

116TH CONGRESS
2D SESSION

H. R. 5614

To exempt small seller financiers from certain licensing requirements.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 2020

Mr. GONZALEZ of Texas (for himself, Mr. CUELLAR, Mr. GOODEN, and Mr. BARR) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To exempt small seller financiers from certain licensing requirements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Affordable Homeown-
5 ership Access Act”

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Real-estate seller financing is a transaction
9 in which the owner of a real estate property provides
10 financing for the buyer of that property and the

1 buyer makes some form of a down payment to the
2 seller and then makes installment payments to the
3 seller over a defined period of time.

4 (2) Seller financiers provide financing in lieu of
5 the buyer choosing to obtain a loan from a bank.

6 (3) The seller finance industry consists of small
7 business owners who own real estate and provide fi-
8 nancing on those properties to underserved bor-
9 rowers who cannot or would prefer not to obtain tra-
10 ditional financing.

11 (4) It is recognized that seller financiers are
12 governed by each State's particular real estate and
13 consumer protection laws (including ability to repay,
14 deceptive trade practices, and usury laws), as well as
15 State and Federal fair housing and equal oppor-
16 tunity laws.

17 (5) Neither of those laws described under para-
18 graph (4), nor the amendments made by this Act,
19 are applicable to transactions known as contracts for
20 deed, land installment contracts, lease options, op-
21 tions to buy, or rent-to-own agreements.

1 **SEC. 3. EXCEPTION FOR SELLER FINANCERS WITH RE-**
2 **SPECT TO LOAN ORIGINATOR LICENSE OR**
3 **REGISTRATION REQUIREMENTS.**

4 Section 1504 of the S.A.F.E. Mortgage Licensing Act
5 of 2008 (12 U.S.C. 5103) is amended by adding at the
6 end the following:

7 “(c) EXCEPTION FOR SELLER FINANCERS.—The re-
8 quirements of this title shall not apply to the following:

9 “(1) REAL PROPERTY SELLER FINANCERS.—
10 Any person (other than a depository institution)
11 who, during any 12-month period—

12 “(A) originates no residential mortgage
13 loan or extension of credit secured by real prop-
14 erty that (together with any improvements
15 thereto) has a value of more than \$200,000 (as
16 calculated based on the principal amount of the
17 loan or extension of credit and the amount of
18 downpayment, if any);

19 “(B) originates not more than 20 residen-
20 tial mortgage loans or extensions of credit,
21 where—

22 “(i) each such residential mortgage
23 loan or extension of credit is secured by
24 real property that (together with any im-
25 provements thereto) has a value of
26 \$200,000 or less (as calculated based on

1 the principal amount of the loan or exten-
2 sion of credit and the amount of downpay-
3 ment, if any); and

4 “(ii) at least one of such residential
5 mortgage loans or extensions of credit is
6 secured by real property that (together
7 with any improvements thereto) has a
8 value of more than \$100,000 (as calculated
9 based on the principal amount of the loan
10 or extension of credit and the amount of
11 downpayment, if any);

12 “(C) originates not more than 30 residen-
13 tial mortgage loans or extensions of credit,
14 where each such residential mortgage loan or
15 extension of credit is secured by real property
16 that (together with any improvements thereto)
17 has a value of \$100,000 or less (as calculated
18 based on principal amount of the loan or exten-
19 sion of credit and the amount of downpayment,
20 if any); and

21 “(D) only originates residential mortgage
22 loans or extensions of credit that are with re-
23 spect to property that is owned by such person.

1 “(2) MANUFACTURED HOME SELLER
2 FINANCERS.—Any person (other than a depository
3 institution) who, during any 12-month period—

4 “(A) originates not more than 30 loans or
5 extensions of credit that are primarily for per-
6 sonal, family, or household use and that are se-
7 cured by a security interest on a manufactured
8 home (as defined under section 603 of the Na-
9 tional Manufactured Housing Construction and
10 Safety Standards Act of 1974); and

11 “(B) only originates residential mortgage
12 loans or extensions of credit that are with re-
13 spect to property that is owned by such per-
14 son.”.

15 **SEC. 4. EXCEPTION FOR SELLER FINANCERS IN THE DEFINI-**
16 **ITION OF MORTGAGE ORIGINATOR.**

17 Subparagraph (E) of section 103(dd)(2) of the Truth
18 in Lending Act (15 U.S.C. 1602(dd)(2)) is amended—

19 (1) by redesignating subparagraphs (F) and
20 (G) as subparagraphs (G) and (H), respectively;

21 (2) by amending subparagraph (E) to read as
22 follows:

23 “(E) does not include, with respect to a
24 residential mortgage sale, a person or entity
25 (including a corporation, partnership, propi-

1 etorship, association, cooperative, estate, or
2 trust) if—

3 “(i) such a person or entity provides
4 seller financing, in a 12-month period, for
5 the sale of—

