^THE NATION'S HOUSING COLUMN<

Friday, January 9, 2009

^By KENNETH R. HARNEY=

WASHINGTON -- When you apply for a mortgage to buy or refinance a house, should you be concerned that your appraiser is being paid much less -- maybe just half -- of the $300 to $600 you're charged on your settlement sheet? Should you know who pockets the rest, or that cut-rate fees are too low to attract the most experienced, highly trained appraisers?

Should you care that the appraiser might be pushed to come up with a number so fast -- almost overnight in some cases -- that he or she doesn't have the time to do a proper inspection and accurate evaluation of comparable properties, pending sales contracts and local market trends?

All these questions are at the core of a swirling controversy created by the release of new appraisal standards by Fannie Mae and Freddie Mac, the giant mortgage investors. The "home valuation code of conduct," issued by the companies' federal regulator late in December, is under attack by the very industry it purports to protect -- professional real estate appraisers. It's virtually certain to turn into a political issue in the new Congress, and may be the subject of a federal court suit.

The code of conduct, now scheduled to take effect May 1, is the end product of a settlement involving New York Attorney General Andrew M. Cuomo, the Federal Housing Finance Agency, and the two congressionally chartered mortgage companies the agency oversees.

The settlement came after Cuomo threatened Fannie and Freddie with an investigation aimed at ferreting out alleged appraisal overvaluations, and evidence of illicit pressure on appraisers to "hit the numbers" needed to close loans. As part of the deal, the two companies and their federal regulator agreed to create a set of standards to ensure that appraisals are accurate and insulated from pressure -- whether from lenders, mortgage brokers, realty agents or third-party appraisal management companies.

But trade groups representing appraisers are unhappy about key details. Four of the largest appraisal organizations, including the Appraisal Institute and the American Society of Appraisers, issued a joint statement charging that the code will force lenders to shift their valuation assignments to third-party appraisal management companies, abandoning the traditional system of using local appraisers selected by mortgage loan officers. The code bans brokers, who originate a substantial share of new mortgages nationwide, from any involvement in selecting appraisers.

Management companies, the groups complained, "place appraisal quality last while shifting the cost of appraisal ... services to the consumer without any disclosure." Often, management companies require appraisers to perform valuations for $180 to $200 -- far below their regular fees of $300 to $600 -- and deliver their report within 24 hours to 48 hours of an assignment.

Consumers are charged the full fee at settlement with no knowledge that a third-party management company is taking a large percentage of what appraisers normally are paid for their work.

The Title Appraisal Vendor Management Association, which represents third-party managers, denies that lower fees result in less-accurate home valuations. Jeff Schurman, the group's executive director, says "there's no evidence of that," and if there were, major banks and mortgage lenders would not hire them. Appraisal management firms offer lenders valuation services anywhere in the country they're needed to handle loan applications, said Schurman, and they deliver them quickly. He added that the portion of the appraisal fee the management companies take is "reasonable" given the overhead savings they provide lenders.

But some prominent appraisers are scathing in their criticism of management firms. Jonathan Miller, president and CEO of Miller Samuel Inc, one of the largest appraisal companies in the New York City area, says "their quality is terrible -- all they want you to do is crank it out at the lowest cost." Only "the least experienced people" are willing to do the work, "and the product is unreliable."

George Dodd, an appraiser based in Virginia, says "the most experienced appraisers (will be) the hardest hit" by the new code "because of our unwillingness to sacrifice integrity and quality by doing business" with management firms. Rather than work for peanuts, Dodd said, "I can flip burgers at McDs for more."

Where is all this headed? The National Association of Mortgage Brokers plans to appeal to Congress to reverse the code's ban on broker selection of appraisers, and it is considering a lawsuit challenging the code. Appraisers also are expected to seek changes, either from Fannie and Freddie's regulator, or from Congress.

Why should this matter to you? Miller says quick, slipshod appraisals can severely undervalue some properties -- forcing buyers to come up with bigger down payments -- and can scuttle refinancings. Or they can overvalue houses that should be selling for less.

Either way, it matters.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, January 16, 2009

^By KENNETH R. HARNEY=

WASHINGTON -- You've probably seen the incessant TV and Internet pitches -- "we can stop your foreclosure!" -- offering hope to millions of homeowners who are either behind on their mortgage payments or heading to foreclosure.

But a new settlement from the Federal Trade Commission sends a blunt warning to the fast-growing foreclosure fix-it industry: If you take consumers' cash upfront, and promise them you'll save their homes, you'd better be able to deliver.

Otherwise you may be charged with running a scam operation that violates federal law and exploiting the country's mortgage delinquency mess for your own private gain.

The FTC filed suit against Clearwater, Fla.-based Mortgage Foreclosure Solutions Inc., charging the company with operating a "scheme to sell purported mortgage foreclosure services to consumers" nationwide through six Web sites, but virtually never actually preventing foreclosures by lenders.

The FTC said the company lured homeowners with claims that "no matter how far you are behind in your payments, the size of your mortgage debt or your credit history, we have mortgage foreclosure solutions." According to the complaint, the company's marketing pitches said that "we are so confident of our abilities to provide mortgage foreclosure solutions that we guarantee our services."

Consumers who signed up were charged $1,200 -- $250 for "processing set-up" expenses, and $950 for negotiating with lenders and resolving foreclosure issues. Yet the company, according to the FTC, did "not stop mortgage foreclosures or save consumers' homes in all or virtually all instances." Many clients "ultimately (lost) their homes to foreclosure," said the FTC, despite the guarantees and fees. The ones who avoided foreclosure did so on their own, with no help from the firm.

In a final settlement of the case in U.S. District Court in Tampa on Jan. 5, the FTC obtained a $1.2 million judgment against the company, along with a series of prohibitions of future business activities promising foreclosure rescues. Because of the firm's financial incapacity to pay the judgment, the FTC agreed to suspend all but $8,320.84, while reserving the right to collect the rest if evidence emerges that the defendants had not fully disclosed their financial and other assets. Mortgage Foreclosure Solutions Inc. admitted no wrongdoing as part of the settlement agreement.

Cindy Liebes, assistant regional director for the FTC, said foreclosure rescue schemes are proliferating across the country as the result of the recession, job losses, and the real estate bust. The firms prey on homeowners who "are scared and really don't know what to do" to get off the treadmill taking them to foreclosure and loss of their houses, said Liebes.

Scam operators often have no special ability to intervene on behalf of distressed borrowers, or to work out loan modifications, repayment plans or other alternatives with lenders. All they want is to sign up clients and take their money -- essentially kicking homeowners when they're down and most vulnerable.

Liebes said the FTC has compiled a list of "red flag" signs to help homeowners determine whether promoters claiming to be able to forestall or prevent foreclosures may not be legitimate. In general, according to the FTC, you should avoid doing business with any firm that:

-- Guarantees to stop your foreclosure, irrespective of how much you owe or how much income you have to resolve your unpaid bills. Most major lenders and the servicing companies they employ are willing to negotiate loan modifications to cut payments or reschedule debts, but if you don't have the income to handle lower payments, foreclosure is hard to avoid. Any company that spins you a different story is probably a scam.

-- Requires you to pay money upfront before any services have been rendered. Liebes said some states specifically prohibit foreclosure rescue firms from collecting any money in advance, but Internet-based companies often ignore those rules.

-- Tells you to avoid contacting your lender or servicers directly, delegating all negotiating duties to the firm. In fact, borrowers tend to be in the best position to speak with servicers about their situations and possible alternatives to foreclosure, including short sales.

-- Instructs you to send mortgage payments to its office address instead of to your lender or servicer. Such firms not only take your money with little or no services rendered, but dig you into a deeper financial hole with your lender.

-- Asks you to turn over the title or deed to the property so that the company can be in a stronger position to deal with the lender. That's the equivalent of kissing your house -- and any remaining equity -- goodbye.

If you spot any of these red flags, take the FTC's advice: Walk away fast.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, January 23, 2009

^By KENNETH R. HARNEY=

WASHINGTON -- Should you give the $7,500 homebuyer tax credit a second look? Now that Congress may be on the verge of transforming it into a true tax credit -- one that never has to be paid back -- you just might want to do so.

On Jan. 15, the House Democratic leadership outlined its $825 billion economic stimulus package, loaded with $275 billion in tax cuts and $550 billion in new spending on health care, education, alternative energy and infrastructure improvements.

Tucked away in the tax section was a significant improvement to last July's congressional effort to stimulate home sales. That program offered a credit of up to $7,500 to purchasers who had never bought a house or hadn't owned one during the previous three years. To qualify, taxpayers would need to close on a house between April 8, 2008, and this coming July 1.

But relatively few consumers were attracted to the plan because unlike virtually all other federal tax credits, this one had to be repaid in full to the IRS over a 15-year period. In effect, the $7,500 was more like an interest-free installment loan from the government than a straightforward dollar-for-dollar reduction on buyers' tax bills.

Though final details on a revised credit are still subject to negotiations between the House and Senate -- and to passage of the economic stimulus package itself -- there's a good chance that buyers who sought the credit in 2008, and new purchasers in 2009, will be relieved of the repayment requirement.

According to industry estimates, removing the repayment rule could lead to an additional 202,000 purchases this year. The National Association of Realtors is pushing for the July 1 deadline to be extended to Dec. 31, opening the door to even greater numbers of sales.

Meanwhile, the IRS has come out with two recent advisories on the credit, plus a new Form 5405 for taxpayers interested in claiming the $7,500 benefit, either for 2008 or 2009. You can download a copy of the form at www.irs.gov in the publications and forms section.

Based on the latest IRS guidance, here's what you need to know if you're thinking about buying a house this year -- taking advantage not only of low prices and record low mortgage rates, but a temporary tax credit that may well turn out to be nonrepayable:

-- The $7,500 is available to singles, married couples filing jointly and unmarried co-purchasers, provided they meet the non-ownership test for the previous three years. Married couples filing singly can claim up to $3,750 each. Unmarried individuals can allocate the credit on their filings according to their respective ownership shares or capital investments in the house.

-- Only principal residences -- or in the IRS's words, ''the one you live in most of the time'' -- are eligible. No second homes, investment properties or houses located outside the United States pass the test. However, the definition of "home" extends far beyond conventional houses sited on lots. It "can be a ... houseboat, housetrailer, cooperative apartment, condominium or other type of residence," according to Form 5405. For example, if you buy a sail- or powerboat with full living facilities, tie it up at a marina, and make it your "main home," you should be eligible to claim the credit, though you may want to run all the specifics of your situation by your accountant or tax adviser.

-- Even it's your first home purchase, you are not be eligible if your adjusted gross income is above $95,000 (single filer) or $170,000 (married joint filers). Married couples with incomes between $150,000 and $170,000 are eligible for reduced credits, based on a phase-out schedule. Single filers with incomes between $75,000 and $95,000 also are subject to reduced credit limits. District of Columbia residents who are eligible for the city's first-time homebuyer credit are barred from use of the federal tax credit. Taxpayers who use tax-exempt mortgage bonds issued by state or local governments to finance home purchases also are ineligible.

-- You can't claim the $7,500 credit if you buy your house from a ''related person,'' meaning a spouse, parents, grandparents, children or a corporation or partnership where you own more than 50 percent of the stock or capital interests.

If you pass all these tests, and get the purchase done by whatever deadline date Congress decides as part of the final stimulus package, you should be able to take $7,500 off your federal tax bottom line, and not worry about ever paying it back.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, February 6, 2009

^By KENNETH R. HARNEY=

WASHINGTON -- Proponents call it the crucial missing tool needed to get us out of the national foreclosure morass.

Critics say it could be disastrous -- pushing up interest rates on all future mortgages, even for people with excellent credit, and creating huge new losses for already-ailing banks.

Wherever you come down on the griddle-hot issue of home mortgage "cramdowns," the reality is this: Congress is poised to pass legislation empowering bankruptcy court judges to reduce the loan balances of potentially large numbers of financially distressed owners to affordable levels, and to lower their interest rates and monthly payments. President Obama has promised to sign the legislation as soon as it hits his desk.

Cramdown may be an unpleasant sounding word, but for decades it's been part of the bankruptcy lexicon for most types of debt. If you file for Chapter 13 bankruptcy -- a court-supervised, multiyear workout plan designed to provide at least partial repayments to your creditors -- judges can reduce what you owe on credit cards, auto, boat and student loans and even second home mortgages. But under current law they cannot cut the mortgage debt you owe on your principal residence.

That, in turn, allows lenders to foreclose on delinquent homeowners to force quick recovery of what they're owed -- part of the reason why foreclosures are so numerous. According to the mortgage industry data firm RealtyTrac, lenders filed for foreclosure on 2.3 million homes last year, up 81 percent from 2007 and 225 percent higher than the filing rate in 2006.

For the past two years, Democratic leaders in the House and Senate have been pushing for a change in the bankruptcy law to include principal residence loans on the list of debts that can be "judicially modified" -- crammed down -- by the courts. They argued that banks and mortgage companies too often have been unwilling to offer delinquent borrowers serious modifications on loans because they have the option to pull the plug and foreclose.

Lending industry groups successfully blocked those bills by appealing to Republican allies, especially in the Senate. But in the wake of the November elections, Democratic majorities are now large enough to virtually guarantee passage of cramdown legislation, maybe as early as this month.

Though final details will depend on conference negotiations between the House and Senate, it's likely the legislation will provide that:

-- Only mortgages closed before the date of enactment will be eligible for cramdown protection. In other words, the focus will be on helping current owners, rather than future borrowers who become delinquent.

-- To be eligible, owners will need to inform their lender or loan servicer in advance of their intention to file for bankruptcy protection. That's intended to get the lender's immediate attention and prompt its best offer on a modification of the their loan terms, including principal reduction.

-- Should the value of the borrowers' home increase, any appreciation would be shared with the lender under a pre-set formula.

Though banking groups predict that huge numbers of delinquent homeowners will opt for bankruptcy to avoid foreclosure, some consumer advocates say those fears are overblown.

"This is not going to be a cakewalk" for owners seeking protection of the courts, said David Berenbaum, executive vice president of the National Community Reinvestment Coalition. Owners will need to hire a lawyer and petition for Chapter 13 bankruptcy. Then they'll be required to follow a detailed bankruptcy court-ordered household spending plan, monitored by a trustee, for a period of years. Finally, their credit scores and ability to borrow will be severely affected for seven to 10 years.

"This should only be a last resort" for homeowners, said Berenbaum, not anybody's first choice.

Though resigned to the probability that some form of mortgage cramdown will be enacted, financial industry leaders continue to warn of dire consequences. Allowing "judges to unilaterally change mortgage contracts will increase costs for all future borrowers in the form of higher rates, greater fees and larger down payment requirements," said Steve O'Connor, senior vice president of government affairs for the Mortgage Bankers Association.

Cramdown advocates answer that lenders are blowing smoke about rate hikes, and that there is no statistical evidence that rates increase when consumers get the right to file for bankruptcy protection on a particular type of debt.

The best possible scenario coming out this whole controversy: that lenders and delinquent borrowers begin talking about serious modifications far earlier in the process than they've done so far. That way fewer people have to file for bankruptcy, fewer lenders get crammed down, and fewer people lose their houses.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, January 30, 2009\

^By KENNETH R. HARNEY=

LAS VEGAS -- If you'd love to purchase a new house but you're sitting on the fence, what exactly would it take to get you to buy?

Mortgage rates lower than today's 5 percent range? Smaller down payments? Below-market value pricing? Special amenity packages? Or a big tax credit?

What's the magic mix that will get you motivated? Or is it unlikely you'll get off the fence as long as you're worried about the economy and further drops in real estate values?

Questions like these are at the core of the housing industry's dilemma: Builders are stuck with bulging inventories of homes -- most of them priced lower than six months or a year ago -- that are still not selling. Strategies to bring buyers back into the market dominated the recent weeklong annual convention of the National Association of Home Builders here. It was also the key subject of an eye-opening new consumer opinion survey conducted by the association's research subsidiary.

The study, conducted in early January, polled more than 700 self-described "on-the-fence" buyers, segmented to represent consumers in all areas of the country at varying price levels. Asked why they hadn't yet committed to a purchase, 44 percent said they're holding out for lower mortgage rates, 41 percent said they weren't sure they could qualify for financing, and 38 percent said they expect to see lower house prices.

Concerns about falling property values were most prevalent among consumers in the Western region, while buyers in the Northeastern and Midwestern states were more likely to be waiting for lower interest rates. Buyers in the South tended to be more concerned about their ability to qualify for a new mortgage.

Researchers asked what individual enticements -- financial or otherwise -- would motivate them most to get past their worries and buy. Some of the results were surprising to builders at the convention session where the study was debuted. A few of the findings even appeared to conflict with the builders association's policy positions.

For example, although the association is vigorously lobbying the Obama administration and Congress for a 10 percent federal tax credit with a cap of $22,000 in the most expensive markets, the survey results suggested that a tax credit alone is not sufficient to motivate buyers to sign purchase contracts.

The study examined the effectiveness of a credit roughly the size the association is seeking from Congress, but it ranked sixth on a list of 10 features that would pull buyers off the fence -- well behind mortgage and price concessions.

