

# Urgent - Senate Bill to Crush Our Business You Must Read!

\*\*\*We need your help.\*\*\*

From: Metropolitan Real Estate & Investors Association

I don't know if you've heard about HR 1728, but it's a heinous infringement on private property rights that is likely to shut down the creative selling market. IT HAS ALREADY PASSED THE HOUSE AND IS UNDER CONSIDERATION BY THE SENATE NOW. I have attached an article about it that you should blast to your students ASAP, we need massive action on this immediately to stop it.

## **House Bill 1728-Why it's Death to Your Business and What to Do About it.**

The U.S. Senate is considering a bill that would severely limit the way you do business as a creative investor and, more importantly, is an inexcusable infringement of the property rights of all Americans.

HR 1728, which you can view in its entirety here:

<http://www.govtrack.us/congress/bill.xpd?bill=h111-1728> deals with a plethora of mortgage-related issues, mostly around limited terms and fees on residential loans. But the heinous piece of the legislation is in section 101(3)(e)\*, which defines the affected principals as:

\*101(3)(e) does not include, with respect to a residential mortgage loan, a person, estate, or trust that provides mortgage financing for the sale of 1 property in any 36-month period, provided that such loan:

- (i) is fully amortizing;
- (ii) is with respect to a sale for which the seller determines in good faith and documents that the buyer has a reasonable ability to repay the loan;
- (iii) has a fixed rate or an adjustable rate that is adjustable after 5 or more years, subject to reasonable annual and lifetime limitations on interest rate increases; and
- (iv) meets any other criteria the Federal banking agencies may prescribe; and

**Yeah, I know, it's confusing.** But here's what it says: you are NOT subject to the law as long as you DON'T sell more than 1 property with owner financing every 3 years! Or, to put it another way, you ARE subject to the limitations of the law if you DO sell more than one property every 3 years via a land contract, owner-held mortgage or wrap-around mortgage-and who knows if they'll define lease/options as owner financing, too?

**So what does it mean to be "subject to the law"?** Well, at the very least, it means that you will have to comply with a long, confusing, and penalty-filled piece of national legislation. Here are the types of transactions that you would be restricted from doing more than once every 36 months:

- Selling YOUR OWN HOME using a land contract or owner-held mortgage so

- Selling YOUR OWN HOME using a land contract or owner-held mortgage so that you can get a quicker sale, higher sale price, or better rate of interest than is available in other investments
- Carrying back owner-held second mortgages on investment properties that you sell
- Doing any kind of installment sale on residential properties including homes, condos, mobile homes, and even raw land that is zoned residential

Yes, there will undoubtedly be ways to "get around it"-some have suggested that getting a mortgage broker's license and then learning and following the vast new set of regulations would circumvent the "problem". But bottom line is, this law has to be stopped and it has to be stopped NOW. Here's why:

**1. Congress is trying to regulate the wrong thing.** The deals we make are not "loans"-they don't involve the transfer of money, or points or closing costs or adjustable rates or any of the other things that caused the mortgage crisis to begin with. They are INSTALLMENT SALES. We don't give money to the "borrower" and wait for it to be paid back: we give a property to the borrower and wait for it to be paid off. Regulating this will have no effect on the foreclosure crisis

**2. It is a completely unacceptable infringement on private property rights.** When I own a piece of property and find a ready, willing, and able purchaser, I should be able to control the sale of that property within the existing laws of my state, which already regulate the interest rate that I am able to charge and some of the terms of the sale. The government does not have the right to tell us that we need special licensing to sell our own properties; nor do they have the right to further regulate the terms under which we can sell or burden small investors with a new set of rules that we can't comply with.

**Not only will this new law, if passed as written, effectively choke off owner financing as an exit strategy for you, but it will also take away housing choice for your buyers.** The millions of Americans who've been through foreclosure in the last 3 years can't buy a house in any way OTHER THAN to negotiate owner financing with a seller-and HR 1728 would greatly reduce the number of properties available in this way. Millions of potential home owners who would otherwise be able to re-start the process of paying off a home, and get the tax advantages of ownership, will be reduced to renting until they are able to qualify for bank financing.

## What to Do Right Now!

This bill has already passed the house and is waiting for Senate approval. Please contact your senator via email and snail mail to let him know that this law MUST NOT PASS in its current form. You can get your senator's contact information here:

[http://www.senate.gov/general/contact\\_information/senators\\_cfm.cfm](http://www.senate.gov/general/contact_information/senators_cfm.cfm)

As always in cases like this, you have an automatic handicap to overcome-the fact that you are a real estate investor and are therefore viewed as part of the

fact that you are a real estate investor and are therefore viewed as part of the problem. So when you write, don't emphasize the nature of your business, just that you and your buyers would be greatly adversely affected by the new law.

**We need THOUSANDS of these communications to go out in the next few days** to have a CHANCE of stopping this in its tracks. So whether you're a new or experienced investor, PLEASE take the time right now to write your elected representative!

### ***Below are three sample letters or emails:***

**To copy a sample, highlight the text. Then copy and paste into your word processor or email program. Make sure that you personalize the sample with your Senator and your personal information.**

#### **IF YOU HAVE A REAL ESTATE LICENSE**

Dear Senator [name];

My name is *[insert your name here]* and I am a life-long resident of *[insert your city name here]*.

I am writing you to encourage you to vote NO on HR 1728, the "Mortgage Reform and Anti-Predatory Lending Act".

While many of the provisions of the act are positive steps toward mortgage reform, the inclusion of private owners in the act (see section 101(3)(e)) will enormously reduce the housing choice of *[insert your state citizen term: such as, New Jerseyans, New Yorkers, etc]* and the ability of home owners to sell properties in today's depressed market.

