

MARTIN HEINRICH  
FIRST DISTRICT, NEW MEXICO



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Congress of the United States  
House of Representatives

July 21, 2011

Hon. Ben Bernanke  
Chairman  
Board of Governors of the Federal Reserve System  
Twentieth and Constitution Avenue, NW  
Washington, DC 20551

Dear Chairman Bernanke:

I am writing today to express my concern regarding the Federal Reserve's proposed rule to implement Title XIV of the Dodd-Frank Act, the "Mortgage Reform and Anti-Predatory Lending Act". In particular, I am concerned about the impact of the "ability to repay" requirement on sales made through installment plans, rather than traditional mortgages.

Seller-financed real estate transactions, or installment sales, are not loans. Rather, the seller agrees to accept payment for real estate as a series of installments over a set payment period. This contract between buyer and seller does not involve a third-party lender, like a mortgage, and does not constitute a loan.

This type of financing is especially important in times of economic stress, when traditional lending institutions are more reluctant to originate mortgages. In New Mexico, 50 percent of new housing units are manufactured housing, often in rural communities. In many cases, such homes are not eligible for traditional mortgage financing through a bank or mortgage broker. As a result, seller financing is the only viable financing mechanism available to a buyer.

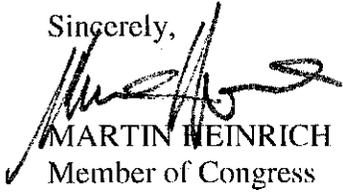
Several of my constituents have contacted me with concerns that the requirement of a lender to determine a borrower's ability to repay a mortgage loan might be applied to installment sales under the Federal Reserve's proposed rule. It is common for neither party in an installment sale to be a real estate or mortgage professional; as a result, this requirement would be particularly burdensome for laypeople selling property through an installment sale.

Unlike traditional mortgages, installment sales do not involve a bank or third party lender. As a result, they do not pose the same systemic risks as mortgages that are sold, securitized, and traded on global financial markets.

As you finalize the ability-to-repay rule, I urge you to exclude those real estate transactions that are completed through an installment sale contract, not financed by a traditional mortgage.

Thank you for your continued work on behalf of the American people, and thank you for your consideration of this request.

Sincerely,



MARTIN HEINRICH  
Member of Congress