The mortgage rate that consumers said would be most effective in convincing them to buy now: a 30-year loan with a fixed 3 percent interest rate. Whether by coincidence or design, one of the country's largest homebuilders for high-end buyers, Toll Brothers Inc., announced a 3.99 percent 30-year fixed rate on new houses nationwide during the convention, through Jan. 25.

A 30-year fixed-rate loan at 3 percent was ranked twice as effective an enticement than a 3 percent loan fixed for five years, with an adjustment to 5 1/4 percent, fixed for the remainder of the loan term. Not surprisingly at a time when Fannie Mae and Freddie Mac require substantial down payments for the best interest rates, the study found that a zero-down option would be highly attractive to potential buyers -- more than twice as effective as 10 percent down.

Guarantees by builders that loan applications will be accepted if buyers verify their income and have a "fair" credit score ranked high in the survey. Such a guarantee was rated six times more effective than standard application procedures, where applicants can be rejected at the underwriting, appraisal review or other stages.

Price concessions also are compelling to would-be buyers. Most effective of all: a 10 percent discount below true market value -- in other words, instant equity for the purchaser upfront.

Among other findings in the study that some builders found sobering: Their traditional approach of offering "incentive packages" of free upgrades and amenities may not be all that effective. The same may be true for heavily marketed "green" features -- energy efficiency certifications and environmentally sensitive designs. If a new house comes with a green certification but costs $2,000 more than a standard model, this doesn't motivate shoppers to buy, researchers found. Even if the house is green-certified and costs the same as a standard house, that alone won't do the trick.

Bottom line: Look for builders to offer combination packages of special financing, price concessions, lower down payments and perhaps application guarantees. They'll still push for tax credits on Capitol Hill, but financing concessions appear to have more clout with their potential customers.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, February 13, 2009

^By KENNETH R. HARNEY=

WASHINGTON -- It's not what homebuyers, sellers and refinancers want to hear, but they need to know: Both Fannie Mae and Freddie Mac are ratcheting up their mandatory fees and toughening credit score and down-payment rules as of April 1.

Most major lenders already are pricing in the higher fees, effectively raising costs to consumers immediately and reducing the impact of housing stimulus efforts from Congress and the Obama administration.

Under Fannie's and Freddie's new guidelines, even applicants who assumed that their FICO scores would get them favorable rates will be charged more unless they can come up with down payments of 30 percent or higher. For example, a buyer with a 699 FICO score who can bring a sizable down payment of about 25 percent to the table will now get hit with a 1.5 percent "delivery" fee at closing under the new guidelines.

A buyer with a FICO score between 700 and 720 will pay an extra three-quarters of a point. Even someone with a 739 FICO -- once considered a platinum guarantee of the best rates available -- will get dinged with a quarter-point add-on.

Applicants who seek to buy a condominium and cannot come up with a 25 percent down payment will be hit with a three-quarter point add-on penalty, no matter how high their credit score -- simply because they are not purchasing a traditional detached, stand-alone home.

Buyers of duplexes, where one unit is owner-occupied and the other is rented, will be charged a flat 1 percent add-on from Fannie, even if they've got FICOs above 800 and make 50 percent down payments. Refinancers who take cash out at settlement also will be forced to pay extra -- as much as three points if they've got low credit scores and modest equity stakes.

Both Fannie Mae and Freddie Mac say they are tacking on these extra fees to counter higher risks and losses associated with certain loan products, buyer equity stakes and credit scores. Declining home values in many parts of the country are intensifying losses for both companies when loans go to foreclosure.

Though quasi-private enterprises until last September, Fannie and Freddie now are operating under the control of federal regulators and are bleeding billions of dollars of red ink. Freddie spokesman Brad German said that some of the loan categories and credit risk combinations targeted in the latest round of fees "default at four to eight times" the rate of other mortgages in the company's portfolio. "We have to manage these risks appropriately," he added, and that means pricing them based on the probability of higher losses.

However, realty agents, mortgage bankers and brokers are incensed at the new round of fee increases, calling them counterproductive in an environment where housing needs help, not new impediments. They have begun lobbying Congress and the two companies' federal overseers to scrap the latest add-ons.

Charles McMillan, president of the National Association of Realtors, complained in a letter to the Federal Housing Finance Agency, the regulator of Fannie and Freddie, that not only were individual fee increases unjustified, but that in combination they could seriously deter home purchases. McMillan said "a borrower with a credit score of 670 making a 20 percent down payment for a condominium would have the fee raised from 150 basis points (1.5 percent) to 350 basis points (3.5 percent) -- more than double" under Fannie Mae's new schedule.

"They're shooting themselves in the foot," said Steve Stamets, a mortgage loan officer in Rockville, Md. With substantial down payments of 20 percent and more, said Stamets, "they don't need to be that tough" on applicants even if home prices decline slightly more before the cycle ends.

"When consumers with 720 credit scores are being adjusted, there is something seriously wrong with the system," said Harry H. Dinham, a Dallas, Texas, mortgage company owner and former president of the National Association of Mortgage Brokers.

As recently as two years ago, FICO scores in the upper 600s were enough to qualify any applicant for prime financing. Now scores of 720 to 740 are the bare minimum if you're going to escape add-on fees -- and still not good enough if you choose to buy a condo or a duplex.

Where's all this headed? Absent congressional intervention or new marching orders from the companies' regulator, the add-on fees are here to stay. But there's an alternative readily available for just about anyone who wants to avoid the fees: FHA mortgages, where down payments go as low as 3.5 percent and credit scores are not an issue for most applicants.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, February 20, 2009

^By KENNETH R. HARNEY=

WASHINGTON -- Now that Congress has fixed the crucial flaw in last year's home-purchase tax credit, who will be able to make use of the new and improved version? And what about timing: How long do buyers have to locate a house and close the deal to qualify?

These are just two of the flurry of questions surrounding the $8,000 housing credit for 2009 authorized by Congress' sprawling, $789 billion stimulus plan. So here's a quick rundown on the credit and several other real estate-related benefits in the package.

Though the Senate version of the bill would have created a much more generous and costly tax credit -- up to $15,000 per purchase with no limitation to first-time buyers -- it was quickly rejected in the conference committee. Negotiators added $500 to last year's $7,500 credit and made the 2009 version non-repayable. There's still widespread misunderstanding on the issue, but qualified purchasers who closed in 2008 will not reap the benefits of the 2009 amendments. They're stuck with the old model, and will have to pay back the credit -- more correctly an interest-free loan from the government -- over the coming 15 years.

People who buy homes between Jan. 1 and Dec. 1 of this year may qualify for the $8,000 non-repayable updated credit. But they'll still have to pass most of the key eligibility tests imposed under the 2008 program.

For example, they must be "first-time" buyers under the 2008 definition: Either you've never owned a house before, or you haven't owned or co-owned one during the three years preceding the date you close on your 2009 purchase.

Carefully planning the timing of your closing could be worth thousands of dollars to you. Say you once owned a house earlier in the decade, but sold it on March 25, 2006. If you close on a house in 2009 before March 25, you lose eligibility for the $8,000 credit. Push settlement back to March 26 or later -- anytime before Dec. 1, when the new credit program's eligibility period expires and you're $8,000 to the better.

As in the 2008 credit, there's a household income test as well. The 2009 version phases out eligibility for the credit starting at $75,000 adjusted gross income for single taxpayers, and $150,000 for joint-filing couples. The 2009 program also removes last year's prohibition against purchases financed with state and local tax-exempt mortgage revenue bond programs, which are popular among moderate-income homebuyers in many parts of the country. This year such loans won't eliminate your eligibility for the $8,000 credit.

Under the 2009 program, the house you buy must be used as your principal residence, not a second home or investment property. But that residence can take a wide variety of forms, including, "houseboats, housetrailers, cooperative apartments, (and) condominiums" among others, according to IRS rules.

Congressional sponsors of the revised tax credit program offered no projections of how many additional home sales are likely to stimulated this year by the non-repayable feature, but the National Association of Realtors has weighed in with its own estimates: 300,000 more houses will sell during 2009 as a direct result of the credit. Add in the so-called "ripple effects" -- higher expenditures on furnishings, appliances, remodeling materials, brokerage commissions, moving costs, etc. -- and the economic jolt could be significant over a relatively short period.

Other sections of the stimulus package that haven't received much attention, but still could benefit large numbers of owners and buyers, include:

-- An increase in the maximum mortgage amounts permitted for fundings by Fannie Mae, Freddie Mac and the Federal Housing Administration - essentially a rollback to 2008's high-cost area limits, which range as high as $729,750 in the most expensive markets of California and portions of the East Coast such as metropolitan Washington, D.C. That's potentially important for all buyers -- not just first-timers -- in those areas because it should open the door to lower interest rates on the big loans they need to purchase even median-priced houses. The current high-cost area limits top out at $625,500.

-- Hefty increases and extensions for tax credits to stimulate "qualified energy efficiency improvements" in existing homes. The expanded credits cover improvements to air-conditioning systems, or natural gas and propane furnaces and water heaters.

-- $2 billion in additional funds for local governments and nonprofit groups to enable them to acquire and renovate foreclosed and vacant dwellings that are depressing property values -- and raising crime rates -- in urban and suburban neighborhoods hit hard by the housing and mortgage messes.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, February 27, 2009

^By KENNETH R. HARNEY=

WASHINGTON -- Though the final operational guidelines of the Obama administration's foreclosure-avoidance programs won't be released until next Wednesday, key details have begun surfacing on the extraordinary refinancing opportunities that will be available to an estimated 4 million to 5 million homeowners whose mortgages are owned or guaranteed by Fannie Mae and Freddie Mac.

Under the Obama plan, borrowers who have made their monthly payments on time but are saddled with interest rates well above current prevailing levels in the low 5 percent range may be eligible to refinance -- despite decreases in their property values.

Neither Fannie Mae nor Freddie Mac typically can refinance mortgages where the loan-to-value (LTV) ratio exceeds 80 percent without some form of credit insurance. That insurance can be difficult or impossible to obtain in many parts of the country that insurers have labeled "declining" markets, with high risks of further deterioration in values.

In effect, large numbers of people who bought houses several years ago with 6.5 percent or higher 30-year fixed rates cannot qualify for refinancings because their LTVs exceed Fannie's and Freddie's limits.

Using an example supplied by the White House, say you bought a home for $475,000 in 2006 with a $350,000 mortgage at 6.5 percent that was eventually acquired by Fannie Mae. In the three years following your purchase, the market value of the house has dropped to $400,000, and you've paid down the principal to $337,460.

If you applied for a refinancing to take advantage of today's 5 percent rates -- which would save you several hundred dollars a month in payments -- you'd have difficulty because your LTV, currently at 84 percent, exceeds Fannie's 80 percent ceiling.

But under the Obama refi plan, Fannie would essentially waive that rule -- even for LTVs as high as 105 percent. In this example, you'd be able to qualify for a refinancing of roughly $344,000 -- your present balance plus closing costs and fees -- at a rate just above 5 percent.

In a letter to private mortgage insurers Feb. 20, Fannie and Freddie's top regulator confirmed that there would be no requirement for refinancers to buy new mortgage insurance, despite exceeding the 80 percent LTV threshold.

James B. Lockhart III, director of the Federal Housing Finance Agency, described the new refinancing opportunity as "akin to a loan modification" that creates "an avenue for the borrower to reap the benefit of lower mortgage rates in the market." Lockhart spelled out several key restrictions on those refinancings:

-- No "cash outs" will be permitted. This means the new loan balance can only total the previous balance, plus settlement costs, insurance, property taxes and association fees.

-- Loans that already had mortgage insurance will likely continue to have coverage under the existing amounts and terms, thereby limiting Fannie and Freddie's exposure to loss. But loans where borrowers originally made down payments of 20 percent or higher will not require new insurance for the refi, despite current LTVs over the 80 percent limit.

-- The cutoff date for the entire program is June 10, 2010.

Lockhart said that although Fannie and Freddie would be refinancing portions of their portfolios into lower interest-rate, higher LTV loans, he expects their exposure to financial loss should actually decline.

"In fact," he said, "credit risk would be reduced because, after the refinance, the borrower would have a lower monthly mortgage payment and/or a more stable mortgage payment." This, in turn, would lower the probability of loss-generating defaults and foreclosures by those borrowers.

Since Fannie and Freddie both operate under direct federal control -- technically known as "conservatorship" -- any additional losses to the companies would inevitably be borne by taxpayers.

How it all works out may well depend on whether the Obama administration's broader efforts to stabilize housing prices, reduce foreclosures and push the economy out of recession are successful.

If large numbers of beneficiaries of these special refinancings ultimately cannot afford to pay even their cut-rate replacement rates and go into foreclosure, red ink could flow in rivers from Fannie and Freddie.

But since that's an unknown and the refi program is an immediate, here-and-now money-saving reality, homeowners ought to make the most of it. If you know that Fannie or Freddie owns or guarantees your mortgage -- your loan servicer can tell you -- and you've got an on-time payment record and an interest rate above today's prevailing levels, start assembling your financial records and get ready to refi.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, March 6, 2009

^ARE MORTGAGE DEDUCTIONS REALLY AT RISK?<

^By KENNETH R. HARNEY=

WASHINGTON -- Call it the third rail of the federal tax system: the politically untouchable cluster of special benefits and subsidies set aside exclusively for homeowners, including deductions for mortgage interest, local property taxes and capital gains exclusions on up to $500,000 in sale profits.

Is the Obama administration serious about beginning to clamp limits on at least some of these subsidies? The administration isn't commenting on anything beyond what was proposed in its first budget submitted on Feb. 26, but housing and banking trade groups are worried that the initial proposal to cut back on the ability of upper-income families to write off mortgage interest and other expenses is just the opening move in a longer-range effort to reform the federal tax code.

They also argue that since tax subsidies are now embedded in home prices in most segments of the market -- not just the upper end -- removing them even partially would cause housing values to drop across the spectrum.

What should homeowners make of all this? Is there a real possibility that Congress would take away tax breaks that millions of people have come to consider an essential part of the home buying equation? Here's a quick overview of the issue:

(BEG ITAL)What did the Obama budget propose specifically on mortgage interest and property tax deductions?(END ITAL) Starting in 2011, homeowning households with adjusted gross incomes of $250,000 and above could only take write-offs at a 28 percent marginal tax bracket rate. To illustrate, say you're in the 35 percent bracket and have $20,000 of mortgage interest, property tax and charitable deductions, all of which are targeted in the Obama proposal. This year you'd be able to write off 35 percent of the $20,000 -- $7,000. If you were capped at a 28 percent rate, you could only write off $5,600. Your tax bill would go up by $1,400.

(BEG ITAL)Why cut these deductions?(END ITAL) Very simply -- to raise tax revenues so the government can spend the money elsewhere, such as for health care. Mortgage interest and property tax write-offs cost the Treasury massive amounts annually. In a report last October, the bipartisan congressional Joint Committee on Taxation estimated that in 2009, the mortgage interest deduction alone would cost the government $89.4 billion in uncollected taxes. Between 2008 and 2012, according to the committee, the interest write-off in its current form will cost the Treasury $443.6 billion. Property tax deductions will cost another $112 billion over the same period.

(BEG ITAL)What impact might these -- and possibly further-reaching future changes -- have on the housing market?(END ITAL) Homebuilding, realty brokerage and banking industry leaders passionately oppose the deduction cutbacks because they believe they could lower property values and are ill timed in terms of the vulnerable state of the market. John Courson, president of the Mortgage Bankers Association, says even two years in advance of the actual starting date of the Obama plan, buyers will start "pricing in" the lower tax benefits -- discounting what they are willing to pay for a house given lower future deductions. Lawrence Yun, chief economist for the National Association of Realtors, says the devaluation ripple effect would extend to the lower- and middle-income segments as well. Joe Robson, chairman of the National Association of Home Builders, said "financing health care reforms by chipping away at the mortgage interest and real estate tax deductions ... will only hurt the ailing housing market and U.S. economy." No trade group has offered specific projections of price or sales reductions attributable to the cutbacks, however.

(BEG ITAL)Is there a longer-range plan here?(END ITAL) Obama himself has not referred to a broader agenda, but some of his top economic advisers have advocated major reforms of the federal tax system. For example, his budget director, Peter R. Orszag, is on record favoring scrapping current tax deduction incentives and replacing them with a system of "refundable tax credits." The credits would provide the identical dollar amounts to homeowners at all income and price brackets. The advantage of a uniform tax credit approach, Orszag argued in a 2006 paper for the Brookings Institution, is that it is usable by lower income and higher income taxpayers alike, whether they itemize or not. The credits would be "refundable" in that households who pay little or no income taxes could receive them as income supplements.

(BEG ITAL)Could Congress agree with this year's budget proposals on tax write-offs?(END ITAL) Given how deeply rooted the write-offs are in politics and the economy -- plus the fragile state of housing -- the odds would appear to be against it. But Obama is at the height of his game, and needs to come up with revenue to pay for health care reform from somewhere. So don't count him out

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, March 20, 2009

^NEW PLAYERS IN JUMBO ARENA<

^By KENNETH R. HARNEY=

WASHINGTON -- New money is about to flow into an area of the real estate market that has been hardest squeezed by the credit crisis: mortgages too large to be purchased or backed by Fannie Mae, Freddie Mac or the Federal Housing Administration.

