

News from the...



Connecticut Mortgage
Bankers Association, Inc.

By the time this article appears, the Consumer Financial Protection Bureau (CFPB) might have announced a new mortgage lending rule with profound implications for every homeowner and homebuyer in this country. The rule will define what the CFPB considers to be a "Qualified Mortgage" (QM). This definition is critically important since QMs may soon be the only mortgages available to U.S. consumers.

A Little Background: From the inception of the mortgage banking industry in Connecticut until the turn of the last century, mortgage loans were underwritten by lenders based on the credit and character of the borrower and the value of the collateral (i.e., the borrower's home). Various methodologies evolved (including the FICO score) to carefully evaluate the borrower's ability to repay the loan. While lenders would make loans to borrowers who ultimately would not be able to repay their loan, that was a credit and underwriting risk inherent in the lending process. The interest that the

borrower paid on the mortgage loan was in fact the compensation for the lender's assumption of that credit risk.

Ninja Loans and the Decline of Underwriting: Due to investor appetite for mortgage-backed securities, the financial incentives associated with loan origination and securitization, and the absence of adequate regulatory safeguards, certain lenders started originating no-income, no-asset loans in the years preceding the 2008 financial meltdown. Many of those loans are still working their way through the economy today.

Post-Meltdown and Pre-Dodd-Frank: After the 2008 financial meltdown, most large non-bank lenders and virtually all subprime mortgage lenders were wiped out or closed down. Next, an unceasing barrage of federal, state and local legislation, most notably the Dodd-Frank Act, arrived with the express purpose of addressing the causes and effects of the mortgage meltdown.

The Future of Qualified Mortgages

By Norman H. Roos

These new laws dramatically tightened virtually every aspect of residential mortgage lending, from licensing and compensation of loan originators to loan servicing and foreclosure relief. This has made life more difficult for mortgage lenders and borrowers alike.

The CFPB and QM: The Dodd-Frank Act requires that lenders must determine that borrowers have "the ability to repay" a mortgage before making a mortgage loan. This raises significant litigation and liability issues. Borrowers can raise the "ability to pay" issue in their defense if and when a lender seeks to foreclose a mortgage. Therein lies the importance of the QM rule – QMs will be exempt from the "ability to repay" requirement. Accordingly, it is anticipated that once the QM definition is finalized, the only loans that most mortgage lenders will make will be QMs. So if, for example, a QM is defined as a fixed-rate, fully amortizing loan with a loan-to-value ratio of no more than 50 percent, the only people who will be able to buy homes in this country will

be those who can afford to put down 50 percent in cash.

Concluding Thoughts on a Broad Definition of QM: By the time the CFPB announces its definition of QM, it is hoped that they will have considered the ramifications of an unduly restrictive definition. As is the case with most industries, credit is critical to the maintenance of a healthy residential housing industry. Without adequate mortgage financing, homebuyers and sellers will suffer. As I understand it, those buyers and sellers are the very consumers the CFPB was organized to protect. So, hopefully, a broad and clear definition of QMs will have been (or soon will be) announced – and borrowers and lenders alike will be able to breathe a sigh of relief.

Norman H. Roos is chair of Robinson & Cole LLP's Finance Practice Group and counsel to the Connecticut Mortgage Bankers Association, Inc.



This beautifully restored, historic three-story brick mansion in Manchester is reminiscent of the grand elegance of earlier times. It has 17 rooms with 7,400 square feet of living space, seven bedrooms, four full/two half baths and seven working fireplaces, all sitting on a private 2.25 acre parcel. Intricate moldings, built-ins and detailed woodwork add to the charm of this home. The first floor includes an updated kitchen with granite countertops, a very large pantry with wet sink, formal dining room, a grand living room, family room, library and a full laundry room. The second floor features six bedrooms, four of which contain fireplaces as well as two additional bathrooms. The master bedroom has a fireplace, full bath and walk-in closet. The third floor is currently used as a four-room rental apartment with a separate entrance. The house has a newer roof and new high-efficiency gas boiler. The list price is \$649,900. **Prudential Connecticut Realty, Eric Babbitt, 860-796-5376.**



10 Richmond Court in Southington is a pristine and detailed home perched on a manicured one acre. The entrance foyer is two stories and is the focal point of the home with a strategically placed, turned front staircase. Gleaming hardwood floors are featured on both levels along with Doric columns, nine-foot ceilings and elaborate trim. The formal dining room is picturesque with crown molding, wainscoting and chair rail. The 13-foot by 24-foot kitchen is packed with all the features a gourmet cook needs including stainless steel appliances, granite counters and two pantry closets. Relax in the master bedroom suite with its sitting library, expansive walk-in closet and spa-like master bath with separate shower and full bath. The 22-foot by 17-foot bonus room is great for watching movies and sports. Start your year off right in this stunning home. The list price is \$499,900. **Putnam Agency, Rebecca Davis, 860-628-5691, Ext. 3009.**