NMHC National Multi Housing Council®
Apartments: Smart Communities, Smarter Living

Issue Fact Sheet

National Multi Housing Council • Suite 540 • 1850 M Street, NW • Washington, DC 20036 • (202) 974-2300 • Fax (202) 775-0112 • www.nmhc.org

RETAIN THE BAN ON SELLER-FINANCED ("CHARITY") DOWNPAYMENT PROGRAMS

Background

The housing stimulus bill (P.L. 110-289) enacted in the 110th Congress banned seller-financed downpayment programs as of October 1, 2008. Under these programs, builders and other house sellers contribute funds to an organization–AmeriDream, Inc. and Nehemiah Corporation of America are among the most prominent–and the organization, in turn, provides those funds to a prospective house buyer to use as the downpayment.

The programs have come under fire from the Internal Revenue Service (IRS), Government Accountability Office (GAO) and HUD's Inspector General's Office as a "circular funding" scheme. The IRS stripped dozens of these organizations of their tax-exempt status, ruling that the sellers often merely raise the property's selling price in order to offer the funding, and therefore the program may not result in a net benefit to the buyer.

The Federal Housing Administration (FHA) twice attempted to ban the programs through regulatory action, noting that loans involving "charity" downpayment assistance are three times as likely to go into foreclosure and skyrocketed from only six percent of the agency's originations in 2000 to approximately 30 percent as of 2004.

The surge of these toxic loans was a contributing factor to the explosion in foreclosures across the country. Nevertheless, a coalition of organizations, led primarily by Nehemiah, is seeking to have the ban overturned.

NMHC/NAA Position

Congress had strong reasons to ban these programs in the housing stimulus bill, and those reasons remain in place.

- **These loans are three times as likely to go into foreclosure.**
  According to HUD, FHA loans made to borrowers relying on seller-financed downpayment assistance go to foreclosure at three times the rate of loans made to borrowers who make their own downpayments.

- **These programs unnecessarily put tax dollars and the FHA at risk.**
  With such high foreclosure rates, these loans were partially responsible for creating the high losses experienced by FHA during the housing crisis. We need to protect the FHA by retaining the ban on downpayment assistance programs so the Administration is available to help house Americans, not lead them down a path to foreclosure.

- **Zero-Down has been discredited. Reinstating these programs could extend the housing crisis.**
  The foreclosure crisis was largely preventable if we had not been so eager to push millions of people into unsustainable homeownership. There are a number of factors that caused the unsustainable bubble in the housing market, from low interest rates to lax lending standards to overly aggressive lending and widespread embrace of **zero-down mortgages.**

  Seller-financed downpayment mortgages are just another version of the now discredited zero-down mortgage lending. The poor track record of these mortgages is clear evidence that they were part of the problem leading up to the single-family meltdown. Repealing the ban on downpayment assistance programs will simply expand the number of homeowners with no equity in their properties. In a marketplace characterized by falling house values, these households are much more likely to walk away from their houses if they can no longer afford their mortgages.

  Congress rightly concluded that zero-down mortgages helped fuel the current housing crisis and that the federal government has no business insuring zero-down mortgages. It did so not only by banning seller-financed downpayments but by raising the minimum FHA downpayment to 3.5 percent (after previously considering an

FHA zero-down program). In other words, banning seller-financed downpayments is a reasonable and necessary reaction to the housing crisis and one that needs to be retained to avoid extending the current crisis--or creating the seeds of the next one.

- **These programs artificially inflate housing prices.**
  As FHA commissioner Brian Montgomery noted in Senate testimony in 2008, "there is a clear quid pro quo" between the purchase of a house and the seller's "contribution." These so-called "gifts" are ultimately paid for the buyer because sellers tend to raise their asking prices to cover the amount they are theoretically "giving away".

- **These programs push families into unsustainable homeownership and benefit home builders more than home buyers.**
  Proponents of these programs argue that they help hard-working families to buy a house. But the primary beneficiaries of these programs are builders and house sellers, not first-time home buyers. Builders get to unload their excess inventory, but buyers find themselves at a higher risk of being foreclosed on and possibly trapped in houses with artificially inflated purchase prices.

Relevant Committees

U.S. Senate Committee on Banking, Housing, and Urban Affairs
House Committee on Financial Services

Contact Information

Lisa Blackwell
Vice President of Housing Policy
NMHC/NAA Joint Legislative Program
202/974-2365
LBlackwell@nmhc.org

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