Though heavily concentrated in California, portions of Florida and the Northeast, higher-cost neighborhoods throughout the country traditionally have depended upon the ready availability of "jumbo" mortgages to finance houses. But with the collapse last year of the private mortgage bond market on Wall Street, homebuyers, builders and refinancers who relied on jumbo financing were left with few sources -- except at punitively high interest rates and huge down payments.

That's about to change. Major banks are heading into the jumbo segment, originating big loans at affordable rates -- not for Wall Street bond traders but for their own investment portfolios.

Bank of America, the country's largest mortgage lender, is rolling out a large program to finance jumbo loans between roughly $730,000 and $1.5 million, with fixed 30-year rates starting in the upper 5 percent range. The loans will be available through the bank's retail network and also through its Countrywide Home Loans subsidiary. After April 27, Countrywide will be rebranded -- shedding the name it's had since 1969 -- and morph into Bank of America Home Loans. Bank of America acquired Countrywide in 2008.

Barbara Desoer, the bank's head of consumer real estate operations, said there's "a real need" for capital in the jumbo arena, where interest rates last fall sometimes exceeded conventional loan rates by three to five percentage points -- if financing was available at all.

Traditionally, jumbo loans have been defined as any home mortgage whose principal amount exceeded Fannie Mae's or Freddie Mac's statutory high-cost market purchase limit. Most recently that ceiling was $625,500, up from $417,000. But in 2008, Congress temporarily raised the upper limit in high-cost areas for both companies and FHA to $729,750. In the economic stimulus legislation passed by Congress last month, that maximum was extended through Dec. 31 of this year.

Though it will almost immediately become the biggest player in the jumbo loan segment, Bank of America will not be alone. With little fanfare, other financial institutions have become more active. For example, ING Group, an Amsterdam-based banking and insurance conglomerate, offers jumbos as large as $2 million through its online ING Direct unit. The minimum down payment for an ING Direct jumbo is 25 percent; Bank of America quotes a minimum 20 percent.

ING's jumbos typically are "5/1" and "7/1" hybrids with a fixed interest rate for the first five or seven years, followed by an adjustable rate tied to the LIBOR interbank index for the balance of the 30-year term. Current rates start around 5 percent.

San Diego-based Luxury Loans originates jumbo and "super-jumbo" mortgages of $3 million to $5 million and higher in 50 states for a handful of large commercial banks, who then put them in their investment portfolios.

Victoria Johnson, CEO of Luxury Loans, declined to identify the banks that buy her mega-loans but said their underwriting standards can be rigorous. For example, some investors want proof of substantial cash reserves -- at least six months of borrower income -- deposited even when down payments are substantial.

Bank of America's new program requires hefty liquid resources -- six months of principal, interest, property tax and insurance payments in reserve -- plus fully documented income, solid credit scores, and a full appraisal.

In Fort Collins, Colo., Brian Shaver, senior loan officer for 1st City Mortgage Group, originates jumbos through MortgageBase.com, selling them to banks in this country and as far away as Hong Kong. For a loan of $1.5 million to $2.5 million, MortgageBase wants a 40 percent down payment and liquid reserves of 50 percent of the loan amount to qualify for a 4.875 note rate on a 5/1 hybrid.

Johnson of Luxury Loans says she welcomes Bank of America's entry into the mass-market jumbo arena. "We need them," she says, "because there's been a really serious lack of liquidity at this end of the market" -- and that has hurt home prices throughout California as well as parts of the East Coast.

"The more competition," she says, "the better." Properly underwritten with solid down payments, large reserves and high credit scores, "jumbos are probably a smart move" for large and small banks that have capacity in their portfolios.

Bottom line: If you've been postponing a purchase, sale or refi because the loan amount you need is too big for Fannie, Freddie or FHA, check out the new, non-Wall Street sources of jumbos.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, March 13, 2009

^ON REFIS, BETTER NEWS <

^By KENNETH R. HARNEY=

WASHINGTON -- Fannie Mae and Freddie Mac have published the rules governing their upcoming mass refinancing campaigns, and they're more favorable -- especially for owners of second homes and small investment properties -- than indicated by the White House and Treasury last month.

Although initial reports suggested that the refis would be for owner-occupied primary residences, the guidelines sent to lenders March 4 by Fannie and Freddie say second homes and small rental properties are eligible, provided their mortgages already are in the companies' portfolios or securitizations and have been paid on time.

Brad German, a spokesman for Freddie Mac, said second homes and investment properties with one to four units are important because they may "help stabilize neighborhoods and housing markets." Refinancing investor-owned rental units, he added, can "help reduce renter evictions by putting landlords in a (more affordable) refi that improves their chance of success."

Under both companies' new programs -- which are being undertaken at the behest of the Obama administration -- an estimated 4 million to 5 million owners whose mortgages are held by Fannie and Freddie will be eligible for refinancing to lower rates even though they'd normally not qualify because of property value declines. Applications are being taken by participating lenders now, though no loans are scheduled for funding by Fannie or Freddie until early April.

To illustrate how it might work: Say you bought a house several years ago for $400,000 with a $350,000 first mortgage at 6.5 percent. Because of local property devaluation, your house is now worth roughly the amount of your loan balance, making it impossible to refinance into today's rates in the low 5 percent range.

The Fannie/Freddie programs would allow you to refinance, provided you've got a solid repayment record, your loan balance exceeds your property value by no more than 5 percent, and your loan is either owned outright or contained in a mortgage bond guaranteed by either corporation.

To make their programs as widely accessible as possible, Fannie and Freddie's March 4 instructions offered a variety of concessions. Tops on the list: Credit scores. Both companies plan to waive their usual minimum borrower credit score requirements for most applicants. Participating lenders will still pull your scores and credit files, but generally there's no specific cutoff point below which you'll be rejected.

Equally important for some highly leveraged homeowners, the companies are setting no limits on the amounts of existing second mortgages or home equity line balances, as long as the secondary loan creditors agree to re-subordinate their liens behind the new Fannie- or Freddie-funded mortgage.

Both companies also are suspending their standard rules requiring purchase of private mortgage insurance coverage when borrowers' equity stakes are less than 20 percent. If loans carried mortgage insurance coverage when Fannie or Freddie first acquired them, that coverage will remain in force. But borrowers who never had insurance, and now have depressed equity stakes below 20 percent, will not be required to purchase new coverage.

Fannie and Freddie also plan to lessen the burden of other typical costs in connection with the mass refinancings -- including appraisals, lender fees and closing expenses. Fannie Mae will permit borrowers to finance those fees entirely by rolling them into the replacement loan amount. Freddie Mac will allow financing of escrow fees, prepaid items and closing charges up to a limit of $2,500.

Both companies emphasize that their refinancings will be limited strictly to customers who have paid their mortgages on time -- people who haven't been late by 30 days or during the most recent 12 months.

One major area of divergence between Fannie and Freddie involves where you obtain your new replacement loan. Freddie requires borrowers to apply to their existing lender or servicer for rate quotes and terms. Fannie Mae, by contrast, allows borrowers to contact any of its 30,000 approved servicing and lending partners nationwide for quotes.

Fannie spokesman Brian Faith said "being able to shop their refi business can help (borrowers) reduce rates and terms." Freddie Mac's German said his company is keeping refis with the current lender or servicer because that will cut down on time and costs -- "a simpler process with no re-underwriting for most borrowers." The current servicer has the detailed files on the existing mortgage, knows the customers, and is in the best position to offer a fast and less expensive refi.

How do you know if you're one of the millions of homeowners who might be eligible? First, you need to find out if your mortgage is owned or guaranteed by Fannie or Freddie. Your current servicer can tell you, or you can visit the companies' special Web sites: www.fanniemae.com/homeaffordable or www.freddiemac.com/avoidforeclosure.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, March 27, 2009

^UP IN ARMS OVER BPOs<

^By KENNETH R. HARNEY=

WASHINGTON -- Are lowballed valuation estimates on short sales and bank-owned foreclosures artificially depressing property values in neighborhoods across the country?

Growing numbers of appraisers and consumer groups believe the answer is yes -- and are demanding that either Congress or state regulators crack down. Their complaints focus on what are called "broker price opinions," or BPOs, that substitute for actual appraisals.

Unlike standard property valuations performed by licensed appraisers -- which can run to hundreds of dollars -- BPOs often cost $50 and are performed by real estate agents who may have minimal or no appraisal training and are subject to no regulatory oversight. Realty agents defend BPOs, arguing that their extensive knowledge of local market trends equips them to render accurate estimates.

BPOs have become a booming business as foreclosures and short sales have risen sharply. When banks that own foreclosed houses need to put values on them for resale, increasingly they order BPOs that can be delivered quickly at rock-bottom fees.

Short sales -- where a lender agrees to take less than the principal amount owed by a delinquent owner provided the property is sold to a new buyer -- also frequently entail use of BPOs.

On the Internet, BPOs are hawked to realty agents as a route to quick profits in an economic downturn. "This is the easiest and fastest way to make big money in 2009," says one Web site that promises agents "six figures or more" per year. The same site suggests that "bad times put you in the ideal spot" to rack up income by churning out BPOs for lenders.

One problem is that selling BPOs to value houses violates the law in 23 states, according to appraisal industry leaders. In other states, BPOs may not be prohibited but critics say they may be far off the mark in accuracy -- typically coming in below appraised values. That's partly because agents who perform the BPOs may set the value extra low to ensure quicker sales.

When BPO-valued houses are listed at fire-sale prices, they exert a downward pull on the values of other houses in the neighborhood because, under current lending industry underwriting guidelines, appraisers must consider recent listing prices as well as closed sale prices.

In testimony March 11 before the House Subcommittee on Financial Institutions and Consumer Credit, David Berenbaum, executive vice president of the National Community Reinvestment Coalition, called on Congress to outlaw BPOs when used as appraisal substitutes in distressed property transactions. Berenbaum said that realty agents "develop hasty and inaccurate BPOs that underestimate" the value of bank-owned and other distressed real estate. That lowballing, in turn, "is often destructive to local markets and depresses the value and equity of (lender-owned) properties."

Gary Crabtree, CEO of Affiliated Appraisers in Bakersfield, Calif., says his company's research "shows very clearly" that BPOs frequently understate actual market values by as much as tens of thousands of dollars.

Why would agents lowball their BPO valuations? Crabtree argues that there are inherent conflicts of interest: "They want to sell the property fast" to make bank asset managers "look like heroes" to their bosses. They may also want additional BPO and property listing assignments from those same bank managers, yielding them commission dollars. Many of the properties are snapped up by investors at the depressed prices driven by BPO valuations. Those sales then become "comparables" for appraisers, "which simply intensifies the downward spiral" in local property values, said Crabtree.

Regulators in a number of states recently have expressed concern about excessive use of BPOs. The Nevada Real Estate Division warned agents that when a real estate salesperson "prepares a BPO for any reason other than listing and selling a property, and receives compensation, they have violated" state law.

Nebraska regulators issued a similar warning last December, threatening to criminally prosecute realty agents who are not licensed to perform appraisals but who do BPOs as appraisal substitutes.

The National Association of Realtors, whose 1.2 million members include many of the agents who prepare BPOs, says it currently has no policy guidance for Realtors on the issue, but expects to issue a statement in May. Asked whether the association would at the minimum urge members to adhere to state laws and regulations, a spokesman said "there is no policy" on the sensitive BPO issue at present.

National appraisal groups, including the Appraisal Institute, whose members lose revenue when lenders or property owners order BPOs, are up in arms. Bill Garber, the Institute's head of government relations, said BPOs are an attempt "to pay the least to obtain something" -- appraised value -- "that is extremely important to get right."

Ken Harney's e-mail address is kenharney(at)earthlink.net.

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^THE NATION'S HOUSING COLUMN<

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Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, April 3, 2009

^REFORM WITH A CHANCE<

^By KENNETH R. HARNEY=

WASHINGTON -- Top legislators on Capitol Hill are preparing to take up a comprehensive plan that would fundamentally reform the home mortgage market, starting this year.

Had the same rules and standards been in place earlier in the decade, say congressional supporters, it could have eliminated much of the funny-money loans, slipshod underwriting and Wall Street abuses that distorted the market from 2002 through 2006. The boom wouldn't have been as big, and the bust might not have happened.

The Mortgage Reform and Anti-Predatory Lending Act of 2009 (H.R. 1728) was introduced March 26 by co-authors Rep. Brad Miller, D-N.C., House Financial Services Committee Chairman Rep. Barney Frank, D-Mass., and Rep. Mel Watt, D-N.C. It is expected to move quickly through the House this month and go to the Senate by May. The odds of passage in some form are high, according to banking and housing industry lobbyists.

The bill is a tougher version of one pushed by Miller in 2007 that passed the House but foundered in the Senate. This year, however, as a result of heavier Democratic majorities in both houses, "the political climate has changed," said Miller. "The foreclosure crisis has wreaked havoc on middle-class families and our economy as a whole. The industry's arguments for watering the bill down are not at all convincing."

Here's what the legislation would do:

-- Ban all fees paid to loan officers that are tied to the interest rate of the mortgage or the type of the loan. During the headiest years of the boom, Wall Street investment banks paid mortgage brokers higher fees if they originated exotic loans such as short-term subprime adjustables, interest-only, payment-option, and "stated income" no-documentation loans with minimal or no down payments.

The lending industry also routinely paid brokers higher fees for originating mortgages that carried rates above prevailing levels. Loan officers frequently steered applicants with marginal credit histories into loans with excessive rates and penalties -- and were paid extra by banks and Wall Street for doing so. Studies have documented that minority and first-time borrowers disproportionately were marketed loans with unnecessarily high fees and penalties, based on their credit scores.

The new bill would prohibit any compensation -- "direct or indirect" -- that is tied to the rate or terms of the mortgage. "There should be no way you can be compensated for steering anyone to a higher rate," Frank said in an interview. The bill does permit homebuyers or refinancers to opt for a slightly higher note rate in order to finance closing costs.

-- Create mandatory minimum national quality standards for all mortgages. The rules would encourage lenders to make fully documented 30-year, fixed-rate loans with prevailing market rates, as opposed to loans with higher-risk features such as adjustable payments and negative amortization. The bill would also impose a new federal "duty of care" standard requiring loan officers to offer applicants only terms and rates that are "appropriate" to their income and ability to repay. Refinancings would have to pass a "net tangible benefit" test demonstrating that the replacement loan is superior to the borrower's current terms. Lenders would have to offer applicants the option to choose any loan without a prepayment penalty attached. Mandatory arbitration clauses in most home mortgages would be banned.

--Allow borrowers who are put into mortgages that violate the new law to seek immediate legal redress through cancellation of the entire loan contract, refund of all payments and fees, plus lender compensation for legal costs.

Borrowers who lied or committed fraud on their loan applications would have no such recourse. The bill would also extend liability for rule violations to third-party securitizers who buy loans for repackaging into mortgage bonds. Originators of all but fully documented 30-year, fixed-rate loans would be required to retain at least a 5 percent stake in the loan until it's finally paid off. If the loan goes into default, they would retain some economic stake in the losses.

Francis Creighton, vice president and chief lobbyist for the Mortgage Bankers Association, said that while his group supports many of the principles in the bill, forcing small and medium-sized mortgage companies to set aside capital to cover 5 of their loan production would be difficult for them financially.

Why are the banking and mortgage industries generally more supportive of the new reform proposals than they've been in previous years? Anne Canfield, executive director of the Consumer Mortgage Coalition, which represents many of the largest firms in the field, put it this way: "We just don't want anything like what happened" -- the boom, the bust, the huge losses and the credit crisis -- "to ever, ever happen again."

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, April 10, 2009

^A GREEN RATING TO HELP HOMEBUYERS<

^By KENNETH R. HARNEY=

WASHINGTON -- Picture this: You're shopping for a larger home, dropping by open houses on a weekend. Each house you visit has an easy-to-understand disclosure about something that's typically unknown today -- its energy-guzzling costs per year.

The Obama administration's top housing official, Shaun Donovan, secretary of the Department of Housing and Urban Development (HUD), thinks consumers deserve more information on the energy efficiency of the houses they buy -- resale and newly built. And he thinks mortgages should come with lower rates or better terms to encourage purchases and retrofits that save energy.

"When you buy a car," he said in an interview, "you know very clearly what the energy efficiency of that (vehicle) is because there's a number on the window. It says: Here's the gas mileage. We don't know that for housing."

A Harvard-trained architect who ran New York City's Department of Housing Preservation and Development for four years before coming to HUD, Donovan said his agency is in the early stages of discussions with federal energy officials to develop "a relatively simple scoring system for housing that would allow you to understand what you're buying and at the same time allow lenders to underwrite that into their mortgage. Ultimately, if your energy bills are going to be lower, there ought to be some (mortgage) benefits to that."

The system might also factor in transportation costs to employment centers in some way, he said, because "most people don't realize that the average American family spends over 50 percent of their income on a combination of housing and transportation." Even with far-flung suburbs' lower prices for houses, "their transportation costs are huge" -- and metropolitan sprawl itself represents a massive energy-consumption inefficiency.

Mortgage terms -- higher loan amounts for buyers to make energy-conserving improvements, lower mortgage rates for energy-efficient homes -- "can be a very powerful tool" in residential energy conservation, he said, and the booming Federal Housing Administration (FHA) insurance program would be a good place to start.

