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Regarding: RIN 2590-AA27 Duty of Serve 12 CFR Part 1282 : Enterprise Housing Goals
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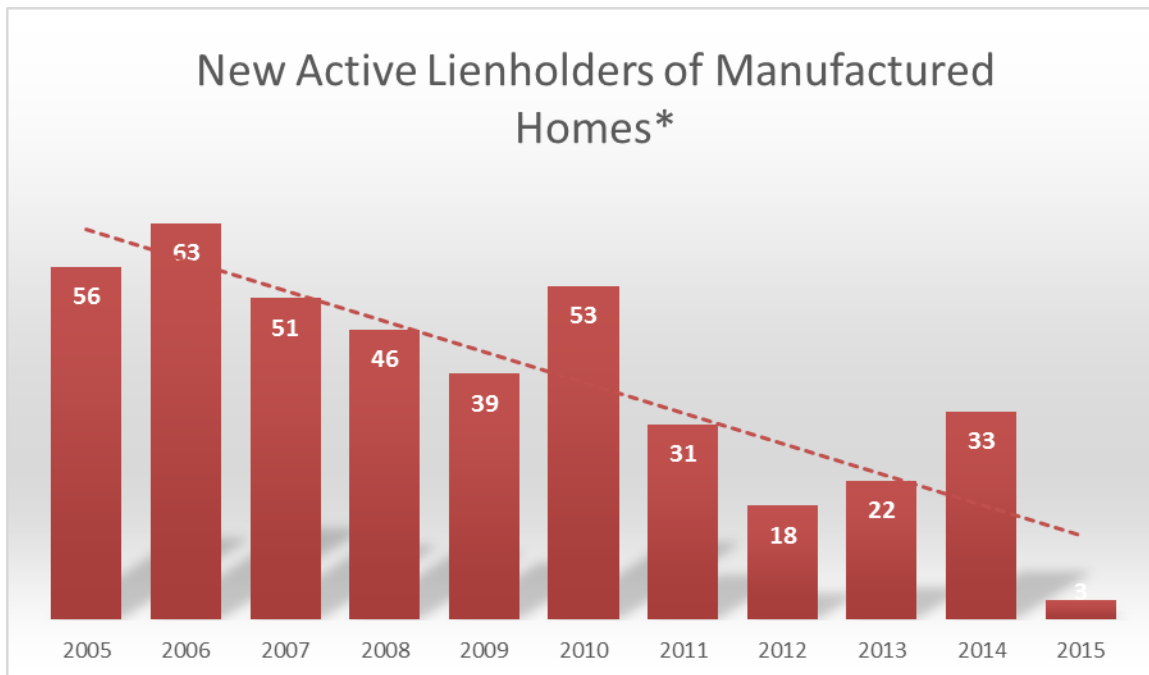
The Wisconsin Housing Alliance is the statewide trade association which serves all segments of the factory built housing industry.

The Alliance believes that FHFA and the Enterprises have shirked their duties by ignoring the needs of a population that uses manufactured housing as their home. Combined with regulations imposed by the CFPB, local and national lenders have exited the market in droves. In particular, there is a gap in access to credit for buyers of used manufactured homes. The Enterprises were charged by the 2008 Housing & Economic Recovery Act (HERA) in creating a secondary market for underserved market including chattel lending for manufactured homes.

The Wisconsin Housing Alliance examined over 84,000 manufactured home title transactions from the Wisconsin Department of Safety & Professional Services which perfects liens on personal property manufactured homes. These are loans where the home is generally situated on leased land.

The number of active lenders for homes on leased land in Wisconsin has declined over the past decade.

- Average number between 2005-2010 = 62
- Average number between 2011-2015 = 21.4



(*2015 year was one-half a year of data, the Alliance believe the uptick in 2010 was caused by a single lender's purchase of another lender's portfolio and then subsequent re-issue of existing titles)

The lack of local and national lenders could be reversed if there was a viable secondary loan market.

