The Preserving Access to Manufactured Housing Act (S. 682/H.R. 650)

Due to an unintended consequence of the Dodd-Frank Act, manufactured housing is less available as an affordable housing option. The CFPB rules are having a significant impact on credit availability for the purchase of affordable manufactured housing.

S. 682/H.R. 650, the Preserving Access to Manufactured Housing Act would clarify the Dodd-Frank Act provisions that have impeded the ability of consumers to access affordable manufactured housing financing, without undermining key Dodd-Frank mortgage protections.

1. S. 682/H.R. 650 revises the triggers by which small-sized manufactured home loans are considered “High-Cost” under the Home Ownership and Equity Protection Act (HOEPA).

    - The fixed costs of originating and servicing loans causes smaller-sized manufactured housing loans to violate caps in Dodd-Frank and be categorized as “High-Cost” or predatory. The discrepancy exists because while the cost of originating and servicing a $200,000 loan and a $20,000 loan are the nearly same in terms of real dollars, the cost as a percentage of each loan’s size is very different.

    - Many manufactured home owners will not be able to purchase, refinance or sell a home because small-balance manufactured home loans will not exist due to their stigma as High-Cost Mortgage loans under HOEPA.

2. S. 682/H.R. 650 clarifies that manufactured home retailers and their employees are not considered Loan Originators (LOs) under Consumer Financial Protection Bureau (CFPB) guidelines, provided they receive no compensation for performing LO activities.

    - Similar to real estate agents, manufactured housing retailers and salespeople are fundamentally in the business of selling homes, not originating loans. Their compensation is solely derived from the sale of a home.
    - The sales compensation paid to retailers and their employees is not tied to LO activities, as defined by CFPB, because: (1) the sales compensation is not paid by lenders; (2) the amount and type of sales compensation is not dependent on whether a home is purchased with cash or financing, lender incentives, or loan terms; and (3) the compensation is clearly for sales services that are NOT loan origination activities.
    - Just as a real estate agent’s sales commission does not make them an LO under CFPB rules, a similar distinction is needed for those selling manufactured homes.