"If in the long run there's a cost of $5,000 to upgrade a house that will produce $10,000 in savings over time for utilities, the perfect tool to realize those savings is a mortgage," said Donovan. Though Fannie Mae, Freddie Mac and FHA all have had versions of "energy-efficient mortgages" on the books for years, their programs have been poorly marketed and little used. Donovan wants to revive and improve the whole concept.

In a wide-ranging discussion, Donovan also touched on a variety of other issues.

On national housing policy: He believes that although "homeownership is a very important national goal," federal policy is "imbalanced" -- overwhelmingly favoring single-family ownership over rental housing options, which tend to allow greater density and more-efficient land use.

Rather than attempting to limit federal tax breaks that are heavily skewed to ownership, Donovan would prefer to expand and improve FHA's apartment-financing programs and produce more rental housing options in general.

"One of the reasons" President Obama named him to this Cabinet post, Donovan said, was "to bring HUD's multifamily rental (programs) into the 21st century."

On tax issues, Donovan believes there are millions of potential buyers of houses who do not itemize deductions and would not now qualify for money-saving write-offs for mortgage interest and property taxes. In his view, they should receive some form of federal tax break, as proposed by Obama during his campaign.

Donovan also believes there has been a misperception about the administration's budget proposal to limit deductions for upper-income households earning $250,000 or more. This "wasn't targeted at the mortgage interest deduction," he said, but rather "was really about deductions more broadly," because taxpayers in higher brackets get far greater benefits for making charitable contributions or owning a home than households in the middle and lower brackets.

On FHA, Donovan is "absolutely concerned" by its explosive growth -- from less than a 3 percent market share during the boom years to more than 30 percent today. That sort of rapid expansion increases the potential for fraud and bad loans slipping through, which is why he is pressing congressional appropriations committees for long-delayed money to upgrade FHA's computer systems and monitoring ability, plus adding staff.

Given FHA's challenges, Donovan said he opposes reinstating the once-popular seller-financed "down-payment assistance" program, which allowed borrowers to obtain FHA-insured loans with no equity stakes. The Bush administration banned seller-financed down-payment assistance last year, citing high rates of early foreclosures and excessive losses. Home builders, realty brokers and some congressional Democrats want to resume the program, but Donovan said, "I think the decision that was made" to kill the program "was the right decision."

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, April 17, 2009

^ADD-ONS ADD UP ON LOANS<

^By KENNETH R. HARNEY=

WASHINGTON -- Mortgage rates and house prices are down -- which sounds great for buyers and refinancers. But a series of mortgage industry underwriting and appraisal changes taking effect this month is throwing new hurdles in the way of borrowers and loan officers.

Take Fannie Mae's and Freddie Mac's add-on fees for loans purchased after April 1. In some cases, applicants are being hit with extra fees of 3 percent to 5 percent because of the type of property they want to buy or refi, their credit scores, or the size of their down payment.

Some major lenders who sell loans to Fannie and Freddie are going further -- tightening underwriting rules beyond what either corporation requires. For example, as of April 6, Wells Fargo, one of the country's largest mortgage originators, imposed a new minimum FICO credit score of 720 -- up from the previous 620 -- on all conventional loans purchased through its wholesale system that have less than a 20 percent down payment. It also began requiring a total debt-to-income ratio maximum of 41 percent -- down from the previous 45 percent.

Fannie Mae now has an across-the-board three-quarters of a point mandatory fee on all condominium loans, no matter how high the applicant's credit score. For a once-popular "interest-only" condo loan with a 20 percent down payment and a borrower credit score of 690, Fannie imposes the following ratcheted sequence of add-ons: One-quarter of 1 percent as an "adverse market" fee; another 1.5 percent for the below-optimal credit score; three-quarters of a percent for the interest-only payment feature; and three-quarters of a percent because the property is a condo. The total comes to 3.25 percent extra, which can be paid upfront or rolled into the rate.

On top of the extra fees from Fannie and Freddie, borrowers are now starting to get hit with two sets of cost-raising appraisal rule changes. Fannie and Freddie have begun requiring all appraisers to complete an extra "market condition" report that includes detailed statistical analyses of local sales and pricing trends -- above and beyond the regular appraisal data. Many appraisers are charging an extra $45 to $50 for the time required to complete the form. Homebuyers and refinancers can expect to pay the higher fees.

On top of that, beginning May 1, Fannie and Freddie are refusing to fund loans with appraisals that do not follow a set of new rules known as the "Home Valuation Code of Conduct." Among the procedural changes: Mortgage brokers no longer can order appraisals directly, but instead must allow lenders or investors to use third-party "appraisal management companies" to assign the job to appraisers in their networks.

How does that affect the consumer? Consider the notification one Connecticut brokerage firm recently received from a major lending partner: Starting April 15, all good faith estimates (GFEs) provided to applicants must indicate a flat $455 charge for appraisals arranged through the appraisal management company. The broker previously charged $325. Consumers will now have to pay the appraisal fee upfront -- before any inspection or valuation is completed -- using a credit card, debit card or electronic fund transfer.

What happens if the appraisal comes in low and the applicants can't qualify for the refi or purchase program they sought? Tough luck: They'll have just two choices -- pay another $455 for a second appraisal, with no assurance that it will solve the problem. Or cancel the application.

Jeff Lipes, president of Family Choice Mortgage Corp., which serves the Hartford area, says the net effect of the underwriting, credit score and pricing changes is to "squeeze some people who are credit-worthy by any reasonable standard out of the market."

For instance, as a result of the restrictions on condos, Lipes says "whenever we hear the word 'condo' (from an applicant), we shiver" because the deck is stacked against them. Even for prime borrowers with 800 FICO scores and 50 percent down payments, said Lipes, "I can't tell them that we're certain we can get you a mortgage." A welter of recent rule changes from Fannie Mae have made some condo units in projects with commercial tenants or high percentages of investor units almost impossible to refinance.

In Naples, Fla., John Calabria, president of Bancmortgage Corp., says "it has become such a nightmare to lend money" because of the layers of add-on fees, higher mandatory down payments and FICO scores. One high-income client sought to put down 25 percent ($200,000) to buy an $800,000 condo as a second home but couldn't because the minimum down payment on such a unit is now 30 percent.

"That's ridiculous," said Calabria. "Some of this just doesn't make sense."

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, April 24, 2009

^MORTGAGE PROTECTION: GROWTH INDUSTRY

^By KENNETH R. HARNEY=

WASHINGTON -- Is there a rainy day in your personal job forecast? That wouldn't be surprising -- not with unemployment rates in double digits in several states, 8.2 percent nationwide and widely expected to hit 10 percent or higher by next year.

Nor would it be surprising if uncertainty about your income is a major barrier keeping you out of the homebuying market this spring. Which is why a previously obscure charitable group based in Washington, D.C. -- the Rainy Day Foundation -- suddenly is doing a booming business in what's called the mortgage payment protection niche.

According to CEO Rick Del Sontro, Rainy Day is now offering job-loss protection coverage and homebuyer financial counseling through approximately 100 builders and lenders across the country, plus two large real estate brokerages.

Some of the clients and partners are big: Lennar Corp, for example, is active in 17 states including California, Florida, Arizona, the Carolinas, Illinois, and the metropolitan Washington area. Long & Foster Real Estate is the largest independent realty brokerage in the country, according to industry estimates. Keller Williams, whose south Florida affiliate began offering coverage earlier this month, is the third-largest realty franchise firm in the United States.

Here's how the Rainy Day plan works: Consumers purchasing homes through a participating builder, lender or realty agency can qualify for up to six months of mortgage payments -- capped at $1,800 per month in some versions and $2,500 in others -- if they lose their job during the two years following their closing. There is no direct cost to the buyer. The insurance coverage is underwritten by Virginia Surety Co. Inc.

Buyers can also receive pre-purchase financial education and periodic post-closing check-ins by Rainy Day counselors. Purchasers may also be eligible to receive "emergency fund" grants from Rainy Day if they encounter short-term financial drains such as unexpected medical bills.

The emergency fund, which Del Sontro estimates will pay out $8 million to homeowners in 2009 -- up from $4 million last year -- is designed to "bridge the gap" and keep full payments flowing for a month or two following an unanticipated financial problem. If the owners only have $1,000 available in a given month, but their mortgage bill is $1,500, Rainy Day contributes the missing $500.

The emergency grants are not extended to everyone who is in a jam: Rainy Day won't provide extra money when individuals have been financially reckless. Nor will it give grants in divorce or separation situations, or other problems attributable to actions by the homeowners themselves.

Lenders and builders pay $550 or more to Rainy Day for each participant in the plan. The money funds the premiums for the basic insurance coverage as well as the emergency fund.

Rainy Day is hardly the only job-loss protection program in the housing field. Mortgage payment coverage has been available through some insurance companies, lenders and mortgage brokers for years at varying costs. But with unemployment now at quarter-century highs, Del Sontro says "at this point we can't handle all the calls we're getting" from lenders, builders and consumers who want to sign up.

Toll Brothers Inc., a publicly traded luxury builder with 250 projects in 21 states, recently began a major push with its own version of the idea, offering maximum payment coverage up to $2,500 a month for six months over a two-year period. Toll's national marketing director, Kira McCarron, said that although removing the financial fears of potential buyers "is important, we see (the mortgage protection plan) as just one tool in the toolbox" needed to sell new houses in 2009.

From a consumer perspective, job-loss protection -- insurance coverage worth up to $15,000 (six months times $2,500 maximum) of monthly mortgage debt -- sounds like a no-brainer.

But there are some wrinkles and issues you need to know about upfront:

-- Though there's no direct cost to the buyer, that doesn't mean it hasn't been tacked on subtly somewhere in the deal -- possibly in the price from the seller or builder.

-- There are key exclusions and coverage limits. For instance, the Rainy Day program doesn't kick in for two months after closing. Self-employed persons, independent contractors and active military members are not eligible. There's a 30-day waiting period after you lose your job before the first insurance payment is made.

-- The Toll Brothers plan is only available to buyers who use the company's affiliated lender, TBI Mortgage Co. Consumers who know of a forthcoming layoff or "any impending job loss" are ineligible. The program excludes loss of income through voluntary resignations, "willful misconduct," and seasonal shutdowns.

Bottom line: Even when it's "free," read the fine print.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, May 1, 2009,

^ PUTTING VALUE INTO A TAX CREDIT<

^By KENNETH R. HARNEY=

WASHINGTON -- For the housing market, it's the equivalent of financial alchemy, and it's hot: Turning the $8,000 federal home-purchase tax credit, which normally isn't spendable until after you've gotten your refund, into immediate, hard cash today, available for your down payment and closing costs.

Congress' stimulus-bill tax credit for 2009 is generating efforts nationwide to find ways to "monetize" it -- providing money upfront to buyers who need dollars for down payments right now, not next year after they file their federal returns and get refunds. The credit is only available to qualified taxpayers who have not owned a house during the previous three years, and who close by Nov. 30, among other requirements. Buyers can amend their 2008 returns to claim the credit or claim it on returns for 2009.

In recent weeks, at least 10 states say they've come up with ways to work this monetary magic. They have created innovative bridge-loan programs that advance credit-eligible purchasers the cash they need for their closings. Generally the advances take the form of second mortgages -- with or without interest charges -- that become due and payable whenever purchasers receive their credits in the form of refunds from the IRS.

In Missouri, which was the first state to create such a program, buyers can get a no-cost "tax credit advance" of up to 6 percent of the home price. The advance is actually an interest-free second lien that is repayable no later than June 2010, once the buyers have received their $8,000 tax credit.

If buyers can't meet that repayment deadline, the advance morphs into a traditional second mortgage with a 10-year payback term and a fixed interest rate one-half a percentage point higher than their first mortgage rate. The underlying first loans are all fixed-rate 30-year mortgages issued by private lenders participating with the tax-exempt bond programs of the Missouri Housing Development Commission.

Colorado kicked off a similar program, known as "JumpStart," April 14. Delaware, New Jersey, Tennessee, Idaho, Washington state, Ohio, Pennsylvania and New Mexico have come out with their own versions, some with modest interest charges on the second mortgage from the beginning.

In Washington, where the state Housing Finance Commission already runs a tax credit bridge-loan program for buyers using its mortgages, state Treasurer James McIntire wants to make it much bigger. He has been pushing for creation of a "public-private" down payment program that could reach far larger numbers of consumers than is possible under the housing commission's current funding constraints.

McIntire has proposed depositing $25 million of state funds into interest-earning accounts at an FDIC-insured bank. The bank would then provide revolving lines of credit to the state housing commission to greatly expand its down payment bridge-loan efforts. In a novel arrangement, the Washington Association of Realtors has pledged $400,000 as a backstop for McIntire's plan to cover any unexpected losses on the credit monetization transactions. The state Legislature has authorized the program in its new budget.

Bill Riley, the incoming president of the association, says research by his group has shown that fully half of all would-be first-time buyers in the state "cannot save enough money for the down payment and closing costs" -- effectively locking them out of both the $8,000 credit and current low mortgage rates and house prices even when their monthly incomes qualify them to purchase a home.

McIntire is also trying to convince the Obama administration to allow the state to tap into bridge loan-assisted homebuyers' amended 2008 tax returns and be directly assigned all or a portion of the tax credit refunds. Under current IRS rules, according to McIntire, tax refund checks are sent only to the taxpayer's address. To ensure prompt repayment of bridge loans, the state would like to have refunds mailed to the housing finance commission in cases where repayment of a bridge loan is due.

In letters to Treasury Secretary Timothy Geithner and IRS Commissioner Douglas Shulman, McIntire argued that credit monetization programs run by states are crucial to the success of the federal effort to stimulate first-time home purchases in 2009. But the states need quick, direct access to federal tax credit dollars to pay back down payment bridge loans, thereby allowing them to loan out more money before the Nov. 30 expiration of the federal credit.

Charles McMillan, president of the National Association of Realtors, sent a similar request to Shulman. An IRS spokesman said officials "are reviewing" the issue.

Bottom line: Since other state housing agencies reportedly are considering rolling out credit monetization programs on their own, keep your eye on what's happening in your area. A no-cost advance tied to the $8,000 credit just might get you the down payment and closing cash you need.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, May 15, 2009,

^APPRAISAL RULES HIT YOUR WALLET<

^By KENNETH R. HARNEY=

WASHINGTON -- How about this scenario the next time you refinance or apply for a new mortgage: The real estate appraisal that used to cost you $325 now costs $450, even though the appraiser doing the work is only getting $175 or $200.

Plus, your appraisal-related charges may now be subject to add-on fees that you'd never heard of before -- $50 to $100 extra in "no show" penalties if you get stuck in traffic and miss your appointment with the appraiser. Or an extra $50 to $150 tacked on if the property is worth more than $500,000.

On top of all this, your mortgage loan officer requires you to pay for the appraisal upfront with a credit or debit card, rather than including the fee with the usual lender origination costs at settlement. In some cases your card may be charged more than the anticipated cost of the appraisal itself -- leaving debit cardholders in a potential overdraft situation.

Worse yet, the person now conducting your appraisal may be new to the field -- willing to work for a cut-rate fee -- and may not be as familiar with local value trends and pricing adjustments as an appraiser with more experience. If your mortgage application is denied by one lender, you could be forced to pay for a second full appraisal since the new lender may not accept the first.

That scenario is now reality, according to critics of the controversial new appraisal rules imposed nationwide on May 1 by Fannie Mae and Freddie Mac. Advocates of the rules vigorously deny the new system is flawed and say any increase in appraisal costs should be manageable for most consumers.

The rules, which go by the name Home Valuation Code of Conduct, are intended to improve the accuracy of appraisals by eliminating pressure on appraisers from loan officers. The code pushes most large lenders to use third-party "appraisal management companies" that contract with networks of independent appraisers around the country who have no direct contact with retail loan officers or mortgage brokers.

Mortgage brokers -- who formerly chose appraisers and kept a competitive eye on appraisal fees -- claim that Fannie's and Freddie's rules are adding 20 percent to 30 percent to consumers' appraisal costs. Jeffrey T. Hawk, vice president of Maryland Mutual Mortgage LLC in Forest Hill, Md., says a standard appraisal that previously went for $325 jumped to $400 or more May 1 when he was forced to use management company appraisers.

Some applicants also are balking at handing over credit card information upfront when they're not completely sure what the charge will be. "I lost three clients the first week (because of the credit card requirement)," Hawk said.

Buddy McCombs, senior vice president of EverBank, a Jacksonville, Fla., lender who buys loans originated by Hawk's firm and now contracts with management companies for appraisals, concedes "there's probably a little increased cost" with the new system, "but I don't think it's devastating."

Sacramento, Calif.-based appraiser James Facchini of American Pacific Appraisal Co., says "what's terrible is what's happening to (long-established) appraisers who won't work for the low fees" management companies pay. "On May 1," Facchini said, "I lost almost my entire customer base" -- mortgage brokers who now can't pick up a phone and order an appraisal from him.

Instead Facchini and other appraisers either have to sign up with management companies or find other employment. What "really bothers me," said Facchini in an interview, "is that the consumer has no idea what's going on." After signing up with one management company, he says two consumers commented to him after finishing his appraisal, "Wow, you really charge a lot."