Specific Comments on the Proposed Rule

The manufactured housing market activities in the proposed rule are limited to (1) manufactured homes titled as real estate and (2) manufactured home communities. Where is the evidences that those are the two leading needs? How do these two activities address the command of the statute to address loans secured by both real and personal property? (See Section 1129(d)(3))

On page 7, FHFA suggests that modification to the 2010 rule is warranted because the "agency's intervening years of experience with the Enterprises and their operations in the underserved markets have suggested a different approach, sufficiently so that further notice and comment is necessary through this new proposed rule." If that is true, and the CFPB has imposed mortgage rules on chattel loans, why back away from those rules now? If FHFA doesn't value the efforts of the CFPB, then they should inform CFPB of that fact.

Response to Request for Comments 1 to 22 only.

1. How much discretion should the Enterprises have in selecting activities – Core Activities and Additional Activities – to serve the underserved markets?

Answer: The core activities presently do not serve the bulk of manufactured home buyers who opt not to purchase land. Therefore, the Enterprises should be encouraged to explore demonstration projects.

2. Should FHFA establish specific Regulatory Activities for the underserved markets, or should the Enterprises have broad discretion to decide how to serve these markets?

Answer: same answer as above.

3. Are the proposed Regulatory Activities, as identified in the proposed rule for each of the underserved markets and described further below, appropriate for accomplishing the Duty to Serve objectives?

Answer: Far from it! The real need in the marketplace is a secondary market for chattel lending. The Enterprises should be encouraged to create prescriptive loan documentation that if use would facilitate purchase by the Enterprise. The forms themselves would in effect be regulatory documents that if completed correctly would provide consumer and collateral protections for buyers and lenders as well as open credit markets.

Questions 4 to 6 no comments.

7. Is there an alternative mechanism to an Underserved Markets Plan that would better enable FHFA to evaluate the Enterprises' Duty to Serve obligations?

Answer: Each Enterprise should be reviewed based on how many families are served outside of existing core products. If duty to serve is actually achieved it must be measured in terms of effects on American families not just dollars placed.

Questions 8 to 10 no comments.

11. Should Enterprise support for manufactured home loans titled as real property be a Regulatory Activity?

Answer: Yes

12. Should the Duty to Serve rule only give credit for support to manufactured home borrowers with specific needs, such as current borrowers with real estate mortgages with excessive coupon rates (and what should be considered “excessive”), or current borrowers with chattel loans who could benefit from conversion to real estate financing? If so, what kinds of needs would be appropriate?

Answer: All MH loans should result in credit.

13. Should the Enterprises receive credit for purchasing chattel loans, on an ongoing or pilot basis? If so what improvements should be made in the process for originating and servicing that would make chattel loans safer for purchase by the Enterprises and safer for borrowers?

Answer: The Enterprises should be encouraged to create prescriptive loan documentation that if use would facilitate purchase by the Enterprise. The forms themselves would in effect be regulatory documents that if completed correctly would provide consumer and collateral protections for buyers and lenders as well as open credit markets.

14. Should Duty to Serve credit be available for Enterprise support of chattel-titled manufactured homes where the units are sited in manufactured housing communities for which an Enterprise has purchased the blanket loan and the blanket loan purchase qualifies for Duty to Serve credit?

Answer: The blanket loan should not be a barrier to purchase chattel loans.

15. If FHFA allows Duty to Serve credit for Enterprise support of chattel lending, should the tenant protections as described in “Manufactured Housing Communities with Tenant Protections—Proposed § 1282.33(c)(2)(iii)” below also be required? How could compliance with borrower and tenant protections be implemented and monitored within the operational systems and capacities of the Enterprises and those of their seller/servicers and other counterparties?

Answer: The tenant protections are landlord tenant regulations that are the purview of the states. Here is the list and its status under Wisconsin law:

a. The lease term must be for a minimum of one year and renewable absent good cause;

Status - True in Wisconsin – Ch. 710.15 [http://docs.legis.wisconsin.gov/document/statutes/710.15\(1m\)](http://docs.legis.wisconsin.gov/document/statutes/710.15(1m))

b. There must be at least 30 days advance written notice of a rent increase;

Status - 28 days notice <http://docs.legis.wisconsin.gov/document/administrativecode/ATCP%20125.05>

c. There must be at least a five-day grace period for rent payments, and tenants must have a right to cure defaults on rent payments;

