

On July 29, 2008, President Bush signed into law the most important piece of housing legislation in recent memory. While this new law is no cure all for all the problems in the real estate and mortgage industry, it does lay the foundation for responsible solutions in the future.

Many of the provisions in this new law such as FHA modernization and GSE oversight have long been priorities of the mortgage industry, MBAG and MBA. Equally important is the fact that some of the provisions which were opposed by MBAG and MBA, such as the bankruptcy cram-down proposals, were not included in this legislation. This new law is very lengthy so this article will be a brief summary of the major portions of the legislation which will impact real estate mortgage finance.

1. FHA MODERNIZATION

At long last a sizeable funding allocation, \$25 million, has been appropriated for FHA to improve technology, processes, program performances, eliminate fraud and provide appropriate staffing. Effective January 1, 2009, the FHA loan limits will be increased to the lesser of 115% of the local median home price or \$625,000 with a floor for lower priced markets of \$271,000. The down payment requirement will be set at 3.5%.

Beginning on October 2, 2008, charities will no longer be allowed to provide, to persons obtaining FHA loans, down payment gifts which are then reimbursed by the builder selling the house. Direct and indirect down payment subsidies will be eliminated.

2. GSE OVERSIGHT

A new regulator for FNMA and FHLMC has been created with oversight authority similar to that of bank regulators. In addition an explicit guarantee by the US Government has now been established. It allows the Treasury to extend an unspecified credit line to Fannie and Freddie Mac, and it would allow the government to purchase equity in either company if needed to calm the markets. Without this explicit guarantee the source for housing fund might have been substantially diminished.

The conforming loan limits have been raised to 115% of the local median house price not to exceed \$625,000 and is effective January 1, 2009.

3. FHA RESCUE

This portion of the law is intended to help prevent foreclosures and to help certain homeowners refinance into FHA loans. The program will be run by FHA and will insure up to \$300 billion in refinanced 30 year fixed rate loans. The loan cannot exceed 90% of the appraised value of the home. The lender would have to voluntarily write down the principal of the existing loan to the qualifying level. If the home goes up in value, the homeowner must share the newly created equity with the FHA. The lender would pay a 3% FHA loan origination fee. In order to qualify a borrower would have to have a debt to income ratio above 31% on the original loan. A borrower does not qualify if they have intentionally defaulted on their loan or if the home is not being used as their residence. This program begins October 1, 2008 and ends September 30, 2011. Congressman Frank has asked lenders to hold off on foreclosures until this provision can take effect October 1, 2008. Various industry officials have indicated a willingness to comply by holding off on foreclosures, at least for those loans which might qualify for this FHA refinance option, until October 1, 2008.

4. TAX INCENTIVES

First time home buyers, who qualify, can get a one-time tax credit of \$7,500, or 10% of the home's purchase price, whichever is less. The income caps for this benefit are adjusted gross income of \$75,000 for single people and \$150,000 for couples who file taxes jointly. This tax credit will be like an interest-free loan that the homeowner will have to pay back over 15 years. If the buyer sells the house for more than they paid, but hasn't repaid the credit in full, the buyer owes the government the balance.

5. TILA REFORM

This new law will require TILA disclosures 7 days prior to the loan closing with examples of how payments would change based on adjustments in addition to disclosing the highest possible payment under the loan terms. It would also mandate that the consumer receive early disclosures before paying anything more than a nominal fee that covers the cost of a credit report.

6. GRANTS TO STATE AND LOCAL GOVERNMENTS

This law will offer up to \$4 billion to state and local governments to purchase at a discount and renovate

abandoned and foreclosed homes in the hardest hit areas. In addition this law provides for \$180 million devoted to pre-foreclosure and legal counseling to be distributed by NeighborWorks, a national non-profit organization.

7. LICENSING

This law would encourage states to create a national licensing system for loan originators. If the states fail to do so, then HUD is empowered to act in place of the states and set up its own system for licensing of loan originators. Minimum qualifications will be established under this law. Also, it would require federal regulators to create a registry for all bank and thrift employees who originate loans.

**If you have any questions about anything contained in this bulletin,
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