They were each being hit with $550 appraisal fees, while he was getting just $250 through the management company. As he sees it, that leaves $300 of "slush" somewhere in the process -- some going to the management company, but the rest probably "flowing to the lender for doing absolutely nothing."

Rich Kuegler, a vice president at MDA Lending Services Inc., a national appraisal management company, says payments to firms like his are compensation for creating, managing and reviewing a network of thousands of individual appraisers -- MDA has 9,000 under contract across the country -- and for the "processing and administrative" costs that have been taken off the backs of brokers and lenders.

As to appraisers' complaints about fees, Kuegler said "we offer (them) the ability to have a steady stream of work, training and support." In other words, appraisers can expect to make up in overall volume what they're sacrificing per assignment.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, May 8, 2009,

^TIME RUNNING OUT ON SURPRISE FEES?<

^By KENNETH R. HARNEY=

WASHINGTON -- A federal district court has handed down a ruling in a class action that could have a direct impact on the fees you pay to the real estate company at closings, whether as a buyer or seller.

The decision targets one of the most commonplace practices adopted by brokerage firms in recent years: charging consumers "admin," "processing," "ABC" and other mystery fees ranging from $150 to as much as $500 per transaction. The fees are tacked on top of regular commissions and sometimes come as last-minute surprises on settlement sheets.

Typically the charges are imposed by the brokerage company owners and go straight to their accounts, rather than being shared with sales agents. When pressed about why buyers or sellers should be hit with hundreds of dollars extra at closing when thousands of dollars of commissions are already being charged in the deal, some sales agents say, "it's the broker's policy -- we don't get any of this money."

For their part, brokers say they need the add-on fees to stay in business, especially when their commission splits with top agents can exceed 90 percent, sales volumes are down and overhead expenses keep rising. The general counsel of the National Association of Realtors, Laurie Janik, defends the fees, arguing that brokers "ought to be able to charge what they need to make a profit."

But are these add-on fees legal? In a decision late last month that is sending shudders through the realty brokerage industry, U.S. District Judge Virginia Emerson Hopkins in Birmingham, Ala., ruled that when a realty firm charges clients an "admin" fee, for which no specific settlement services are performed, the fee violates federal law.

The case involved RealtySouth, one of the 20 major brokerage units of Minneapolis-based HomeServices of America Inc., the second largest realty firm in the country. RealtySouth was sued by homebuyer Vicki V. Busby of Jefferson, Ala., when she was required to pay a $149 "ABC" fee -- an administrative brokerage commission. The court found no evidence that the brokerage company performed any services beyond those covered by the commission, thereby violating a federal real estate settlement statutory ban against "unearned" fees.

Other federal courts have interpreted the statutory language on unearned fees differently, so the RealtySouth case does not settle the issue.

Busby's lawyers estimate the class of affected consumers to number approximately 30,000 -- all RealtySouth clients who've paid ABC fees in recent years that were, based on the district court's ruling, illegal. Dana Strandmo, general counsel and senior vice president for HomeServices of America, said the company hasn't decided whether to appeal the decision. Strandmo confirmed that charging "admin" fees "is a very widespread practice," not only in his firm's realty offices but throughout the industry.

Frank Borges Llosa, a broker who runs Frankly Realty Inc. in Northern Virginia and an outspoken critic of what he calls "bogus admin fees," blames brokers and agents for their increasingly commonplace use. In a posting on his blog, Llosa said brokers "are charging (these fees) because they can't make enough from the agents. Why? Because the agents are demanding (bigger) splits" of the commission dollar, leaving brokers with less and less.

Llosa provided this hypothetical example: Say an agent who currently gets a 60 percent split of the commissions he or she brings in -- the broker gets 40 percent -- is approached by a competing brokerage firm that will pay 70 percent, but also imposes a $300 admin fee that either the agent or the client has to pay.

After switching to the new brokerage, said Llosa, the agent now tells clients, "Ops, sorry, this firm charges $300 more per deal, nothing I can do about it." Meanwhile on a $10,000 commission the new company gives the agent $1,000 more while charging $300 to their clients. "It's really despicable," he said in an interview.

Janik at the National Association of Realtors says brokerages need to move to a more standardized system of flat-fee-plus-commission compensation that is prominently disclosed to all clients. Listing agreements might, for instance, indicate that the company's compensation includes a base fee -- say $500 -- plus a standard sales commission of X percent.

"If (brokers) do it that way and don't get fancy," she said, they should be immune from legal attacks over unearned fees, such as in the RealtySouth case.

What should consumers do? Number one, make sure you get full disclosure about all compensation and fees associated with any sale or purchase, upfront. Then, if you don't like what you see, you can always take Janik's advice: "Walk down the street to another broker."

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, May 22, 2009

^BRIDGE TO A NEW HOME<

^By KENNETH R. HARNEY=

WASHINGTON -- The $8,000 federal tax credit for first-time home purchasers is about to morph into a ready-cash down payment source, thanks to a new federal policy change.

Buyers eligible for the credit who apply for mortgages insured by the Federal Housing Administration (FHA) may soon also be eligible for bridge loans or cash advances -- up to $8,000 -- that they can use for the down payment, closing costs or other loan expenses pending receipt of their tax credit check from the IRS.

Housing and Urban Development Secretary Shaun Donovan announced the FHA change May 12 in a speech to the midyear convention of the National Association of Realtors. The idea, he said, is to "monetize" -- turn into immediately spendable cash -- a tax credit that often is not received until months after the settlement date.

As many as half of all would-be first-time buyers do not have enough cash on hand for a down payment and closing costs, according to building and real estate industry estimates. By advancing these consumers as much as $8,000 at closing, many more would be able to afford the purchase.

Officials at the National Association of Home Builders say the bridge loan feature could double the total number of home purchases stimulated by the 2009 tax credit program to more than 300,000, depending on how many private lenders and state housing agencies participate.

Under guidance drafted by the FHA, all lenders approved to do business with the agency will be authorized to provide bridge loans at closing -- secured solely by the tax credit the borrower anticipates receiving from the IRS. State and local government agencies and nonprofit organizations approved by FHA will be allowed to offer either bridge loans or second mortgages secured by the house.

Though the $8,000 tax credit carries the name "first-time homebuyer," eligibility extends to anyone who hasn't owned a principal residence during the past three years. The credit amount from the IRS is the lesser of 10 percent of the purchase price of the dwelling or $8,000.

Donovan's announcement came as a small but growing number of states have begun bridge loan programs on their own to help stimulate home purchases. California has even created its own state-funded tax credit program -- a 10 percent credit payable to the buyer over three years -- but has limited it to newly built houses.

Bob Rivinius, president and CEO of the California Building Industry Association, said the new FHA credit monetization program "should provide a great combination" with the California credit. Some first-time purchasers using FHA loans could even qualify for what he called "a trifecta": They could buy their new house and claim the 10 percent state credit. On top of that they could file for the $8,000 federal tax credit, and then turn the federal credit into instant cash for use on a down payment or for closing costs.

Rivinius said funding for the state tax credit is being depleted fast, but legislation is now pending in Sacramento that would add another $200 million -- and that "should allow buyers to receive credits" through the end of the year. The federal $8,000 credit only covers purchases closed by Nov. 30. Unless Congress extends the credit, it will disappear Dec. 1.

The new bridge loans and cash advance features of the federal credit may not be available immediately through private lenders, say mortgage industry leaders. Among the key questions yet to be answered: Where will non-depository mortgage companies get the $8,000 in advance money to provide upfront to buyers? Although most major banks offer second mortgage programs, the FHA guidelines stipulate that the tax credit advances cannot be secured by a lien on the property, but only by the tax credit to be received by the purchaser.

Many mortgage companies, which do not have banking deposits to tap, will need a few weeks to prepare documentation for what will essentially be secured personal loans. Plus they'll need to locate a source of funds for their advances. In the meantime, however, would-be buyers who believe they are eligible for the federal credit shouldn't sit around. They should shift into high gear shopping for a house -- the Cinderella date of Nov. 30 is looming -- even if they'll need a bridge loan or cash advance to complete the deal.

The odds are good that by the time they're ready to get a mortgage and go to closing, at least some local FHA-approved lenders will be actively in the market with bridge loans.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, June 5, 2009

^FEDERAL CASH FOR MORTGAGE DOWN PAYMENTS<

^By KENNETH R. HARNEY=

WASHINGTON -- The Obama administration has now put out the official word: Starting soon, first-time homebuyers nationwide will be able to turn their $8,000 federal tax credits into cash for use at closing if they use Federal Housing Administration mortgage financing.

But in its final guidelines to lenders and homebuyers issued May 29, the Department of Housing and Urban Development (HUD) clarified that purchasers obtaining FHA loans through private lenders will have to invest at least some of their own funds -- whether from personal savings or gifts from relatives -- in the form of a minimum 3.5 percent down payment.

In other words, you'll need equity in the house to participate. This won't be a zero-down plan, with one exception: If you obtain your FHA loan through one of the approximately 10 state housing agency "tax credit monetization" programs, you'll be allowed to pay for your entire down payment with the help of a bridge loan provided by the agency. Those bridge loans generally are low-interest or no-interest short-term second liens secured by the property, and convert into second mortgages if they are not paid off with the proceeds of the tax credit.

For FHA lender-supplied cash advances, you'll be able to use the $8,000 credit -- or whatever size credit you qualify to receive -- for settlement fees, escrow charges, higher down payments or to "buy down" your interest rate to cut monthly payments.

How will this all work in practical terms? How do you apply? Here's a quick guide:

To start, you'll need to qualify as a first-time purchaser under the generous definition permitted by Congress -- that is, you cannot have owned a principal residence during the previous three years, and your household gross income cannot exceed $95,000 for single taxpayers or $170,000 for married couples filing jointly.

To get the process rolling, you'll have to write a contract on a house you can afford to buy and apply for a mortgage through an FHA-approved lender. That shouldn't be difficult, since there are more than 12,000 lenders with that designation. Large banks or bank-affiliated mortgage lenders are more likely to be geared up for the program in the near future, according to industry experts. Homebuilders, who have advocated credit monetization programs for months, are likely to be major participants. But get moving on house shopping as soon as possible, since the tax credit program requires all eligible purchases to be closed no later than Nov. 30.

Besides the usual mortgage application information, the lender is likely to require some extra paperwork from you, based on FHA guidelines:

-- A filled-out IRS Form 5405, which is your request to the federal government to send you a tax credit check. You can file an amendment to your 2008 return and get the credit within a matter of weeks, or you can file for it on your 2009 taxes. Most buyers are expected to opt for the amended return route. Form 5405 is available for download at www.irs.gov.

-- Proof that you have no outstanding civil judgments, liens, unpaid taxes or other obligations that could reduce or eliminate the tax credit you're seeking.

-- Confirmation from your employer that you are not subject to wage garnishments, which could also affect the amount of the credit.

To compensate for providing you tax credit money in advance, your lender will be strictly limited on what it can charge. According to FHA guidelines, fees must be "reasonable" and "nominal" -- generally no more than 2.5 percent of the expected tax credit. For example, if you're in line to receive the full $8,000 credit, that would mean that the most you could be charged for the cash in advance typically would be $200.

A senior HUD official said the agency wants to keep these fees as low as feasible to avoid abuses or gouging, and will be monitoring transactions to make sure participating lenders are adhering to the guidelines.

Though many lenders are not yet up to speed on the new monetization program, at least some say they are enthusiastic about taking part. Scott Stern, CEO of Lenders One, a national cooperative of more than 125 mortgage firms and the ninth highest-volume loan originator in the country, said "100 percent" of his member firms will offer the monetization once they digest the administrative details.

"We think it's a great thing to simulate the economy and get housing moving again," he said in an interview.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, May 29, 2009

^ATTACK ON MORTGAGE FRAUD<

^By KENNETH R. HARNEY=

WASHINGTON -- It may not have made a big splash on network news or in print, but for real estate it was the equivalent of a congressional declaration of war -- a war against mortgage fraud.

Just as security and intelligence agencies were given huge funding boosts by Congress after 9/11, the FBI, the Justice Department, the Secret Service and the U.S. Postal Service have just gotten a combined half a billion dollars in new funding authority to investigate and prosecute individuals and companies who engage in mortgage fraud. President Obama signed the legislation May 20.

The targets range from people who lie about their incomes on home mortgage applications to highly organized roving networks of "foreclosure relief" scammers who bilk money out of homeowners seeking mortgage modifications.

Known as the Fraud Enforcement and Recovery Act of 2009, the legislation will fund new SWAT teams of fraud-busters and broaden federal legal powers to go after individuals and mortgage operations that currently get attention -- if at all -- only at the state or local levels. The law also creates a Financial Crisis Inquiry Commission with broad powers to investigate who and what got us into the real estate mess, starting with the subprime boom, Wall Street hanky-panky and more recent bank failures.

How bad is mortgage fraud? The Treasury Department estimates it causes losses to consumers and the mortgage industry of anywhere from $15 billion to $25 billion a year. FBI Director Robert Mueller told Congress his agency's mortgage fraud caseload has tripled in the past three years. Reports of potential fraud filed with the Financial Crimes Enforcement Network exceeded 65,000 in 2008 -- up from about 25,000 in 2005 and just 5,400 in 2002. Officials say the recession and the end of the housing boom have actually stimulated more fraud rather than the reverse.

What do these frauds look like and where are they occurring? The Mortgage Asset Research Institute performs an annual study of the problem for the Mortgage Bankers Association, and its 2009 report found that:

-- Roughly two-thirds of all frauds involve deceptions at the application stage. For example, some borrowers tell the lender they plan to occupy and use the property as their main residence, but they really plan to turn it into a rental unit. That ruse often gets the applicant a lower rate on the loan, but it's a violation of federal law.

-- About 28 percent of frauds last year involved deliberate misinformation about tax returns or financial statements. Fake IRS filings can be created with readily available software programs, and documentation of financial assets can be manipulated as well. Around 21 percent of fraudulent applications contained faked deposit verifications last year.

Some fraudsters even go so far as "renting" bank deposits to loan applicants who need to bolster their financial profile. For a fee of $1,000 and up, you can become the "owner" -- at least on paper, for a short period of time -- of an actual bank account controlled by the asset rental company. The lender receives a verification of a deposit in your name, but has no idea you're only renting the bank account to hoodwink underwriters.

-- Appraisal shenanigans rank high as well, and were involved in about 22 percent of fraud cases in 2008. Appraisal fraud -- typically inflated valuations intended to squeeze more mortgage money out of the lender -- may well be more commonplace than the official statistics. That's because many overvaluations are modest enough to avoid detection, but large enough to get the loan closed, thereby increasing subsequent risk of loss to the lender.

-- Other widespread forms of home loan fraud include faked employment verifications, misinformation on closing or escrow documents, and credit reports or scores that have been manipulated in some way to get unqualified borrowers approved, or lower interest rates, or both.

According to the 2009 report from the mortgage researchers, the top 10 states where disproportionate numbers of frauds occur are not necessarily where you'd guess. For example, the No. 1 state for mortgage frauds last year was tiny Rhode Island. Next came Florida, Illinois, Georgia, Maryland, New York, Michigan, California, Missouri and Colorado.

Maryland had the highest percentage of frauds involving bogus tax returns. In California, nearly 40 percent of fraudulent applications carried incorrect verifications of deposits or bank statements.

With the federal agencies gearing up new prosecution teams devoted solely to detecting and fighting mortgage fraud, scammers should be on notice: Now more than ever, you're likely to end up before a grand jury, get smacked with a big fine, or do prison time.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

^(Advance for Friday, June 12, 2009

^ EXTENDED TAX CREDIT GAINS SUPPORT<

^By KENNETH R. HARNEY=

WASHINGTON -- Since first-time buyers are getting thousands of dollars in tax credits from the federal government to stimulate the economy, why shouldn't all homebuyers get equal treatment? And what about refinancers -- couldn't they make good use of a tax credit to help defray closing costs and loan fees?

Whatever your thoughts on these questions, there is an effort getting under way in Congress to extend tax credits to anyone who buys a new or existing home in the coming year, with no income limitations. In one case, legislation would even create a new "temporary" $3,000 tax credit to help defray the costs of refinancing mortgages on principal residences.

Two Dallas-area congressmen -- one a Democrat, the other a Republican -- have introduced bills that not only would broaden the reach of the current housing tax credits to almost everybody, but would keep the program going until either mid-2010 or the end of that year. The current credit expires Nov. 30.

Rep. Kenny Marchant, a Republican who represents the suburbs between Fort Worth and Dallas, is pushing a bill that would expand the current $8,000 federal credit to buyers of all houses -- not just first-timers -- through June 2010. The bill (H.R. 2619) would also create an unprecedented $3,000 credit to help offset "qualified refinancing costs" -- closing fees, lender charges and the like -- through next June.

In a statement, Marchant said his goals are to "jump-start new sales," "reduce the housing inventory" and "stabilize housing prices." As to the refinancing credit, he said the idea is to encourage owners "to take advantage of current low mortgage rates" -- cutting their monthly payments to stay out of financial trouble. The $3,000 refi credit could be used to pay for loan "points," other transaction fees, or to "put equity in their home if they're a little underwater."