As a real estate broker, I have seen several dozen cases in the past year of home sellers and buyers coming to an agreement for an installment sale on a property that the owner desperately needed to sell (often to avoid foreclosure) and the buyer desperately wanted to buy, but could not raise the down payment needed for conventional financing.

In all cases, these sales turned out to be win-win deals for the buyer and seller; the seller was able to get rid of an unwanted property to a buyer who loved it, and the buyer was able to get his new home at an affordable payment and interest rates with none of the usual costs (points, application fees etc) inherent in more conventional mortgage transactions.

For example, and possibly other states, mortgage transactions are already regulated by state law: a low maximum interest rate is already in place, and both the buyer and seller are protected by other regulations at the state level.

In defense of private property rights, owners should be exempted from the burdensome and unnecessary rules that this law foists upon them. In its current form, it would all but shut off the "owner financing" market that is the only way that many sellers can sell and many buyers can buy right now.

***PLEASE DO NOT LET THIS RESTRICTION ON PRIVATE PROPERTY RIGHTS PASS THE SENATE.***

### **PASS THE SENATE.**

It is unnecessary to stop private buyers and sellers from transacting business that is beneficial to both of them-they are not the problem that the bill seeks to solve. HR 1728 would be extremely harmful to thousands of your constituents.

**It will exacerbate foreclosure problems** because fewer sellers will be able to sell their homes. Some homeowners who have recently experienced foreclosure will be able to re-start the process of home ownership inexpensively and easily by negotiating owner financing.

Thank you for your anticipated courtesies,

*[Insert your name here]*

Licensed Real Estate Broker license # *[Insert your License number here]*

Phone # *[Insert your telephone number here]*

email *[Insert your email address here]*

### **IF YOU SELL HOUSES WITH OWNER FINANCING**

Dear Senator *[name]*;

My name is *[name]* and I am a life-long resident of *[city name]*.

I am writing you to encourage you to vote NO on HR 1728, the "Mortgage Reform and Anti-Predatory Lending Act".

While many of the provisions of the act are positive steps toward mortgage reform, the inclusion of private owners in the act (see section 101(3)(e)) will enormously reduce the housing choice of Ohioans and the ability of home owners to sell properties in this already-slow market.

As a professional housing provider, I sell several houses each year to home buyers on installment sale [or, if you have not purchased a property, add here: "I had planned to sell several houses this year on installment sale]-a practice that would become impossible under this law in its current form.

I find that in today's depressed real estate market, the best way for me to help buyers who desperately want to become homeowners, but who cannot raise the down payment or meet the other terms needed for conventional financing, is to allow them to make payments directly to me.

These sales are win-win deals for both the buyer and myself; I am able to turn over homes that I've bought and rehabbed (often from foreclosures) to buyers who love and can afford them, and the buyer can get his new home at an affordable payment and interest rates with none of the usual costs (points, application fees etc) inherent in more conventional mortgage transactions.

For example, in Ohio, and possibly in many other states, these transactions are already regulated by state law: a low maximum interest rate is already in place, and both the buyer and seller are protected by other regulations at the state level.

Without the ability to sell homes in this way, I will no longer be able to invest in and renovate any of the tens of thousands of vacant, ugly houses placed on the market by the foreclosure crisis, and my small-but-beneficial business will literally be in ruins. Perhaps more importantly, the homeowner-buyers that I serve will be forced to rent rather than moving toward the American dream of home ownership.

In defense of private property rights, owners should be exempted from the burdensome and unnecessary rules that this law foists upon them. In its current form, it would all but shut off the "owner financing" market that is the only way that many sellers can sell and many buyers can buy right now.

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**It will exacerbate foreclosure problems** because fewer sellers will be able to sell their homes. Some homeowners who have recently experienced foreclosure will be able to re-start the process of home ownership inexpensively and easily by negotiating owner financing.

Thank you for your anticipated courtesies,

[name]

[Company name]

Phone number [telephone number]

email [email address]

### **IF YOU BUY HOUSES WITH OWNER FINANCING**

Dear Senator [name];

My name is [name] and I am a life-long resident of [city name].

I am writing you to encourage you to vote NO on HR 1728, the "Mortgage Reform and Anti-Predatory Lending Act".

While many of the provisions of the act are positive steps toward mortgage reform, the inclusion of private owners in the act (see section 101(3)(e)) will enormously reduce the housing choice of Ohioans and the ability of homeowners to sell properties in this already-slow market.

In the past year, I have purchased and renovated several homes-made possible only because the sellers of these homes were able to sell to me using owner financing in an unrestricted way.

For many of these property owners, seller financing was the only way to unburden themselves of an unwanted property that, in some cases, was headed toward foreclosure before I purchased it.

Without this ability, I cannot continue to buy and renovate properties in

Without this ability, I cannot continue to buy and renovate properties in the neighborhoods that so need me and my colleagues to invest our time, energy, and money in rehabbing properties. Bank financing is not an option for these properties because of the condition; only financing carried by the sellers will suffice.

Section 101(3)(e) would keep my sellers from utilizing this method of getting rid of unwanted properties in today's market, should they have more than 1 to sell.

In defense of private property rights, owners should be exempted from the burdensome and unnecessary rules that this law foists upon them. In its current form, it would all but shut off the "owner financing" market that is the only way that many sellers can sell and many buyers can buy right now.

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Thank you for your anticipated courtesies,

*[name]*

*[company name]*

Phone number *[telephone number]*

email *[email address]*