to work with an industry coalition on efforts to identify a bipartisan set of cosponsors for a Senate companion bill and exploring potential regulatory fixes with the Bureau of Consumer Financial Protection (CFPB).

Current Legislation/Regulation (bill number or regulation)

H.R. 1153, the "Mortgage Choice Act of 2017 (Huizenga, R-MI; Meeks, D-NY)

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