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U.S. Government announces new rules for home mortgages

A federal government agency has issued new rules for home mortgages that will rewrite the way that banks decide who gets a home loan.

The rules are designed to prevent a replay of the housing crisis that resulted from a flood of easy-money loans a few years ago. However, the new rules could have the effect of tightening the availability of mortgages, at a time when banks are already being extremely strict about granting loans.

Under current law, if a homeowner defaults on a mortgage, the homeowner can potentially sue the lender for issuing a loan that the homeowner couldn't reasonably be expected to pay off.

The way the new rules work is that they give banks and other lenders a "safe harbor" – that is, they say that if a bank issues a loan that meets certain criteria (called a "qualified" mortgage), then it can't be sued if the borrower defaults.

This will create an enormous incentive for banks to issue only mortgages that are "qualified." While it's possible that some lenders will continue to issue other types of mortgages, this will be the exception rather than the rule, because lenders will be facing potential legal liability if they do so.

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The new rules will take effect next January.

If you're a borrower, this means that you'll have a much easier time getting a loan if you first make sure that you qualify for a "qualified" mortgage.

The most basic new rule is that a mortgage is "qualified" only if the borrower's total debt payments – including not just the mortgage, but

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Short-term rentals can lead to long-term neighbor problems

> Many communities have laws on the books that ban or severely restrict rentals of less than a month or even less than a year.

The number of people who rent a home or condo while on vacation – instead of a hotel or motel room – is skyrocketing. This can be a great thing for a vacationer, who may get a lot more space and convenience at the same or lower cost.

But it's not necessarily a great thing for neighbors, particularly if several homes in a neighborhood are rented on a frequent basis. On a quiet residential street, short-term rentals can create a variety of noise, parking, congestion and trash problems.

Increasingly, the issue is resulting in disputes and even court cases.

The explosion of vacation rentals is partly due to the weak economy. Owners of vacation homes often decide to rent them rather than try to sell them in a soft market. And struggling homeowners may rent their own homes to make ends meet, particularly if they live near a vacation area or the location of a local festival or event, such that for a few weeks a year a rental may be very profitable.

The trend has also been driven by the Internet, where websites such as HomeAway, FlipKey and Airbnb.com allow homeowners to advertise their property to a worldwide audience at a relatively modest cost.

But the trend often irks neighbors, who complain that vacation renters play loud music, take up parking spaces, generate garbage, and otherwise lower property values and disrupt the character of the neighborhood.

These neighbors often have a legal point. Many communities have laws on the books that ban or severely restrict rentals of less than a month or even less than a year.

Often, these laws were enacted many years ago and were aimed at rooming houses and at people who took advantage of immigrants and transients by offering substandard, unsafe accommodations. But the laws are still on the books, and while many communities haven't bothered enforcing them recently, some are starting to take another look at doing so.

Also, many condominiums and homeowner's associations have rules that prohibit or restrict short-term rentals.

Some communities are rewriting their laws as a compromise, allowing short-term rentals but requiring homeowners to get business licenses, submit to regulation, and collect and remit the same sorts of taxes that hotels do.

If you're thinking of offering your home as a rental, be sure to talk with an attorney first to find out what the rules are and what you're legally required to do.

What to know about future interests in a real estate deal

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sell or lease the property, he must tell Joan, and Joan will have a right to make an offer for the property before Alan puts it on the market. Typically, Alan doesn't have to accept Joan's offer, but if he doesn't, then he can't sell or lease the property afterward to anyone else on terms that are less favorable to him than Joan's offer.

If Joan has a ***right of first negotiation***, that means that if, during a certain period of time, Alan decides to sell or lease the property, he must tell Joan, and then for another period of time (say, 30 days), Alan must negotiate with Joan in good faith to see if they can agree on a price. During this time, Alan can't sell or lease the property to anyone else.

It's not always clear what it means to negotiate in "good faith." Often, to force the owner to act in good faith, the contract will say that if Joan makes a firm proposal during the negotiations and Alan turns it down, Alan can't accept a later offer from someone else on the same (or worse) terms. This makes a right of first negotiation similar to a right of first offer. However, a right of first offer usually puts the property owner in a slightly better position, because it forces Joan to "go first" and name a final price, rather than engaging in back-and-forth negotiation before agreeing to a number.

If you're involved with a contract that includes any of these future rights, it's very important to speak with a real estate attorney in order to make sure your interests are fully protected.

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U.S. Government issues new rules for home mortgages

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also car loans, educational loans, etc. – are no more than 43% of the person's pre-tax income.

In addition, lenders are required to carefully scrutinize borrowers' employment status, income, and credit history to verify that they will be likely to be able to repay the loan.

To put that in perspective, of all the mortgage loans that were issued in the U.S. in 2011, only about three-quarters would have been "qualified" under these rules.

However, because today's real estate market is still in recovery mode, the Consumer Financial Protection Bureau – the agency that issued the rules – provided a temporary alternative.