Marchant's House colleague, Rep. Eddie Bernice Johnson, a Democrat who represents downtown Dallas, has introduced the Home Buying Credit Expansion Act (H.R. 2606), which would extend the current credit through Dec. 31, 2010. The bill would also open the credit to all buyers of principal residences, but would not provide any new tax incentives to stimulate refinancings.

The near-simultaneous introduction of tax credit expansion bills on Capitol Hill appeared to put the two most potent housing lobbies -- the National Association of Realtors and the National Association of Home Builders -- into a political quandary. On the one hand, any broadening of tax incentives for homebuying would be good news for their builder and realty broker members.

On the other hand, any public perception that the expiration date for the current credit might be extended could cause some potential buyers to delay purchases. And if all would-be buyers might be eligible for some future federal tax credit -- not just first-timers -- large numbers of consumers might just stay on the sidelines waiting for that better deal to come out of Congress.

A spokesman for the National Association of Home Builders said the group "does not want anything that would stop the traction the current (tax) credit is now getting. We think it would be more appropriate to address (an extension or other changes) closer to the credit deadline" in the months ahead.

But Mary Trupo, public policy director for the National Association of Realtors, said her 1.1 million-member group sees it differently.

"We say -- if (the credit) is working for first-time homebuyers, then why not for all buyers, with no income limitations? We would like to see the expiration date extended (beyond Nov. 30). Expanding the credit is really the way to stabilize the (housing) market -- by making it available to everybody."

Trupo said first-time buyers accounted for one-half of all purchasers in March -- up from one-third in January -- and that increase is directly attributable to the tax credit.

The association has no hard estimate of what effect opening up the credit to all buyers would have on total sales. But Jed Smith, managing director for quantitative research, said earlier projections about the first-time buyer credit ranged into the hundreds of thousands of additional sales. Broadening the credit to all buyers would almost certainly push the total higher.

Where's this all headed? Don't look for any immediate action on Capitol Hill. The legislative calendar is jammed already, the budget deficit is at all-time levels, the summer recess looms, and neither of the tax credit bill sponsors sits on the Ways and Means Committee, which must originate all tax legislation.

But later this year, you can bank on it: There will be a significant push to extend the housing tax credit -- and maybe even open it up to everybody.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, June 19, 2009

^LOAN RULES HIT 'TRAILING SPOUSES'<

^By KENNETH R. HARNEY=

EDITORS: Kenneth R. Harney is taking a one-week vacation. His next column will be filed Monday, June 29, for release Friday, July 3.

WASHINGTON -- Real estate may be showing signs of a turnaround in many local markets but the nation's largest mortgage players continue to ratchet up their underwriting rules, making home purchases more difficult for some buyers.

Mortgage giant Fannie Mae, for example, issued a laundry list of tougher policies June 8 that could directly affect thousands of buyers in the coming months, especially those involved in job-related transfers.

Reversing a long-standing policy, Fannie no longer will permit mortgage applicants to count the income of so-called "trailing spouses" toward the household income needed to qualify for a loan. A trailing spouse is one who joins his or her spouse or partner in a job-related move, but who has yet to obtain employment in the new location.

Say your company offers you a position hundreds of miles from your present home. Your spouse or partner, who earns a significant portion of the household income, agrees to quit his or her job so that you can accept the transfer. Your spouse will need to find employment in the new area but may not have done so when it's time to buy a house.

Traditionally, lenders have been willing to count at least some of the trailing spouse's income in the old location toward the qualifying income needed to finance the new house. But under Fannie's policy switch, no consideration will be given. If the main breadwinner's income isn't sufficient to handle the mortgage, the loan application will be rejected; only when the trailing spouse has documented income in the new location will it be counted.

Brian Faith, a spokesman for Fannie Mae, said "given the current economic and job market instability, the company has opted to discontinue consideration of trailing secondary wage-earner income in the interest of safer underwriting, since this income would only be anticipated and undocumented."

Jan Hatfield-Goldman, a vice president for Worldwide ERC, the international trade association representing the employee relocation industry, said Fannie's decision "makes the current challenging relocation environment even more so. Some transfers will either have to qualify on the basis of one income" -- forcing couples to "buy less house than they wanted" -- or "they may be required to rent for an extended period of time until the spouse or couple is re-employed. If a couple must wait to purchase a new home until the spouse can find a new job, it could well cause some to reconsider" whether they want to make the job shift at all.

Worldwide ERC estimates that about 800,000 households in the United States move in a typical year because of job transfers. In the most recent year in which the IRS has reported statistics -- for 2006 -- more than 1 million taxpayers filed for job transfer-related deductions.

Fannie Mae, a congressionally chartered investment firm, is now being run under a conservatorship arrangement by the federal government, as is its rival investor, Freddie Mac. The two corporations account for an estimated 70 percent-plus of all new mortgage volume.

However, Freddie Mac still counts trailing spouse or co-borrower income for loan applications, but under strict guidelines:

-- The amount of the trailing co-borrower income cannot exceed 33 percent of the total qualifying income for the mortgage application.

-- That income cannot be from self-employment.

-- The trailing spouse must have been continuously employed in the same occupation for at least two years preceding the relocation.

-- And the co-borrower must provide a statement of intent to find employment in the new location. The loan officer or lender must also analyze that local employment market and verify that there are adequate opportunities and earnings potential for the co-borrower.

As part of its June 8 tightening of underwriting rules, Fannie Mae also announced that it plans to discount the values of all borrowers' stock, bond, mutual fund and retirement fund holdings that are claimed toward the applicants' financial reserves needed to qualify for a mortgage. While Fannie previously counted 100 percent of the claimed or documented value of stocks, bonds and mutual funds toward reserves, under its revised policy it will discount them by 30 percent.

For retirement accounts, it will only count 60 percent of the value toward reserves. To illustrate: If your mutual funds and stocks are worth $100,000 according to your investment manager or broker, Fannie will only credit $70,000 toward reserves -- a 30 percent "haircut." If your retirement account is worth $500,000, Fannie will only give you credit toward reserves of $300,000.

Faith of Fannie Mae said the changes are necessitated by "market volatility," which "has caused recent major losses on investments and retirement accounts."

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

July 10, 2009

^WHEN DEFAULT IS A STRATEGY<

^By KENNETH R. HARNEY=

WASHINGTON -- Would you, under any circumstances, default on your home mortgage, even if you could afford to make the monthly payments?

That's a trickier question than you might assume, according to new research from the University of Chicago's Booth School of Business and Northwestern University's Kellogg School of Management.

The study found that 26 percent of the record numbers of home mortgage defaults across the country are "strategic" -- that is, calculated economic decisions to bail out of loans by owners who actually have the money to make the payments but can't handle the negative equity they're carrying caused by local property value declines.

Nationwide, according to data from Zillow.com, 22 percent of all homeowners were in negative equity positions during the first quarter of 2009 -- "underwater" -- with mortgage debts that exceed their home values.

In some parts of California and Nevada, more than half of all households have negative equity. In a few localities, the size of the equity deficit is staggering: In the Salinas, Calif., metropolitan area, for example, the median equity for people who bought their homes in 2006 near the peak of the boom is now a negative $214,305, according to the study.

When researchers questioned two nationally representative statistical samples of households about strategic defaults, they found that moral and social beliefs play a constraining role, but negative equity and the frequency of defaults in local ZIP codes have significant contrary impacts.

Co-authors Paola Sapienza, Luigi Zingales and Luigi Guiso used interviews with 2,000 American households last December and this past March to explore the "moral and social" dynamics of strategic defaults. The two 1,000-person samples came from the Chicago Booth/Kellogg School Financial Trust Index, which monitors the level of trust households have in the financial system.

Their research not only represents the first attitudinal study of the phenomenon of widespread strategic walkaways from home loan commitments, but also has implications for federal policies seeking to limit the numbers of foreclosures -- which are on pace for a record 3.1 million filings this year, according to RealtyTrac Inc.

Among the study's sobering findings:

Moral precepts keep large numbers of financially struggling homeowners out of default, but only to a point. Fully 81 percent of household heads said they believe intentional defaults on mortgages to be "morally wrong." But that high percentage begins to crumble as negative equity grows increasingly larger.

When negative equity rose to $50,000, 7 percent of those who consider strategic defaults to be immoral said they'd walk away. At $100,000 negative equity, 22 percent would do so. At negative $200,000, 37 percent of those with moral objections would nonetheless default, and at $300,000, 38 percent said they would.

Among those who had no moral reservations, the percentages were much higher. At $50,000 negative equity, 20 percent said they'd walk. At negative $100,000, 41 percent would do so, as would 59 percent at negative $200,000 and 63 percent at $300,000.

The researchers found that age, tenure of homeownership, the frequency of foreclosures in a person's ZIP code and even politics influence an owner's willingness to bail out of a mortgage. Younger owners under the age of 35 are less likely to have moral problems with strategic defaults, as are self-described political "independents," compared with Republicans and Democrats.

An important factor in walkaways, according to the researchers, is the level of foreclosures owners observe in their local community and their personal acquaintance with owners who have defaulted. In the latter case, owners who know someone who defaulted strategically are 82 percent more likely to default themselves, compared with owners who do not know anyone in that situation.

The higher the number of foreclosures in a given ZIP code, the higher owners' willingness to walk away, the researchers found, suggesting what they call a "contagion effect that reduces the social stigma associated with default as defaults become more common." High numbers of foreclosures also appear to create a "vicious circle" that increases neighboring owners' negative equity and greatly raises the probability of additional defaults, foreclosures and equity destruction in the area.

Though the authors offer no specific remedies -- they are behavioral researchers, not policy advisers -- they argue that the traditional assumption that borrowers default because they can't afford their monthly payments needs to be re-examined in light of accelerating foreclosures in some markets combined with plummeting equity.

The Obama administration appeared to take a step in that direction on July 1 when it allowed refinancings of Fannie Mae- and Freddie Mac-owned mortgages where owners have up to 25 percent negative equity. Previously the limit was 5 percent.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

, July 3, 2009

^APPRAISAL RULES UNDER FIRE<

^By KENNETH R. HARNEY=

WASHINGTON -- It's by far the hottest controversy in real estate this summer, and it could directly affect the value of your house -- probably negatively -- by tens of thousands of dollars.

The issue concerns lowballed valuations and the new rules guiding appraisers in both price-depressed and rebounding markets. Consider these snapshots of what's going on:

-- In San Diego, Steve Doyle, division president for Brookfield Homes, is trying to close out the final 20 houses of a 120-unit single-family subdivision. Prices range from $340,000 to $350,000. But recently there's been a major hitch: Appraisers assigned by banks are coming in with valuations $60,000 or more below Doyle's selling prices. The appraisers, who Doyle says are unfamiliar with local market trends, inexperienced or both, are using distressed sales -- foreclosures and short sales of existing houses -- as their "comparables." Some of the distressed properties are in poor condition, and all of them offer fewer amenities, according to Doyle.

-- In Wilmington, N.C., a loan applicant with a house in excellent condition, and an umblemished payment record, sought to refinance into a 4 3/4 percent mortgage. She had purchased the property four years ago for $160,000 and made about $20,000 worth of improvements in the interim. Her loan application, according to Paul Skeens, president of Colonial Mortgage Group of Waldorf, Md., was "a slam dunk. Nothing to it." The house was worth $180,000 to $200,000, according to a local realty estimate.

But when an appraiser with little local knowledge was sent in by a bank to value the house, he chose two short-sale properties that had both closed in the mid-$140,000 range, and one inheritance sale around $155,000. The last property was "in horrible condition," said Skeens. "I'd call it dog meat." The deal-paralyzing appraised value that came in for the cream-puff refi: $149,000.

-- In the suburbs near Cleveland, Enzo Perfetto, manager of Enzoco Homes, builds custom houses on clients' lots. Recently, according to Perfetto, banks have begun assigning appraisers from far outside the area to value lots as part of mortgage packages on new homes. Some of the comparables they use are foreclosure situations, and that depresses land valuations. A young couple who paid $75,000 for their lot recently had it valued at just $30,000 by an out-of-area appraiser who only looked at online data, according to Perfetto -- discouraging the young couple from proceeding.

"I think the pendulum is swinging way too far in the wrong direction on appraisals," said Perfetto. Bank-assigned appraisers often "don't know the local market and they're going for low numbers to be 'safe.'"

Complaints about lowballed appraisals -- from builders, realty agents, consumers and mortgage companies -- have erupted since May 1, when government-sponsored Fannie Mae and Freddie Mac put their new appraisal rules into effect nationwide. Critics charge the new system is fostering the use of appraisers willing to work for low fees -- sometimes 50 percent below previous standards -- and who are willing to conduct home appraisals far outside their typical areas of activity.

The Fannie-Freddie system -- known as the Home Valuation Code of Conduct -- is complicated by the fact that it is a byproduct of a legal settlement in 2008 between New York Attorney General Andrew M. Cuomo and the two government-sponsored mortgage investors.

Under the code, appraisers are now routinely assigned by appraisal management companies rather than being selected by local mortgage companies or loan officers. The management companies pocket as much as 40 percent to 50 percent of the appraisal fee paid by the consumer.

Frustration with the new system boiled over and made its way to Capitol Hill late last month. The National Association of Home Builders called for an immediate change in the rules governing the use of foreclosures, short sales and other distress transactions as comparables for appraisals on non-distressed, typical homes, whether new or resale.

Two congressmen -- Travis W. Childers, D-Miss., and Gary G. Miller, R-Calif. -- have introduced legislation calling for an 18-month moratorium on the appraisal code. In identical letters to James B. Lockhart, the top regulator of Fannie Mae and Freddie Mac, and Cuomo, the National Association of Realtors also requested a moratorium and complained that the code is raising consumers' costs, distorting property values and killing sales.

Asked for comment, Lockhart said through a spokesperson that his agency is "monitoring" the situation, and considers "the views of market participants important."

Bottom line: Be aware of the issue. It affects your equity, even if you're not currently buying or selling. And watch whether Congress fixes the problem.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

July 17, 2009

^AT CLOSING, MORE PROTECTIONS<

^By KENNETH R. HARNEY=

WASHINGTON -- If you're applying for a loan to purchase a primary or secondary home, or planning to refinance, you should be aware of a little-publicized new set of federal consumer-protection rules that take effect July 30.

Among other key changes, the new Federal Reserve guidelines require lenders to provide you initial disclosures of your mortgage costs within three business days of your loan application. If you don't get them, you can pull the plug.

The rule also prohibits lenders from collecting any fees -- except a reasonable charge for checking your credit -- until you've been given the loan-cost disclosures. This means no more out-of-pocket upfront application charges until you've received the truth-in-lending disclosures and an annual percentage rate (APR) calculation of those loan costs.

Since many mortgage brokers and lenders traditionally have collected fees covering appraisal, credit and various other charges at the time of application -- sometimes amounting to hundreds of dollars -- this will be a significant change in procedure for the lending industry.

The rule also prohibits quickie closings on loans by requiring a seven-day waiting period after applicants are handed their early disclosures or the disclosures are mailed. You'll now have up to a week to think about the transaction, and decide whether it's right for you. Final truth-in-lending disclosures are due three business days before closing.

Here's an even more sweeping change for applications on or after July 30: The new Fed rules require lenders to deliver a copy of the real estate appraisal to you three business days before the scheduled closing on the loan.

In the past, even though federal regulations guaranteed that consumers could request and obtain a copy of the appraisal, lenders and homebuyers frequently ignored that right. In fact, many consumers had no knowledge of this right because no one in the home purchase, financing or settlement process told them about it.

Now, the timing of the loan closing itself -- which is the financial ballgame for loan officers, realty agents, title and escrow officials -- will be dependent upon your receipt of the appraisal in advance. The exception here will be that the three-day rule can be waived if you don't think receiving the appraisal is necessary.

Another significant change under the new rules: If the APR on the early truth-in-lending disclosure increases by more than one-eighth of a percentage point (0.125), the lender will now be required to "redisclose" -- provide you a corrected version and allow you an additional seven business days to consider the transaction before settlement.

What might cause the APR to increase following the initial, early disclosure? Lots of things: Say you left your initial rate on the loan to float with the market, but rates increase. You'll need to get an amended truth-in-lending disclosure. Or say the lender got inaccurate estimates of costs from third-party participants in the transaction, such as the settlement or escrow company. Or say that unexpected, 11th-hour junk fees materialize.

All these events -- which have been frequent sources of consumer complaints this decade -- could force the lender to redisclose loan costs and set back timing for the settlement.

What are some of the likely repercussions of the Fed's new mandates? Number one, the traditional approach of aiming in advance for a date-certain settlement target for home loan transactions almost certainly will be affected. Actual closing dates will be more closely tied to lenders' and settlement agents' accurate estimates and their ability to deliver disclosures and appraisals by the required dates. For example, if appraisers are backlogged and can't produce valuation reports quickly enough, settlements will have to be postponed.

Second, the purposes of the rules are to afford consumers better access to, and more time to consider, key elements of what are major financial transactions for most people. There might be fewer instances of last-minute closing-date surprises on fees, where buyers are slammed with hundreds of dollars of charges they'd never expected. But nobody can say that for sure.

Finally, the rules may well trigger new waves of litigation if lenders and their business partners are not scrupulous in their compliance. There is an active and aggressive segment of the legal profession that specializes in going after banks and mortgage companies for truth-in-lending violations. Don't be surprised if you hear of lawsuits seeking cancellation of mortgage deals because timing deadlines were not met, appraisals not received.

