

HR 4173 Conference Committee Talking Points

Background for talking points -

It is our opinion that the bill(either version) is an over reaction to a situation which needs attention but which will fail to achieve its overall objectives. However, since it appears a foregone conclusion that the bill will pass in some form we need to seek the best outcome we can hope for in the language that will affect our consumers and our business.

The purpose of the following is to provide you with concise information to share with your member or their staff (sometimes the most effective person to reach in terms of results) in a phone call. When you add the written (mail or fax) follow up comments we suggest you use the letter(s) available on our home page.

There are four areas of concern for consumers:

1. Mortgage Licensing – Currently only small banks and mortgage brokers are required to be educated, tested and licensed to originate mortgages.

Eliminate discrimination within the mortgage industry. Require all Bank Loan Originators, Federally chartered included, to be Educated, Tested and Licensed to originate mortgages, in accordance with the Secure & Fair Mortgage Licensing Act . This will make it safer for consumers and reduce costs to the consumer by promoting healthy competition within the industry.

2. Appraisal Independence – Sunset the HVCC (Home Valuation Code of Conduct)
3. Prohibitions on “Steering” Incentives – affects how we are paid between origination fees and lender payments (YSP)
4. Ability to Repay – No argument against proving an ability to repay but your concern is for the unintended consequences the approach will have on consumer access to loan programs and your ability to make a living and that front end fees bear no correlation with ability to repay.

Your talking points:

- Appraisal Independence

The Home Valuation Code of Conduct **has not** achieved its objectives. Rather it has produced unintended consequences. Consumers have been financially harmed. Housing values have been artificially deflated. Valuation fraud as reported by at least two accepted sources, MARI (the source used by the MBA to issue its quarterly reports) and Interthinx, has increased since the implementation of this policy. There has been a significant increase in complaints about AMC interference with appraiser conduct. The policy has driven thousands of the most competent professionals out of the industry, thereby increasing the problems and deepening the consumer harm. I am asking you **to support Title IV, Section 4312 of the House version**. It sunsets the flawed HVCC, directs the regulator to develop appraisal independence requirements and incorporates the consumer safeguards required by the SAFE Act. It will reduce costs, improve competence and return accurate valuations to the market. This section is excluded from the conference “Base” bill and needs to be included in the final.

Further, by including the language from Title IV, Section 4312, it will be technically necessary to **delete from the Base document, Title XIV, SubTitle F, Section 1474 (c) and (d) [also referred to in Title VII, SubTitle F, Appraisal Activities, Section 9504 (c) and (d) in the approved House version.]** This language must be removed because it calls for a study of the effects of the HVCC and will not be required with the inclusion of the language from Title IV.

- **Prohibitions on Steering Incentives**

I ask you **to oppose language restricting the manner of compensation to mortgage loan originators.** [The language is contained in the conference (Title XIV, SubTitle A, Section 1403) and in both the House and Senate versions of the bill (Title VII, Section 9103 (A)(ix) – House; and Title X, Section 1074 (B)(6)(C) – Senate)] on the basis that both versions presume incorrectly that borrowers are unable to make informed decisions. Changes in both RESPA and TILA have continued to address consumer awareness and have introduced new protective disclosures and timing. Also when consumers are aware of the interest rate, front end costs, monthly payment and expected time that the loan will be outstanding, they are fully empowered to price shop effectively and to make informed decisions.

The “anti-steering” language from either bill will cause consumer harm by limiting choice. The bills ignore the market pressures that inherently protect consumers when they do shop and the both versions introduce government price controls for inappropriate reasons. I will send you an industry position statement that offers a detailed explanation of my position and provides a workable solution that could be implemented easily. The paper has been shared with HUD and the Board.

As an alternative to the language in each bill, I offer the following: *“For any mortgage loan, the total amount of compensation paid directly from the consumer to the mortgage originator for that loan may not increase beyond an amount of compensation agreed to, in writing, between the originator and the consumer prior to consummation of the mortgage loan.”*

- **Ability to Repay**

The conference base bill (Title XIV, SubTitle B, Section 1403), the Senate version (Title X, Section 1074) and the House version (Title VII, Subtitle B, Section 9101) all contain language intended to insure creditors validate a consumer’s ability to repay prior to consummating a mortgage loan. Everyone supports the need to determine a consumer’s ability to repay.

Each version of the bill links loan originator compensation and other front end costs with a consumer’s ability to repay. The issue is that **there is simply is no correlation between front end costs and a consumer’s ability to repay.**

The rebuttable presumption of a 3% cap on points and fees is inappropriate. Front end costs are not a determinant of ability to repay. Further, the base conference bill now allows Federal government mortgage insurance costs to be excluded from the calculation of the 3%. Why does money paid by a consumer to the government have a different impact on ability to repay than money paid to others?

As all versions of the bill exists, borrowers trying to finance in the lower price ranges (less than \$200,000) will likely be “shut out”. This directly opposes much of the

legislation's objectives with respect to protecting consumers and their access to mortgage products.

The Points and Fees limits for safe harbor (2% in the House version and 3% in the Senate and Conference base version) will deter lender interest.

The interest rate definitions of qualified mortgage will prevent lenders from trading reduced points and fees for deferred revenue in the form of interest producing the same potential for borrower access issues.

Borrowers should be able to decide if they want to pay for mortgages in the front end or in the interest rate based on their individual situations and their ability to repay the mortgage. This legislation will restrict those choices.

If the 3% must remain, I ask you to support having the 3% calculation based only loan originator compensation and no other fees.

I ask you **to oppose** language that defines a qualified mortgage using a maximum amount of points and fees or limits any rebuttable presumption based on a fixed amount of points and fees.

Thank you for your attention to my issues, alternatives and solutions.

Information provided courtesy of IMAAG