That is, even if a borrower doesn't qualify under the 43% test, the borrower might still qualify if he or she would pass an automated mortgage-granting test used by Fannie Mae, Freddie Mac, or the Federal Housing Administration. It appears that most of the mortgages issued in 2011 that didn't pass the 43% test (but by no means all of them) would still have qualified under one of the automated tests.

This alternative won't be around for long; it lasts only until the government's conservatorship of Fannie and Freddie ends, or in seven years, whichever comes first.

Also, the alternative test can't be used for a so-called "jumbo" mortgage. These are mortgages that are larger than the government's loan ceilings, which are $417,000 in most of the country (but can be as high as $729,750 in certain high-cost markets).

Here are some other important provisions of the new rules:

- There's no minimum down payment for borrowers, as long as they meet one of the two tests, and no minimum credit score. (Many people were afraid that the rules would require a high down payment to qualify.)
- In deciding whether a borrower meets the 43% test, a bank can't offer a low "teaser" rate or introductory adjustable rate and qualify the borrower on that basis. Instead, the borrower must meet the 43% test based on the highest rate that will apply during the first five years of the loan. For this reason, it's expected that adjustable-rate mortgages will become more uncommon, and banks will focus much more heavily on traditional 30-year fixed-rate loans.
- Certain types of loans, such as those that allow interest-only payments and those in which the principal can increase over time, cannot be "qualified" regardless of whether the borrower meets the 43% test. These loans have largely disappeared anyway, but the new rules will probably make sure they never come back.
- Loan-origination fees will be capped at 3% of the loan amount, although there may be some exceptions for loans under $100,000.
- Lenders will get additional protection from liability if the loan has a prime mortgage rate, or one within 1.5% of the national average.

Apartment rents continue to increase; up 3.8% last year

Apartment rents are continuing their steady climb, as the growing demand for residential rental space keeps pushing up prices.

The average monthly apartment rent in the U.S. was $1,048 in the last quarter of 2012. That's an increase of 3.8% over a year earlier, according to research firm Reis, Inc.

The year-over-year increase is the largest since 2007.

A number of large communities saw year-over-year increases of more than 5% last year, including Seattle, San Francisco, Houston, San Jose and Baltimore.

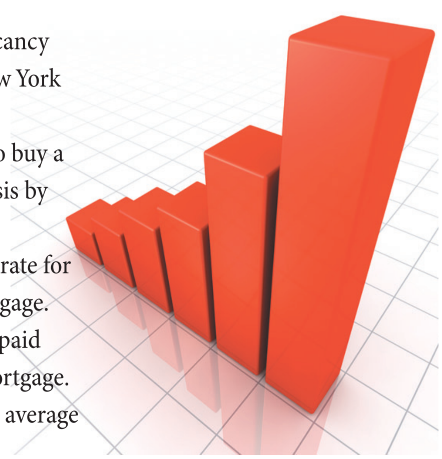
Meanwhile, the national vacancy rate fell to 4.5%, from 4.7% in the third quarter. That's the lowest national vacancy rate since 2001.

New York City had the country's lowest vacancy rate, at 2.1%. The average monthly rent in New York last quarter was $2,985.

For most of the country, it's now cheaper to buy a home than to rent one, according to an analysis by Deutsche Bank.

The company compares the average rental rate for an area to the average after-tax cost of a mortgage. In the third quarter of 2012, it found, renters paid almost 8% more than homeowners with a mortgage.

By comparison, since 1991 renters have on average paid about 15% less than homeowners.



What to know about future interests in a real estate deal

Many contracts involving real estate don't involve an immediate sale or lease of a property. Instead, they contemplate a *future* sale or lease, and give the parties various rights involving the future transaction.

The most common of these future rights are an "option," a "right of first refusal," a "right of first offer," and a "right of first negotiation." These terms can be confusing, and it's very important to understand the difference.

For example, suppose Alan owns some property, and Joan is interested in buying or leasing it at some point in the future. As part of a contract with Alan, Joan might acquire one of these future rights.

If Joan has an ***option***, that means that she has the right, within a certain period of time, to force Alan to sell or lease the property to her at a price specified in the option agreement. Joan might pay Alan a fee for this right, and the contract might allow the option to be renewed if Joan pays an additional fee. Joan doesn't have to exercise the option at all, but if she does, Alan has to go through with the transaction.

If Joan has a ***right of first refusal***, that means that if, during a certain period of time, Alan gets an offer from someone else to sell or lease the property, and he's willing to accept it, then he has to first offer the property to Joan on the same terms. Joan will have a certain length of time to make up her mind. If Joan likes the terms, she can force Alan to sell or lease to her on the same terms, and the third party will be out of luck. Note, however, that unlike with an option, if Alan never gets an offer from a third party, Joan has no right to force him to sell or lease to her.

If Joan has a ***right of first offer***, that means that if, during a certain period of time, Alan decides to

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