As David Berenbaum, executive vice president of the National Community Reinvestment Coalition, put it in an e-mail comment: "Consumer advocates will closely monitor" compliance with the new Fed regulations, and the lending industry can expect "civil litigation against bad actors."

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

July 24, 2009

^GREEN PUSH ON HOUSE FINANCING<

^By KENNETH R. HARNEY=

WASHINGTON -- You're probably familiar with some of the federal government's 2009 incentives for home energy efficiency -- heftier tax credits for solar panels, solar water heaters, geothermal heat pumps, heavy-duty insulation, windows, air conditioning and the like.

But these come-ons are just the beginning of an unprecedented, federal government-wide push getting under way for energy conservation in housing -- and even "locational efficiency" benefits.

At the Department of Housing and Urban Development, a new generation of energy-efficient mortgages is being rolled out, starting with FHA loans that offer 5 percent larger mortgage amounts to people who plan to undertake energy-efficiency improvements.

For example, if you qualify for a $300,000 FHA mortgage to purchase a standard house, under recent guidance to lenders FHA might now be able offer you $15,000 more upfront -- a $315,000 loan amount -- if the extra money is used to substantially lower the property's annual energy consumption.

HUD Secretary Shaun Donovan wants FHA to offer additional incentives. One of the possibilities: Give applicants credit on their qualifying incomes for a home loan in exchange for documentable savings in annual energy expenditures.

Meanwhile, the House of Representatives has passed a massive energy-conservation and emissions-control bill. Though the American Clean Energy and Security Act is better known for its more controversial "cap-and-trade" carbon emissions program, the bill also contains an entire subsection devoted to creating incentives for consumers and federal agencies to build and finance more energy-efficient dwellings.

Among the key housing-related provisions in the bill:

-- The FHA is directed to insure a minimum of 50,000 new energy-efficient mortgages during the coming three years. An energy-efficient house is defined as one in which energy consumption is reduced by 20 percent following renovations.

-- Fannie Mae and Freddie Mac are directed to develop new mortgage products and more flexible underwriting guidelines to reward energy-conscious borrowers and builders.

The two companies -- currently operating under federal conservatorship -- also are required to help establish a secondary market for energy-efficient and location-efficient mortgages for moderate- and lower-income homebuyers. The new generation of loans would increase the qualifying incomes of applicants by at least one dollar for every dollar of projected energy savings from renovations, green construction or efficient design.

Similar concessions on loan applicants' incomes would be extended for properties located in areas close to employment centers or near mass transit lines. No concessions would be made on dwellings located in far-flung subdivisions that eat into family incomes through long commutes and add to carbon emissions.

-- Real estate appraisers would be required to take energy improvements and the money they save into account as they value houses. As a hypothetical example, if you spent $30,000 on a series of major upgrades, an appraiser would need to consider the annual cost savings in energy produced and the impact -- if any -- on market value. States would require licensed appraisers to undergo additional professional training to equip them for their new energy-efficiency valuation responsibilities.

-- Federal financial regulators would be directed to support the establishment of privately run "green banking centers" inside banks and credit unions across the country. The centers, which presumably could be anything from unmanned kiosks to staffed offices, would help consumers understand how best to obtain financing for energy-conserving home improvements, second and primary mortgages, and energy audits and ratings. HUD would also be authorized to conduct "renewable energy home product expos" to educate the public about the latest technologies and financing concepts.

-- State governments would be required to ensure that homeowners whose energy technologies allowed them to get "off the grid" -- no longer fully dependent on utility companies to provide them power -- are not denied property hazard coverage by insurance companies.

With all this emphasis on home energy efficiency and reduction of real estate-related emissions, is there any evidence that buyers will take part? Will they use energy-efficient mortgages or even pay more for houses that are highly efficient, loaded with the latest energy-saving technologies? The jury is out since a lot of this is prospective, and hasn't yet been signed into law.

But a Seattle-based real estate firm, G2B Ventures, which is raising $50 million for a Efficient Real Estate Fund to buy up and rehab houses, says green-certified, high-energy conserving homes in its area sold for 7.5 percent more per square foot and 24 percent faster between 2007 and 2008.

So maybe there's going to be some extra green in green -- better financing, higher property values, and faster selling times -- more money in your wallet.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

^ July 31, 2009

^BATTLE OVER CONSUMER PROTECTIONS<

^By KENNETH R. HARNEY=

WASHINGTON -- Health care reform has drawn most of the attention on Capitol Hill lately, but for homebuyers, sellers and mortgage applicants the legislative ballgame will really get underway in September, when Congress begins serious work on the proposed Consumer Financial Protection Agency.

Legislation creating the new agency already is pending in the House, pushed by Financial Services Committee Chairman Rep. Barney Frank, D-Mass., who is its principal author. The Obama administration had outlined a similar plan at the end of June and considers passage of a bill a top priority.

Why should you care? What might the new agency do for you -- or to you? Here's a quick overview:

To begin with, you should be aware that the agency's powers and oversight would extend far beyond mortgages and real estate -- into all credit cards, debit cards, consumer loans, payday loans, credit reporting agencies, debt collection, stored-value cards, and even investment advisory and financial advisory services, to name only part of the list.

It would have the authority to alter long-common practices that nettle consumers, such as mandatory arbitration clauses in the fine print of contracts that automatically send all business-consumer disputes to arbitrators rather than to courts. The new agency could ban or limit such clauses in specific products if they are shown to tilt against consumers' interests.

The CFPA would write the user-safety rules for virtually all consumer financial products, and would have the legal firepower to levy huge fines -- tens of thousands of dollars a day per violation in some cases -- and prosecute lenders, brokers and others who break the rules.

The agency would be the dominant federal consumer protector in all home real estate settlements. It would regulate "affiliated" title, escrow and financing businesses connected with realty firms and builders. It would oversee equal credit opportunity and fair housing, and would set standards for all mortgage offerings, whether from the biggest national banks or the smallest local brokers. Generally it wouldn't seek outright bans on mortgage products that carry elevated risks -- interest-only loans, for instance -- but would require that lenders restrict such mortgages to well-informed applicants who can document that they understand the risks and afford the payments.

Within its first year, the agency would be tasked with creating consumer-friendly, uniform disclosures for all home purchase and financing transactions, starting with a combined "good-faith estimates" and truth in lending statement.

The core idea behind the proposal, supporters say, is to pull together consumer oversight powers that are now scattered among various agencies, and to put consumer interests where they should be -- much higher on the priority list than they were during the years leading up to the housing and credit bubble and bust.

Banking and mortgage trade group leaders generally agree that the existing regulatory system failed badly -- for consumers and the industry itself.

"Are reforms needed? Yes, absolutely. We're in favor of better consumer protection," says Anne Canfield, executive director of the Consumer Mortgage Coalition, a trade group that represents major mortgage originators and banks. How to go about achieving those reforms is where Canfield's group and others part company with the administration and consumer supporters.

Canfield and other industry lobbyists are concerned about any radical shakeup of the way banks and mortgage companies traditionally have been overseen by the federal government. Currently the regulators responsible for checking on banks' "safety and soundness" also are empowered to look for risky, discriminatory or anti-consumer practices and products at those institutions.

Handing over consumer protection and enforcement powers to a separate agency that might not understand the business side of the ledger could be burdensome for lenders, they argue, and could add extra layers of bureaucracy and nightmarish legal liabilities. Mortgage Bankers Association President John Courson says the CFPA could "stifle innovation" and limit consumers' choices in home loans and other financial products.

But proponents such as Harvard Law School professor Elizabeth Warren say the industry's criticisms about stifling consumers' choices and reshaping banking industry regulation are simply efforts to preserve the status quo.

"If the status quo is about choice," asks Warren, "then explain why half of those (consumers) with subprime loans 'chose' high-risk, high-cost loans when they qualified for prime mortgages. The truth is no consumer 'chose' to accept the tricks and traps buried in the legalese of financial products," she says -- they were steered to those loans by lenders, brokers and Wall Street promoters who were not required by regulators to explain the risks to their customers.

Outlook for the bill: Passage in the House appears likely. Count on the banks to mount their biggest battles in the Senate.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

August 7, 2009

^IRS EYEING TAX-CREDIT CHEATS<

^By KENNETH R. HARNEY=

WASHINGTON -- The IRS has an urgent message for would-be home purchasers: Make the most of the $8,000 first-time buyer tax credit before it disappears Dec. 1 -- if you qualify.

But if you don't truly qualify, don't try to play games with the credit. The IRS already has 24 criminal investigations of suspected fraud under way around the country. It has executed seven search warrants and last month a tax preparer in Florida entered a guilty plea on federal charges of fraud in connection with the first-time buyer credit. He's awaiting sentencing and faces up to three years in prison, a $250,000 fine, or both.

Congress' two versions of the first-time buyer credit -- a repayable $7,500 credit in 2008, and this year's more generous $8,000 nonrepayable credit -- have stimulated home sales nationwide. But they've also become irresistible temptations for dishonest taxpayers to cash in and claim bogus refunds.

Claiming the credit looks so easy: You just fill out IRS form 5405, list the address of the house you bought, mail it in and wait for your money from the IRS in a month or two. Who's going to check on whether you really qualify under the definition of first-time buyer -- someone who hasn't owned a principal residence during the previous three years -- and that you're eligible on income and other factors?

And with thousands of people buying houses and claiming tax credits, who's going to be able to check on all those filings? The answer from the IRS: We are. In a statement at the end of July, the agency said it uses "sophisticated computer screening tools to quickly identify returns that may contain fraudulent claims for the first-time homebuyer credit."

The IRS won't discuss the nature of the screening it does, but it's clear from the number of investigations ongoing that claims for the credit are getting special scrutiny.

In the case of the Florida tax preparer, one tip-off evidently was the sheer number of clients who claimed credits as first-time buyers. James Otto Price III of Jacksonville entered a plea of guilty to charges that he fraudulently submitted returns claiming tax credits for 15 clients, some of whom apparently did not understand what he was doing.

According to a summary of the facts agreed to by Price as part of his plea agreement, he admitted that in February of this year, he met with a client who told Price that she didn't plan or want to buy a house. But Price insisted that she qualified for the credit because "she had two jobs." He then wrote in a house address on the form 5405, claiming the client closed on the purchase Jan. 5. When she received her $7,500 credit, Price took $1,000 of it for himself.

In the plea agreement, Price admitted following a similar pattern for 14 other tax returns -- fraudulently claiming the credit and then siphoning off part of the refunds.

Terry Lemons, a spokesman for the IRS, declined to discuss the ongoing criminal investigations of taxpayers claiming the homebuyer credit. He did say the investigations involve individuals as well as tax-return preparers.

Lemons emphasized that "we don't want to discourage people from taking advantage of the credit," but the IRS also wants taxpayers to be certain that they've read through the eligibility rules so they don't end up with audits, back taxes and late penalties. Among the key qualification requirements that can snag unwary buyers:

-- Even if you haven't owned a home during the past three years, you won't qualify for the credit if you purchase your house from a "related person." That's a broad category of people and entities, ranging from immediate family members -- a spouse, parents, children, grandparents, grandchildren -- to a corporation or partnership in which you have more than a 50 percent ownership stake.

-- You are eligible individually, but your spouse, who co-purchased the house with you, is not.

-- The house you are claiming was acquired through an inheritance or a gift.

-- You are otherwise eligible but you financed the house through a tax-exempt mortgage bond program.

-- You make too much money -- in excess of $95,000 of modified adjusted gross income for singles, $170,000 or more for married joint filers.

What are the downsides if you claim the credit erroneously and do not intentionally defraud the government? If you are audited, the IRS most likely will ask for the full credit amount back, plus interest and a late-payment penalty.

Bottom line: Don't let this year's tax credit pass you by if you meet the criteria. And if you don't, beware of slick-talking professional tax preparers who tell you that you do.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

Friday, August 14, 2009

^LEASEBACKS IN THE SPOTLIGHT<

^By KENNETH R. HARNEY=

WASHINGTON -- Here are two questions getting a lot of attention on Capitol Hill and from the Obama administration: When homeowners lose their houses to foreclosure, should they be able to stay in the property, leasing it back at fair market rent from the lender?

Should they also get an option to purchase the house from the bank at the end of the lease term, assuming they have the income to afford it?

Before leaving for their August break, Democrats and Republicans in the House took a rare, unanimous stand on both questions by passing the Neighborhood Preservation Act by voice vote. The bill was co-sponsored by Reps. Gary Miller, R-Calif., and Joe Donnelly, D-Ind.

The bill would remove legal impediments blocking federally regulated banks from entering into long-term leases -- up to five years -- with the former owners of foreclosed houses. It would also allow banks to negotiate option-to-purchase agreements permitting former owners to buy back their houses.

The idea, said Miller, is, "at no cost to the taxpayer," to "reduce the number of houses coming into the housing inventory and preserve the physical condition of foreclosed properties," which ultimately should help stabilize values in neighborhoods with large numbers of distressed sales and underwater real estate.

If the bill is approved by the Senate, participation by banks would be purely voluntary. But the legislation might encourage banks to calculate whether they would do better financially taking an immediate loss at foreclosure, or by collecting rents and then selling the property at a higher price in four or five years.

Though it was not opposed by banking lobbies, the bill quickly attracted critics. The Center for Economic and Policy Research, a think tank based in Washington, said a key flaw is to leave decisions about leasebacks solely to banks themselves.

"If Congress does want to give homeowners the option to stay in their homes as renters," said the group, "it will be necessary to pass legislation that explicitly gives them this right."

Some private-industry proponents of short sales -- where the bank negotiates a price that's typically less than the owners owe on their note -- say turning banks into landlords won't work well, either for the banks or foreclosed owners who want to stay in their houses.

Al Hackman, a San Diego realty broker with extensive experience in commercial transactions, argues that leasebacks with options to buy are the way to go -- but not if banks run the show,

Hackman and a partner, Troy Huerta, have recently begun putting together what they call "seamless short sales" as alternatives for banks and property owners. Their short sales and leasebacks are "seamless" because the financially distressed homeowners remain in their properties, before and after the settlement.

Here's how they work: First, the bank agrees to a short sale to a private investor, just as they often do now. In the seamless version, however, the investor is contractually bound to lease back the house on a "triple net" basis -- the tenants pay taxes, insurance and utilities -- for two to three years.

The former owners only qualify if they have sufficient income to afford a fair market rent and can handle the other expenses, including maintaining the property. The deal comes with a preset buyout price after the leaseback period. That price is higher than the short-sale price paid by the investor, but lower than the original price of the house paid by the foreclosed owners.

Hackman and Huerta already are doing seamless short-sale transactions. Here is one that Hackman says is "real life" and moving toward escrow: A family purchased a house for $725,000 with 20 percent down in 2005, then made substantial improvements with the help of an equity line of $72,500. The house now is valued around $500,000, but is saddled with $625,000 in mortgage debts.

Enter the seamless short sale: Hackman has brought in a private investor who is willing to buy the house at current value, all cash. As part of the deal, the investor has agreed to lease back the house at $25,000 a year, triple net. In three years, assuming they've been good tenants, the original owners have the option to buy back the property for $550,000.

Hackman says the internal rate of return to investors can be raised or lowered based on rents and the buyback price, but typically are in the 8 percent to 10 percent range.

"It's a win-win," he says. "The owners stay in their houses. Private investors get a moderate return on what should be a safe investment." Plus the banks are out of the equation.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

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^PUSH TO EXTEND FIRST-TIME CREDIT<

^By KENNETH R. HARNEY=

WASHINGTON -- It's one of the biggest unknowns bugging would-be buyers of houses and condos this summer: Will Congress let the $8,000 nonrepayable tax credit for first-time purchasers expire as scheduled 14 weeks from now?

Or will the credit get a second life and be extended for another six to 12 months, taking pressure off buyers, realty agents and settlement companies?

That's an especially urgent matter if you're a buyer just starting to shop and you see entry-level prices bottoming out or rebounding in many local markets. The tax credit statute requires buyers to fully close on their purchases -- not just be under contract -- no later than Nov. 30. This doesn't leave a lot of leeway for people who haven't yet decided on a specific house and who haven't nailed down mortgage financing.

The whole process of negotiating offers, signing sales contracts, applying for a loan and completing the closing can easily extend for two months -- or a lot more if things get off track.

Given the rapidly approaching deadline, what's the likelihood that Congress will blow the whistle and allow at least a little extra time? Here's a quick overview: Though Congress technically is on its summer break, most members of the Senate and House use part of the August recess to meet with and listen to constituents back in their home districts.

This year, the two biggest housing trade groups -- the 1.2 million-member National Association of Realtors and the National Association of Home Builders -- are spending the month mounting unusually intense grass-roots lobbying campaigns to make the case for extending the credit, and maybe even expanding it. The effort is targeted first at the districts of members of the two tax-writing committees -- House Ways and Means and Senate Finance -- but is expected to cover most other members as well, according to officials of the two groups.

Delegations of homebuilders and realty brokers already have begun descending on district offices, delivering what Jerry Howard, president and CEO of the builders association, calls "the hard economic facts" -- the numbers of houses sold in each congressman's district that are attributable to the tax credit; the economic ripple effects on local businesses, manufacturers and service industries; new jobs and income; plus the additional tax revenues that all this activity will help produce for local governments.

