

bond, or another security is made to yield an amount necessary to attract investment capital.

In the case of mortgages, if the fixed interest rate is inadequate to compete successfully in the capital market, then the way that the yield is brought up is through the charge of points or a discount.

In the case of FHA, we do not permit the mortgagor, the borrower, to pay these points. Therefore, it is the builder or seller who has to absorb the discount. The amount is set entirely by the parties to the transaction—this is the seller and the lender. They are the ones who must agree on this.

I agree with you that this is extremely onerous on the part of the seller and none of us like discounts. The seller may consider various alternatives. If he chooses, of course, he could perhaps suggest to the buyer that he arrange financing elsewhere, since he declines to absorb these points, or possibly, if there is an existing mortgage on the property he could sell, subject to the existing mortgage and take back a second mortgage to cover his equity. These are alternatives that he could consider, Mr. Wylie.

Mr. WYLIE. In one instance I represented a seller where two points were added at closing. I advised him to forget about the whole transaction and leave. We then made an arrangement whereby he would sell the house for a little more money and realize the amount that he thought he was going to have available in the first instance, so he purchased another house. But this causes a lot of anxiety and heartache. I am wondering, since we are talking about truth in lending, if there is a way in which we could know in advance what these discount points might be, or if it is feasible to establish a point in time—for instance, the first of the month and say during the month no more than one point may be added. We could establish that no more than one point will be added or no more than two points will be added this month, so there could be some disclosure in this area and we would not run into this situation where at the closing table somebody runs in and says we just checked and we must add three more points.

Mr. BROWNSTEIN. FHA has nothing to do with setting these points.

Mr. WYLIE. I understand that the lending institution actually fixes the amount, but they do it ostensibly at least, with approval of FHA—if not through overt approval of the FHA, certainly with the implied approval.

Mr. BROWNSTEIN. Well, let me say, Mr. Wylie, two times Congress has tried to legislate out these points or this discount. One time they required that the discounts be established as reasonable in the FHA-VA program, and another time a somewhat similar law was passed.

It was found that all this really did was impede the flow of mortgage credit and it did not result in the kind of a benefit that was hoped for and that had been expected. So Congress repealed this section both times in order to free up the flow of mortgage funds.

Mr. WYLIE. I think it was Mr. Barr who suggested that the only way you could eliminate this practice is to remove the ceiling on interest rates. Would you say whether that should or should not be done? What do you think about removing the ceiling on interest rates? I am not suggesting this be done. I am just asking you to express your expert opinion.