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Community Associations Institute plays key role in legislative issues

August 02, 2012 - Owners Developers & Managers

Community Associations Institute has endorsed S. 3085, the "Responsible Homeowner Refinancing Act of 2012." The legislation, spearheaded in the U.S. Senate by senators Robert Menendez (NJ) and Barbara Boxer (CA), will help more homeowners with mortgages greater than the value of their home refinance and lower monthly mortgage payments.

The housing and foreclosure crisis has left millions of American homeowners with homes that are worth less than the outstanding balance of their mortgage. To help these "underwater" homeowners refinance their mortgages, Fannie Mae and Freddie Mac created the Home Affordable Refinance Program, known as HARP.

Home Affordable Refinance
Program (HARP)

The purpose of HARP is to allow underwater borrowers who are current on their mortgage obligations to refinance at today's historically low interest rates. By refinancing, these families save thousands of dollars a year. These savings make it less likely that underwater borrowers will default on their mortgages, preventing foreclosures and saving taxpayer money.

In January, Fannie Mae and Freddie Mac announced additional changes to HARP to help even more borrowers refinance under the program. Since these changes were implemented in March, Fannie Mae and Freddie Mac report a significant increase in HARP refinancing.

As a consequence of the housing crisis, homeowners in community associations face higher housing costs as assessments are increased due to the foreclosure crisis and the number of neighbors who can no longer afford to pay assessments. These higher costs threaten the financial stability of households shouldering a disproportionate share of association costs. Allowing more households to refinance their mortgages at current, historically low interest rates will save these homeowners an average of \$2,500 per year.

S. 3085 will allow more households to refinance their mortgages by making targeted changes to the Home Affordable Refinance Program, or HARP. While HARP does not cover all mortgage loans, Fannie Mae and Freddie Mac currently own almost 70 percent of all mortgages in the nation.

More Options and More Savings

Under current HARP guidelines, borrowers often do not have a choice in lender when refinancing their mortgage because HARP rules do not easily permit such a change. This means that borrowers are often charged higher interest rates and do not receive the greatest benefit from the refinance. S. 3085 will repeal this restriction in HARP and require lenders to compete against each other for refinance business. This competition will save borrowers an additional \$8,000 to \$10,000 over the life of their loan.

Writing to Senator Menendez, CAI noted that relying on fewer households to cover association costs

"leads to more foreclosures, financially distressed associations, and a downward cycle in the community association market." CAI told Senator Menendez that "S. 3085 will blunt the financial strain placed on these families, ensuring that more residents...have the capacity to meet their obligations to their neighbors."

As part of our ongoing Mortgage Matters program, CAI is working to protect homeowners in community associations and to ensure access to fair and affordable mortgage products for all current and potential community association residents.

State Legislative Initiatives - Rhode Island

CAI has been championing efforts to avoid having community associations caught in the current trend of attempts both at the federal and state level to prohibit private transfer fees. Specifically, private transfer fees are deed-based fees payable upon the resale or transfer of property. Such legislation has the good intention of preventing transfer fees that burden properties and offer no direct benefit to the land or property owner. Mostly, these prohibitions are geared toward real estate developers and other third party investors not directly related to the property. There is, however, the unintended consequence of possibly prohibiting condominium associations from charging fees that are directly beneficial to associations and imperative to the funding of common interest communities. Community transfer fees that may be wrapped up into the prohibition include fees for resale certificates, "move in and move out" fees, and the typical two month working capital deposit fees.

Rhode Island Transfer

Fee Bill Passed

Locally, CAI's Rhode Island Legislative Action Committee (RI-LAC) made its case before the Rhode Island Senate Judiciary Committee earlier this spring. Committee representatives argued that the legislation Senator Walter Felag had introduced to prohibit transfer fees could cast too wide a net and unintentionally include community associations. After explaining to the Senator and the Committee that the language in the bill as originally written could cause confusion and actually adversely affect community association operations, including sales of units and unnecessarily force the absorption of fees normally paid by third party buyer, he agreed to insert the language suggested by the RI-LAC into his bill.

Fortunately, the bill passed both houses and became law with RI-LAC language intact earlier this summer. The text of the law with the RI-LAC's changes highlighted is listed below:

34-11-42. Transfer fees prohibited. - No person or business entity who sells real property shall charge, collect, receive, or be entitled to a fee based solely on the subsequent resale or transfer of said property. This prohibition includes, but is not limited to, fees or charges imposed by a real estate developer based upon the subsequent resale or transfer of said real property. Any housing development that is covered by the definition in subdivision 45-53-3(9) is exempt from this section. Further, any fee or charge connected with the transfer of properties with a conservation restriction as defined in subsection 34-39-2(a) is exempt from the provisions of this section. Further, community associations, homeowners associations and cooperative associations are exempt from this section. Any covenant recorded on or after July 1, 2012, imposing any charge or fee inconsistent with this section shall be void and unenforceable against any subsequent owner, purchaser or mortgagee.

Many thanks to Senator Felag and Senate Judiciary Committee members who heard RI-LAC testimony. Somebody was listening and we are grateful. We are also hopeful that legislatures from other states will understand the importance of carving out an exception for community transfer fees

in their anti-transfer fee legislation. Clearly, community associations are innocent victims in the war on private transfer fees.

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