



Manufactured Housing Association for Regulatory Reform

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SUMMARY OF THE THREE MAIN BOTTLENECKS SUPPRESSING MANUFACTURED HOUSING PRODUCTION, MARKETING AND SALES

- 1. Discriminatory and Exclusionary Zoning – Failure to Implement Enhanced Preemption of the 2000 Reform Law** – Despite being the nation’s best resource for affordable homeownership, and at a time when manufacturers are building their most modern, energy-efficient homes, HUD-regulated manufactured housing is excluded from many communities and areas by discriminatory and exclusionary zoning mandates. Amendments contained in the Manufactured Housing Improvement Act of (2000 Reform Law) were designed to provide HUD the authority to federally preempt such edicts. In relevant part, 42 U.S.C. 5403(d) was amended to state that federal preemption under the Act was to be “broadly and liberally” construed. It was also amended to state that preemption applies not only to inconsistent state or local construction standards, but also more broadly to any type of state or local “requirement” that impairs the purposes of the Act and HUD superintendence of the industry. HUD, however, continues to fail to acknowledge, utilize and advance this authority to ensure the nationwide availability of manufactured homes that it regulates.
- 2. Restricted Availability of Competitive Consumer Financing – Failure to Implement the “Duty to Serve”** – In the Housing and Economic Recovery Act of 2008, congress recognized that Fannie Mae and Freddie Mac were not adequately or properly serving consumers within three designated markets, including the mainstream HUD Code manufactured housing market. The Act, therefore, contains a “Duty to Serve” (DTS) provision which directs the Enterprises to provide secondary market and securitization support for manufactured home consumer loans. Today, some 15 years later, the GSEs still provide no DTS support whatsoever for the personal property or “chattel” loans that historically comprise 70-80% of all mainstream manufactured home consumer loans. Without such secondary market and securitization support, interest rates on manufactured home chattel loans are higher than would otherwise be the case, with consumers effectively forced into “predatory loans.” Further, the absence of DTS support for such a large portion of the market allows it to be dominated by two Berkshire Hathaway/Clayton Homes-affiliated lenders, Vanderbilt Mortgage and Finance and 21st Mortgage Corporation, to the detriment of both consumers and independent producers.
- 3. DOE Energy Regulation** – Although the HUD Code already contained provisions regarding energy usage and efficiency in manufactured homes, Congress, in the Energy Independence and Security Act of 2007, adopted a provision which effectively transfers regulatory authority over that issue from HUD to the U.S. Department of Energy (DOE). DOE, in defiance of the enabling legislation, has used this authority to adopt draconian energy standards that if/when implemented, would significantly increase the acquisition cost of manufactured housing. These increased costs would exclude literally millions of Americans from the manufactured housing market under metrics developed by NAHB, while providing little if any life-cycle cost benefits. MHARR urged industry litigation against these standards, which is currently pending in federal court. DOE, meanwhile, has delayed the implementation date for the standards which were originally set to become effective on May 31, 2023. MHARR is also working through the HUD Manufactured Housing Consensus Committee (MHCC), established by the 2000 Reform Law, in an effort to quash these standards and force DOE to go back to the drawing board in full compliance with all applicable law.

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Preserving the American Dream of Home Ownership Through Regulatory Reform