**MEMORANDUM**

To: Drafting Committee, Uniform Manufactured Housing Act

From: Ann Burkhart, Reporter

Re: Closing Costs for Manufactured Home Loans

Date: October 26, 2011

At the July 2011 Uniform Law Commission meeting, an issue was raised concerning the relative closing costs for chattel loans and mortgage loans for manufactured homes. Concern was expressed that, if mortgage loan costs exceed chattel loan costs, some consumers might be unable to pay the difference and, therefore, be unable to buy a home.

Based on my research since the meeting, this concern is unnecessary for two reasons. First, the total closing costs for both types of loans are not substantially different. Second, borrowers can avoid paying closing costs at the time of purchase by adding them to the loan amount or can eliminate them by paying an interest rate increase of, typically, .25%. Because the interest rate on a chattel loan for a manufactured home is at least 3% more than on a mortgage loan for the same home, the increased interest rate on the mortgage loan does not make it a less desirable form of financing for consumers.

*Closing Cost Amounts*

Generalizations about loan costs are virtually impossible because of tremendous variations from jurisdiction to jurisdiction and from lender to lender. A variety of other factors also affect the amount of costs. For example, in an article by four HUD officials, the authors found that closing costs for mortgage loans varied from 2.6% to 5.1 % of the loan amount (I have excluded the yield spread premium amounts, because federal law now prohibits them). The authors attribute the differences in closing amounts to closing service providers taking advantage of many borrowers' lack of knowledge about loan services, their costs, and price negotiability. The authors also found that African Americans and Hispanics pay higher closing costs than other similarly-situated borrowers. Harold Bunce, Alastair McFarlane, William J. Reid & Kurt Usowski, *The Impact of Mortgage Disclosure Reform Under RESPA*, 11 CITYSPACE: J. POL'Y DEV'MENT & RESEARCH 117 (2009).

Although mortgage loans do have costs that are not incurred for chattel loans, such as title insurance, chattel loans for manufactured homes can include costs that are not incurred for mortgage loans. For example, if the state has a sales tax, the amount of that tax is greater than the state's real estate transfer tax, if any. Additionally, chattel lenders can charge fees and engage in predatory lending practices that are illegal for mortgage loans, because RESPA and other borrower protection laws that apply to mortgages do not apply to chattel loans. WILLIAM APGAR, ALLEGRA CALDER, MICHAEL COLLINS & MARK DUDA, NEIGHBORHOOD REINVESTMENT

CORP., AN EXAMINATION OF MANUFACTURED HOUSING AS A COMMUNITY- AND ASSET-BUILDING STRATEGY (2002); Sean West, *Manufactured Housing Finance and the Secondary Market*, 2 COMMUNITY DEV. INVESTMENT REV. 35 (2006); Richard Genz, *Why Advocates Need to Rethink Manufactured Housing,* 12 HOUSING POL'Y DEBATE 393 (2001). Although Congress extended RESPA's anti-kickback provision to manufactured homes sales in 2008, the prohibition applies only if the sale is financed with an FHA loan. Moreover, Congress did not extend RESPA's other borrower protections to manufactured home sales.

As an indication that the closing costs for chattel loans and mortgage loans are roughly comparable, a HUD analysis of financing costs for manufactured housing assumed that the closing costs for both chattel loans and mortgage loans equal 5% of the purchase price. U. S. DEP'T OF HOUS. & URBAN DEV., FACTORY AND SITE-BUILT HOUSING: A COMPARISON FOR THE 21ST CENTURY, APPENDIX B.5 (1998).