6 “(I) no property where the loan
7 or extension of credit is secured by
8 real property that (together with any
9 improvements thereto) has a value of
10 more than \$200,000 (as calculated
11 based on principal amount of the loan
12 or extension of credit and the amount
13 of downpayment, if any);

14 “(II) not more than 20 prop-
15 erties, where—

16 “(aa) each such loan or ex-
17 tension of credit is secured by
18 real property that (together with
19 any improvements thereto) has a
20 value of \$200,000 or less (as cal-
21 culated based on principal
22 amount of the loan or extension
23 of credit and the amount of
24 downpayment, if any); and

1 “(bb) at least one such loan
2 or extension of credit is secured
3 by real property that (together
4 with any improvements thereto)
5 has a value of more than
6 \$100,000 (as calculated based on
7 principal amount of the loan or
8 extension of credit and the
9 amount of downpayment, if any);
10 and

11 “(III) not more than 30 prop-
12 erties, where each such loan or exten-
13 sion of credit is secured by real prop-
14 erty that (together with any improve-
15 ments thereto) has a value of
16 \$100,000 or less (as calculated based
17 on principal amount of the loan or ex-
18 tension of credit and the amount of
19 downpayment, if any); and

20 “(ii) each piece of real property de-
21 scribed under clause (i) is owned by such
22 a person or entity and serves as security
23 for the loan or extension of credit, provided
24 that such loan or extension of credit—

1 “(I) is not made by a person or
2 entity that has constructed, or acted
3 as a general contractor for the con-
4 struction of, a residence on the prop-
5 erty in the ordinary course of business
6 of such person, corporation, associa-
7 tion, estate, or trust;

8 “(II) is fully amortizing;

9 “(III) is with respect to a sale
10 for which the seller determines in
11 good faith and documents that the
12 buyer has a reasonable ability to pay
13 the seller;

14 “(IV) has a fixed rate or an ad-
15 justable rate that is adjustable after 5
16 or more years, subject to reasonable
17 annual and lifetime limitations on in-
18 terest rate increases; and

19 “(V) meets any other criteria the
20 Bureau may prescribe;” and

21 (3) by inserting after subparagraph (E) the fol-
22 lowing:

23 “(F) does not include, with respect to a
24 residential mortgage loan or extension of credit,
25 a person or entity (including a corporation,

1 partnership, proprietorship, association, cooper-
2 ative, estate, or trust) if—

3 “(i) the loan or extension of credit is
4 seller financed and is a consumer loan or
5 extension of credit secured by a security
6 interest on a manufactured home (as de-
7 fined under section 603 of the National
8 Manufactured Housing Construction and
9 Safety Standards Act of 1974); and

10 “(ii) each home described under
11 clause (i) is owned by such a person or en-
12 tity and serves as security for the loan or
13 extension of credit, provided that such loan
14 or extension of credit—

15 “(I) is not made by a person or
16 entity that has manufactured the
17 manufactured home;

18 “(II) is fully amortizing;

19 “(III) is with respect to a sale
20 for which the seller determines in
21 good faith and documents that the
22 buyer has a reasonable ability to pay
23 the seller;

24 “(IV) has a fixed rate or an ad-
25 justable rate that is adjustable after 5

1 or more years, subject to reasonable
2 annual and lifetime limitations on in-
3 terest rate increases; and
4 “(V) meets any other criteria the
5 Bureau may prescribe;”.

6 **SEC. 5. REPORT ON SELLER FINANCING.**

7 (a) STUDY.—The Secretary of Housing and Urban
8 Development and the Secretary of the Treasury shall
9 jointly carry out a study on—

10 (1) the number of homes bought for under
11 \$200,000 or 60 percent of the median home value
12 in a given community, whichever is lower, in the
13 United States by utilizing seller financing described
14 under section 2;

15 (2) the number of homes described under para-
16 graph (1) financed by licensed mortgage brokers or
17 depository institutions;

18 (3) the potential number of homes described
19 under paragraph (1) which could be financed by li-
20 censed mortgage brokers or depository institutions
21 but are not, because seller financiers are unwilling,
22 or from a practical standpoint unable, to comply
23 with mortgage broker rules; and

24 (4) the potential benefit to home values, neigh-
25 borhood stabilization, and family wealth creation

1 through affordable homeownership if more homes
2 are able to be sold utilizing seller financing.

3 (b) REPORT.—Not later than the end of the 1-year
4 period beginning on the date of the enactment of this Act,
5 the Secretary of Housing and Urban Development and the
6 Secretary of the Treasury shall jointly issue a report to
7 the Committee on Financial Services of the House of Rep-
8 resentatives and the Committee on Banking, Housing, and
9 Urban Affairs of the Senate containing—

10 (1) all findings and determinations made in car-
11 rying out the study required under subsection (a);
12 and

13 (2) data on the number of transactions utilizing
14 seller financing 20 years, 15 years, 10 years, and 5
15 years prior to the date of the enactment of this Act.

○