

118TH CONGRESS  
1ST SESSION

# H. R. 3464

To exempt small seller financiers from certain licensing requirements.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2023

Mr. BARR (for himself, Mr. VICENTE GONZALEZ of Texas, Mr. POSEY, and Mr. CUELLAR) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To exempt small seller financiers from certain licensing requirements.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Affordable Homeown-  
5 ership Access Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Real-estate owner financing is a transaction  
9 in which the owner of a real estate property provides  
10 financing for the buyer of that property and the

1 buyer makes some form of a down payment to the  
2 owner, receives the deed or title to the home and  
3 then makes installment payments to the owner over  
4 a defined period of time.

5 (2) Owner financiers provide financing in lieu of  
6 the buyer choosing to obtain a loan from a bank.

7 (3) The owner finance industry consists of  
8 small business owners who own real estate and pro-  
9 vide financing on those properties to underserved  
10 buyers who cannot or would prefer not to obtain tra-  
11 ditional bank or loan based financing.

12 (4) Owner financiers are governed by real estate  
13 and consumer protection laws (including, but not  
14 limited to, ability to repay, deceptive trade practices,  
15 and usury laws) of each State, as well as State and  
16 Federal fair housing and equal opportunity laws.

17 (5) Using owner financing will benefit home  
18 values, increase neighborhood stabilization, and as-  
19 sist with family wealth creation through increased  
20 homeownership as more homes are sold with owner  
21 financing.

22 (6) None of the amendments made by this Act,  
23 are applicable to transactions known as Contracts  
24 for Deed or Land Installment Contracts that are not

1 lawfully recorded, Lease Options, Lease with Option  
2 to buy and Rent to Own.

3 **SEC. 3. EXCEPTION FOR OWNER FINANCIERS WITH RE-**  
4 **SPECT TO LOAN ORIGINATOR LICENSE OR**  
5 **REGISTRATION REQUIREMENTS.**

6 Section 1504 of the S.A.F.E. Mortgage Licensing Act  
7 of 2008 (12 U.S.C. 5103) is amended by adding at the  
8 end the following:

9 “(c) EXCEPTION FOR OWNER FINANCIERS.—The re-  
10 quirements of this title shall not apply to any person  
11 (other than a depository institution) who—

12 “(1) extend credit with respect to not more  
13 than 24 residential mortgage loans in a 12-month  
14 period; and

15 “(2) only extend credit with respect to residen-  
16 tial mortgage loans that are with respect to property  
17 that is owned by such person.”.

18 **SEC. 4. EXCEPTION FOR OWNER FINANCIERS IN THE DEFINI-**  
19 **TION OF MORTGAGE ORIGINATOR.**

20 Subparagraph (E) of section 103(dd)(2) of the Truth  
21 in Lending Act (15 U.S.C. 1602(dd)(2)) is amended—

22 (1) by redesignating subparagraphs (F) and  
23 (G) as subparagraphs (G) and (H), respectively;

24 (2) by amending subparagraph (E) to read as  
25 follows:

1           “(E) does not include, with respect to a  
2 residential mortgage sale, a person or entity  
3 (including a corporation, partnership, propri-  
4 etorship, association, cooperative, estate, or  
5 trust) if—

6           “(i) such a person or entity provides  
7 owner financing, in a 12-month period, for  
8 the sale of 24 properties; and

9           “(ii) each piece of real property de-  
10 scribed under clause (i) is owned by such  
11 a person or entity and serves as security  
12 for the loan or extension of credit, provided  
13 that such loan or extension of credit—

14           “(I) is not made by a person or  
15 entity that has constructed, or acted  
16 as a general contractor for the con-  
17 struction of, a residence on the prop-  
18 erty in the ordinary course of business  
19 of such person, corporation, associa-  
20 tion, estate, or trust;

21           “(II) is fully amortizing;

22           “(III) is with respect to a sale  
23 for which the owner determines in  
24 good faith and documents that the

1                   buyer has a reasonable ability to pay  
2                   the owner;

3                   “(IV) has a fixed rate or an ad-  
4                   justable rate that is adjustable after 5  
5                   or more years, subject to reasonable  
6                   annual and lifetime limitations on in-  
7                   terest rate increases; and

8                   “(V) meets any other criteria the  
9                   Bureau may prescribe by rule;” and

10                   (3) by inserting after subparagraph (E) the fol-  
11                   lowing:

12                   “(F) does not include, with respect to a  
13                   residential mortgage loan or extension of credit,  
14                   a person or entity (including a corporation,  
15                   partnership, proprietorship, association, cooper-  
16                   ative, estate, or trust) if—

17                   “(i) the loan or extension of credit is  
18                   owner financed and is a consumer loan or  
19                   extension of credit secured by a security  
20                   interest on a manufactured home (as de-  
21                   fined under section 603 of the National  
22                   Manufactured Housing Construction and  
23                   Safety Standards Act of 1974); and

24                   “(ii) each home described under  
25                   clause (i) is owned by such a person or en-

1           tity and serves as security for the loan or  
2           extension of credit, provided that such loan  
3           or extension of credit—

4                   “(I) is not made by a person or  
5                   entity that has manufactured the  
6                   manufactured home;

7                   “(II) is fully amortizing;

8                   “(III) is with respect to a sale  
9                   for which the owner determines in  
10                  good faith and documents that the  
11                  buyer has a reasonable ability to pay  
12                  the owner;

13                  “(IV) has a fixed rate or an ad-  
14                  justable rate that is adjustable after 5  
15                  or more years, subject to reasonable  
16                  annual and lifetime limitations on in-  
17                  terest rate increases; and

18                  “(V) meets any other criteria the  
19                  Bureau may prescribe by rule;”.

20 **SEC. 5. REPORT ON OWNER FINANCING.**

21           (a) STUDY.—The Secretary of Housing and Urban  
22           Development and the Secretary of the Treasury shall  
23           jointly carry out a study on—

24                   (1) the number of homes bought for under  
25                   \$150,000 or 60 percent of the median home value

1 in a given community, whichever is lower, in the  
2 United States by utilizing owner financing;

3 (2) the number of homes described under para-  
4 graph (1) financed by licensed mortgage brokers;

5 (3) the potential number of homes described  
6 under paragraph (1) which could be sold but aren't,  
7 because owner financiers are unwilling, or from a  
8 practical standpoint unable, to comply with mort-  
9 gage broker rules; and

10 (4) the potential benefit to home values and  
11 wealth creation if more homes were to be sold uti-  
12 lizing owner finance.

13 (b) REPORT.—Not later than the end of the 1-year  
14 period beginning on the date of the enactment of this Act,  
15 the Secretary of Housing and Urban Development and the  
16 Secretary of the Treasury shall jointly issue a report to  
17 the Committee on Financial Services of the House of Rep-  
18 resentatives and the Committee on Banking, Housing, and  
19 Urban Affairs of the Senate containing—

20 (1) all findings and determinations made in car-  
21 rying out the study required under subsection (a);  
22 and

23 (2) data on the number of transactions utilizing  
24 owner financing 20 years, 15 years, 10 years, and

1       5 years prior to the date of the enactment of this  
2       Act.

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