

Statement of Ranking Member Spencer Bachus, Full Committee Markup, H.R. 6694, "FHA Seller-Financed Downpayment Reform and Risk-Based Pricing Authorization Act of 2008"

September 16, 2008

I move to strike the last word.

Mr. Chairman, the major housing legislation that the President signed into law in July included a ban on seller-funded downpayment assistance programs, and imposed a one-year moratorium on FHA's use of risk-based pricing. H.R. 6694 would reinstate the seller-funded downpayment program on a limited basis and suspend the one-year moratorium on risk-based pricing and permit its use for certain customers but not others. While I appreciate Chairman Frank's good-faith attempt to address concerns that have been raised by critics of the new law since its enactment less than two months ago, I believe that efforts to revive the seller-funded downpayment program are unwise, and I must therefore reluctantly oppose this legislation.

The use of seller-funded downpayment assistance on FHA-insured loans has come under increasing scrutiny in recent years. HUD, the Internal Revenue Service (IRS), and the Government Accountability Office (GAO) have all expressed concerns about the providers of this assistance and its effect on the future solvency of the FHA program. In 2005, GAO issued a report finding that FHA-insured loans with downpayment assistance have significantly higher delinquency and claim rates than do similar loans without such assistance. According to HUD, seller-funded downpayment loans are three times more likely to end up in foreclosure as loans without such assistance. In 2006, the IRS issued a revenue ruling that stripped these organizations of their tax exempt status, ruling that sellers often raise the property price to cover the cost of the downpayment, resulting in no net benefit to the buyer. Nothing in this legislation today addresses these concerns.

In testimony earlier this year, FHA Commissioner Brian Montgomery warned this Committee that his agency could lose \$4.6 billion in 2008 largely due to expected losses from mortgages issued with seller-funded downpayment assistance. While I recognize that H.R. 6694 attempts to mitigate these risks by limiting the use of seller-funded downpayment assistance to borrowers with credit scores above a certain level, this approach does not go far enough, in my view, to address the very serious concerns that prompted the elimination of seller-funded downpayment assistance in the first place. Given the potentially devastating effect of these programs on the financial standing of the FHA, it should come as no surprise that HUD is not able to support this legislation.

For all of these reasons, Mr. Chairman, I must oppose this legislation and urge other Members to do so as well.

With that, I yield back the balance of my time.

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