On a national basis, according to economists at the National Association of Realtors, anywhere from 300,000 to 350,000 additional sales of houses will be stimulated this year by the credit. Each home sale generates approximately $63,000 in downstream "ripple effects" elsewhere in the economy, they say -- sales of furnishings, appliances, lawnmowers, landscaping, renovation materials, plus moving expenses.

If you accept the numbers -- and some analysts consider them a stretch -- this means the housing credit provides a powerful, immediate stimulus bang for the buck. Failure to extend what may be one of the most effective pieces of the Obama administration's 2009 stimulus legislation would cost jobs, economic growth and tax revenues, the housing groups argue.

There are some early signs Congress may be getting the message. Bills already are pending in both houses to extend the credit for another year. Senate Majority Leader Harry M. Reid, D-Nev., whose state has been among the worst hit by the housing bust, reportedly now favors an extension of the credit. He was quoted to that effect by the Las Vegas Sun on Aug. 5, adding, "It's something we can get done."

Sen. Chris Dodd, D-Conn., chairman of the Senate Banking Committee and in a tight race for re-election next year, is co-sponsoring a bill with Georgia Republican Johnny Isakson that would raise the credit amount to a maximum of $15,000. Meanwhile, both the Realtors and the builders are pushing not only for extension of the credit, but for broadening it to cover all home purchases in 2010.

But can any of this happen before the Nov. 30 deadline? The key complicating factor here is Congress' heavy load of higher-profile, pressing issues that will get attention before anything else in September and October: health care reform, climate change and energy, financial system regulatory reform and a new Consumer Financial Protection Agency, among others. On top of that, a tax credit extension would cost billions in lost revenues -- a big negative when the federal budget deficit is already wallowing in record red-ink territory.

In the end, however, given the political economics of the housing credit, the odds favor some sort of extension, probably later rather than sooner. Don't bank on a bigger credit, however, or broadening the concept to cover all purchasers next year.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

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^PEERING INTO THE NO-GO ZONE<

^By KENNETH R. HARNEY=

WASHINGTON -- You might assume that during August, with the Senate and House on their summer break, nothing much happens on Capitol Hill.

You know the old saw: Your money is safe when Congress is out of town.

But that's not quite the way it works. Committee staffs, economists, tax lawyers and policy shapers who toil below the headlines never really leave town. For example, earlier this month the nonpartisan Congressional Budget Office delivered its latest revenue-raising options for Senate and House consideration as they write this fall's tax and budget legislation.

Tucked away in the report are several incendiary plans that could -- if adopted -- cost homeowners billions of dollars. Though not formal legislative proposals, the CBO's options represent a handy fiscal menu for legislators to pick and choose from to reduce the deficit -- now at unprecedented levels -- or to pay for new programs they might want to advance.

Tops on the CBO's hit list for housing: Slash deductions for homeowner mortgage interest from the present $1.1 million limit to $500,000, phased in with $100,000 annual reductions starting in 2013 and extending to 2019. Under current law, taxpayers can write off mortgage interest on their principal home debt up to $1 million, and on home equity debt up to $100,000.

Under the CBO's option, that maximum mortgage debt amount would shrink yearly until it hit $500,000. Over a 10-year period, this change alone would boost federal tax collections by an estimated $41 billion.

The CBO offered up a second option if Congress wants to raise a lot more money: Replace the current mortgage interest deduction with a flat 15 percent tax credit for everybody with mortgage amounts below the declining limits in the first option. Rather than taking write-offs that are tied to your personal income tax bracket, every homeowner would get a credit worth 15 percent of mortgage interest paid.

Who'd benefit? Primarily lower- and moderate-income taxpayers who don't itemize on their returns. Who'd pay more? People with big mortgages and higher-than-average incomes, who are far more likely to itemize under current rules.

Credits reduce taxes dollar for dollar at the bottom line of returns. Deductions, by contrast, are tied to taxpayers' marginal brackets. The higher the bracket, the bigger the percentage of the write-off.

The CBO notes that this idea is not something it just dreamed up. Four years ago, a tax reform advisory commission appointed by President George W. Bush came up with a similar recommendation to transform the mortgage deductions into a credit. The attractiveness of the credit concept is both fiscal -- it raises a boatload of new money for the government -- and social.

Besides raising $13 billion in 2013, CBO estimates that moving to a credit approach would increase revenues by nearly $390 billion between 2013 and 2019. Equally important, the credit plan would also please critics who say the current tax system shortchanges lower- and moderate-income homeowners, and encourages Americans to overspend on massive houses loaded down with monster-sized mortgages.

Though the CBO concedes this option might also have negative side impacts on the real estate market -- fewer sales, less money spent on construction, lower home values at the upper end -- it's not clear what effect it would have on the national rate of homeownership. Why? The report notes that Canada, the United Kingdom and Australia all have roughly similar homeownership rates as the United States, but none provide mortgage interest tax deductions.

Other housing-related items on the CBO's revenue-raising target list:

-- Get rid of all write-offs for state and local taxes, including property taxes. That would pump $343 billion into federal coffers between 2010 and 2014, and $862 billion by 2019.

-- Clamp a 15 percent cap on the value of all itemized deductions -- not just mortgage interest and property taxes but charitable contributions, medical expenses and casualty losses. The revenue windfall: $1.3 trillion over 10 years.

-- Revert to the capital gains approach that prevailed before 1987. Rather than taxing most gains at 15 percent as the current code does, the CBO plan would exclude 45 percent of gains from taxation, and tax the remaining 55 percent at an individual's regular tax rate. New money raised: $48 billion over the next decade.

Where's all this headed? That depends. The mortgage interest deduction has been a political no-go zone for decades. The same for local property tax write-offs. But with billowing deficits, and trillions to raise to help pay for health care reform and the economic stimulus bills, somewhere, somehow, Congress is going to be pressed to raise revenues.

Even no-go zones could get new scrutiny.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

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^RESCUE OR RIP-OFF?

^By KENNETH R. HARNEY=

WASHINGTON -- How's this for a business plan to make money during the housing bust? You buy or rent lists of recent default filings from across the country -- thousands of people who have been notified by lenders that if they don't get their mortgage payments back on track, the next step will be foreclosure.

You send each homeowner on the list a personalized letter with this urgent message: We know you're having a tough time right now, but WE CAN SAVE YOUR HOME! It's not too late! We know how to get through to your lender and work things out to save your house. Call this toll-free number immediately!

The letters go to rich people, poor people, owners of big and small houses, and they generate hundreds of callbacks. Many panicked owners agree to pay a fee of $1,200 to $1,300 for the foreclosure prevention services in advance.

You can guess what happens next: Little or nothing in the way of help in most cases. The homeowners lose their houses to foreclosure, and the rescue company keeps sending out letters and pocketing fees.

Late last month, the Federal Trade Commission settled with a Florida-based company -- United Home Savers LLC -- that allegedly operated like this, and victimized more than 3,100 homeowners nationwide. The company and its officers denied any legal wrongdoing as part of the settlement, but have shut down the firm and agreed to a $4.1 million judgment and close monitoring by federal officials of their future business activities. However, most of the judgment was suspended because United Home Savers and its principals had only about $22,000 in their bank accounts when the FTC froze their assets under court order. (United could not be reached for comment.)

The 3,100 victims, in other words, probably won't see a dime in restitution.

"What really hurts," says Harold Kirtz, the FTC lawyer who led the government's case against United Home Savers, "is that a lot of these people not only lost money upfront, but they also fell further behind on their mortgages" during the weeks and months while they waited for United's staff counselors to work things out with their lenders.

That, in turn, made foreclosure for the homeowners even more likely.

But United is just one of literally hundreds of alleged foreclosure rescue operations that have prospered in the toxic wasteland of the mortgage market bust. Reilly Dolan is familiar with many of them. He is the FTC's assistant director for financial practices and the coordinator of "Operation Loan Lies," a joint federal-state effort that has targeted 189 companies allegedly running mortgage modification or foreclosure prevention scams. The FTC alone has brought or settled 19 cases against firms of this type in the past 12 months, said Dolan in an interview. "And more are coming."

"This is now one of the top priorities" at the FTC, according to Dolan, because the sheer breadth of mortgage foreclosure problems "has caused a lot of scams to come out of the woodwork."

Kirtz, who is based at the FTC's Atlanta office, said even well-educated, financially knowledgeable consumers can fall prey to loan modification and foreclosure prevention rip-offs because "they are in a very vulnerable state," threatened with the loss of the roof over their head. As a result, they don't ask the questions they should, and they don't look for the clear warning indicators of potential fraud. What telltale signs should tip off financially distressed homeowners?

No. 1: If the company claims to be able to guarantee success in preventing foreclosure, no matter what your financial situation or mortgage details, don't listen further to the marketing pitch. Nobody can guarantee you'll get a loan modification, and nobody can guarantee that your lender won't pull the plug and foreclose.

No. 2: Although there is no federal law against collection of upfront fees for loan modification assistance -- unlike so-called "credit repair" operations, where fees are prohibited until services are completed -- any company asking for $1,000 to $4,000 in advance should be checked out thoroughly by the homeowner before sending in any money.

"We can't say all advance fees are illegal," said Kirtz. But when the fees are for things like "processing" and "administration" costs, "in most case they're probably bogus."

Finally, mortgage modification companies that claim to have special inside connections allowing them to make your payments directly to your lender -- provided you send your monthly checks to the modification company, not to your regular servicer -- is almost certainly intent on just one thing: Cashing as many of your checks as possible, pocketing the money, and leaving you unprotected on the conveyor belt heading for foreclosure.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

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^WHEN DEFAULT BECOMES A STRATEGY<

^By KENNETH R. HARNEY=

WASHINGTON -- Who is more likely to walk away from a house and a mortgage -- a person with super-prime credit scores or someone with lower scores?

Hint: It's probably not who you think. New research using a massive sample of 24 million individual credit files has found that homeowners with high scores when they apply for a loan are 50 percent more likely to "strategically default" -- abruptly and intentionally pull the plug and abandon the mortgage -- compared with lower-scoring mortgage borrowers.

Experian, one of the three national credit bureaus, teamed with consulting company Oliver Wyman to identify the characteristics and debt management behavior of the growing numbers of homeowners who bail out of their mortgages with none of the expected early warning signs, such as nonpayments or late payments on other personal debts.

With foreclosures, delinquencies and loan losses at record levels, strategic defaults and walkaways are among the hottest subjects in residential real estate finance. Unlike earlier academic studies, Experian and Wyman had the ability to tap into credit files over extended periods of years to identify patterns associated with strategic defaults.

Among researchers' findings are these eye-openers:

-- The number of strategic defaults is far beyond most industry estimates -- 588,000 nationwide during 2008, more than double the total in 2007. They represented 18 percent of all serious delinquencies that extended for more than 60 days during the fourth quarter of last year.

-- In contrast with most types of mortgage delinquencies, strategic defaulters often go straight from perfect payment histories to no mortgage payments at all. They just suddenly stop. This is in stark contrast with most financially distressed borrowers, who try to keep paying on their mortgage even after they've fallen behind on other accounts. They want to save their houses, not dump them.

-- Strategic defaults are heavily concentrated in negative-equity markets where home values zoomed during the boom and have cratered since 2006. In California last year, the total number of strategic defaults was 68 times higher than it was in 2005. In Florida it was 46 times higher. In most other parts of the country, defaults were about nine times higher in 2008 than in 2005. Loans originated across the country in the pivotal market-turn year of 2006 have produced seven times more walkaways than loans originated during 2004, when property values were still rising.

-- Two-thirds of strategic defaulters have only one mortgage -- the one they're walking away from on their primary homes. Individuals who have mortgages on multiple houses also have a higher likelihood of strategic default, but researchers believe that many of these walkaways are from investment properties or second homes.

-- Homeowners with large mortgage balances generally are more likely to pull the plug than those with lower balances. Similarly, people with credit ratings in the two highest categories measured by VantageScore -- a joint scoring venture created by Experian and the two other national credit bureaus, Equifax and TransUnion -- are far more likely to default strategically than people in lower score categories.

-- People who default strategically and lose their houses appear to understand the consequences of what they're doing. According to Piyush Tantia, an Oliver Wyman partner and a principal researcher on the study, strategic defaulters "are clearly sophisticated," based on the patterns of selective payments observable in their credit files. For example, they tend not to default on home equity lines until after they bail out on their main mortgages, sometimes in order to draw down more cash on the equity line.

While high scorers have lower overall default rates on all their credit activities than people with lower scores, it's much more likely that when they stop payments on mortgages, the default is intentional and calculated.

Strategic defaulters may know that their credit scores will be severely depressed by their mortgage abandonment, Tantia said in an interview, but they appear to look at it as a business decision: "Well, I'm $200,000 in the hole on my house, and yes, I'll damage my credit," he said of defaulters. But they see it as the most practical solution under the circumstances, and they won't have to deal with their negative equity albatross any further.

The Experian-Wyman study does not attempt to explore the ethical or legal aspects of mortgage walkaways. But it does suggest that lenders and loan servicers take steps to screen and identify strategic defaulters in advance and possibly avoid offering them loan modifications, since they'll probably just re-default on them anyway.

Ken Harney's e-mail address is kenharney(at)earthlink.net.

^THE NATION'S HOUSING COLUMN<

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^TAX CREDIT MAY GET NEW LIFE

^By KENNETH R. HARNEY=

WASHINGTON -- Will Congress extend the wildly popular $8,000 homebuyer tax credit beyond its Dec. 1 expiration date?

That's a question generating huge pressure on Capitol Hill, from would-be buyers who haven't found the right house to realty agents, builders, lenders and squads of lobbyists working on their behalf.

But here's the first hint of an answer: On Sept. 17, the leadership of Congress' primary tax legislative committee introduced a tax credit bill that's likely to zip through the House and move to the Senate rapidly. Charles B. Rangel, chairman of the House Ways and Means Committee, sponsored the bipartisan Service Members Homeownership Tax Act (H.R. 3590), which would extend the credit for another 12 months for thousands of military, Foreign Service and intelligence agency personnel who've been posted abroad during 2009.

Rangel's bill, with 29 cosponsors, would keep the credit alive through Nov. 30, 2010, for service members who had at least 90 days of overseas duty assignments during 2009, and who otherwise meet the eligibility tests for the credit. The bill would also prohibit the IRS from "recapturing" the $8,000 credit when service members are forced to sell or rent out their houses because they are ordered to deploy to a different duty station, overseas or inside the country.

Under the regular rules of the program, buyers who obtain the credit must use their houses as a principal residence for 36 months or be required to repay the credit to the IRS. As a result of the 36-month rule, many military and diplomatic employees have been hesitant to buy a house and claim the credit, or are worried that their absence from the country could force them to repay the money.

For example, the spouse of a Foreign Service officer posted to the Philippines this summer for a two-year assignment wrote to Rep. Earl Blumenauer, D-Ore., to alert him to a flaw in the tax credit program. The Oregon couple bought their first home earlier this year, encouraged by affordable prices and the $8,000 credit. But having now been posted abroad, they cannot claim to occupy the house as their principal residence. Under current rules, they even face recapture of the full credit.

Blumenauer, who is a member of the Ways and Means Committee, said "it is absurd that thousands of Americans serving our country, away from friends and family, must choose between their service work and homeownership." He wrote corrective legislative language that ultimately was incorporated into Rangel's tax bill.

Though nothing is guaranteed on Capitol Hill, legislation eliminating tax penalties on the military during wartime looks like a good bet for early passage in both houses. Equally significant: It now appears likely that there will be an $8,000 tax credit available a year from now -- at least for some purchasers. Which begs the question: Why not leave it in place for all first-time buyers?

There's growing support for that on both sides of the Capitol, but there are also some complicating issues. In the Senate, the most outspoken advocate for months has been a Republican, Sen. Johnny Isakson of Georgia, a former real estate broker. He wants not only to extend the credit to Dec. 1, 2010, but to raise the maximum to $15,000, and make it available to all homebuyers next year.

But recently, key Senate Democrats produced their own version of an extension, limited to six months, retaining the ceiling at $8,000 and targeting only first-time purchasers. The bill's primary sponsor is Sen. Benjamin Cardin, D-Md. Democratic co-sponsors include Majority Leader Harry Reid of Nevada and Debbie Stabenow of Michigan. Republicans John Ensign of Nevada and Isakson have signed on as well.

In a statement, Cardin raised what may prove to be the crucial issue affecting the scope and duration of any credit extension: Cost. "A six-month extension is a fiscally responsible way to provide adequate time to nudge even more prospective homebuyers off the sidelines," he said.

Estimates of the revenue costs of the current credit vary widely, from $3 billion to $8 billion and up. How do you pay for any extension without worsening the budget deficit? The new Rangel bill includes the answer: You raise taxes somewhere else -- you "pay as you go." The Rangel bill pays for most of the servicemen's credit extension by increasing IRS penalties on taxpayers who fail to file partnership or "S" corporation returns.

This would raise an estimated $327 million over the next 10 years. Where and how to raise taxes to cover the far larger cost of a six-month or 12-month extension of the current tax credit could prove much more controversial.

Ken Harney's e-mail address is kenharney(at)earthlink.net.