Status – True in Wisconsin [http://docs.legis.wisconsin.gov/document/statutes/704.17\(2\)](http://docs.legis.wisconsin.gov/document/statutes/704.17(2))

d. If the tenant defaults on rent payments, the tenant must have the right to:

i. Sell the tenant’s unit without having to first relocate it out of the community;

Status – Unclear in Wisconsin. Who would pay the rent during the period of default since the debt is a personal debt and cannot become a lien against the house?

ii. Sublease or assign the lease for the unexpired term to the new buyer of the tenant's unit without any unreasonable restraint;

Status – A community operator is prohibited from refusing to rent to the purchaser of a tenant's home. [http://docs.legis.wisconsin.gov/document/administrativecode/ATCP%20125.06\(1\)\(d\)](http://docs.legis.wisconsin.gov/document/administrativecode/ATCP%20125.06(1)(d))

iii. Post "For Sale" signs; and

Status – True in

Wisconsin. [http://docs.legis.wisconsin.gov/document/administrativecode/ATCP%20125.06\(1\)\(e\)](http://docs.legis.wisconsin.gov/document/administrativecode/ATCP%20125.06(1)(e))

iv. Have a reasonable period of time after an eviction to sell the unit; and,

Status – After eviction, who would pay the rent? The home cannot remain for free. In Wisconsin, rent is personal debt and cannot be a lien. Does the FHFA propose to permit a lien?

e. Tenants must receive at least 120 days advance notice of a planned sale or closure of the community within which time the tenants, or an organization acting on behalf of a group of tenants, may match any bona fide offer for sale. The community owner shall consider the tenants' offer and negotiate with them in good faith.

Status – Options to purchase restrict constitutional property rights. How would FHFA propose to compensate community owners for giving up the right to sell without restriction?

16. Are there other segments of the manufactured housing market besides those discussed above that warrant Enterprise support under the Duty to Serve, such as communities located in lower-income or economically distressed areas?

Answer: We are uncertain that size or location of a manufactured home community should be a factor in providing access to capital.

17. Is the proposed limit of 150 pads for an eligible small manufactured housing community appropriate? Is there a different threshold that could better achieve the purposes of the Duty to Serve?

Answer: We are uncertain that size or location of a manufactured home community should be a factor in providing access to capital.

18. Are the proposed pad lease protections appropriate? Should any additional pad lease protections be required for an Enterprise to receive Duty to Serve credit?

Answer: We don't see how a right of first refusal affects the Enterprises or FHFA particularly where a sale of the property would not affect use. These leases would transfer to the new owner. There would be no change for the residents.

19. Should the proposed pad lease protections be required for any manufactured housing community, regardless of its ownership or size, to be eligible for Duty to Serve credit?

Answer: The so-called tenant protections are a matter of state law and should be removed.

20. Would the proposed methodology for determining affordability effectively approximate the incomes of the community's tenants? Are there other approaches that could effectively approximate the

incomes of manufactured housing community tenants to comply with the Duty to Serve family income requirements, e.g., the size of the blanket loan on the community or the size of the community?

Answer: The use of area median income data ignores the fact that most manufactured home communities serve populations with incomes below the area median. This formula needs revision to provide extra credits in those cases.

21. Could governing or financing documents for the community provide a proxy for resident incomes? For communities owned by governmental units or instrumentalities, would regulations, handbooks or financing documents specifying income criteria for the residents be an appropriate indicator of tenant incomes? For nonprofit-owned and resident-owned communities, would the founding documents for the community, which describe its mission as serving lower-income families, or financing agreements or other documents from funding sources specifying the required income levels of intended beneficiaries, be appropriate indicators of tenant incomes? Is there any comparable documentation that could be applicable to communities with for-profit owners, e.g., where they have accepted income restrictions in order to accept Section 8 vouchers?

Answer: All communities should be treated the same. This question proposes that governmentally owned or non-profit owned communities should receive an easier path to compliance which we reject.

22. Where the loan seller knows the incomes of the tenants of a manufactured housing community at the time an Enterprise purchases the blanket loan on the community, should the incomes be used to determine affordability, and what operational concerns might be associated with transferring the income data to the Enterprises?

Answer: All communities should be treated the same. This question proposes that governmentally owned or non-profit owned communities should receive an easier path to compliance which we reject.

Respectfully submitted,

Ross Kinzler, Executive Director