



NAACP
INDIANA STATE CONFERENCE
ECONOMIC DEVELOPMENT

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Regulation Comments, Chief Counsel's Office
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Attention: Docket #2002-17

To Whom It May Concern:

The Indiana State Economic Development Office for The National Association for the Advancement of Colored People (NAACP) strongly supports the proposed changes to the Office of Thrift Supervision's (OTS) regulations implementing the Alternative Mortgage Transaction Parity Act (AMPTA). The NAACP in the state of Indiana has long been involved in combating predatory lending for many years.

We have repeatedly seen instances where unscrupulous lending institutions have used prepayment penalties to trap borrowers into abusive loans. The current format of AMPTA regulations has facilitated the proliferation of prepayment penalties and late fees prevalent in predatory loans.

In 1996, when the OTS inexplicably reversed course and allowed institution to preempt state limits regarding prepayment penalties and late fees on alternative mortgages this became the springboard for the abusive practices we see in the State of Indiana. Non-depository institutions and mortgage companies that were state-chartered applied prepayment penalties at such high rate that the great majority of sub-prime borrowers (about 80% and a significant percentage of this number are minorities) now have prepayment penalties. In contrast only 2% of prime borrowers have any prepayment penalties on their loans according to Standard and Poor's. This huge difference in the application of prepayment penalties suggests that prepayment penalties trap sub-prime borrowers into abusive loans, and that sub-prime borrowers do not freely accept prepayment penalties as a means of lowering their interest rates.

The OTS correctly notes in its proposal that prepayment penalties and late fees are not integral elements of alternative mortgages. The OTS also reports that all states but one now allow ARMs, meaning that AMPTA is no longer needed. Instead, predatory lenders are using AMPTA and the existing OTS regulation to evade state law on alternative mortgages and prey upon unsuspecting, uninformed and vulnerable borrowers. The IN State NAACP Economic Development Office cannot emphasize enough how urgent it is to remove AMPTA's preemption of state limits regarding prepayment penalties and late fees on alternative mortgages.

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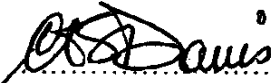
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IN State NAACP Economic Development Office notes that the OTS could have made its proposal stronger. The AMPTA statute provides OTS with the discretion to prescribe general limits on loan terms and conditions. The OTS could have adopted two-year limitation prepayment penalties for the alternative mortgages issued by all the institutions it regulates including federally chartered thrifts, state-chartered thrifts and non-depository institutions. The limitation would also stipulate the maximum amount of the prepayment penalty at one percent of the loan amount. Currently, victims of predatory lending are confronted with paying about 5 percent or higher of the loan amount as a prepayment penalty.

IN State NAACP Economic Development Office believes that limiting prepayment penalties across the board would have achieved a greater degree of uniformity in the regulatory framework for different institutions. We would prefer that the OTS strongly considers these suggestions and further modify pending regulatory adjustments to AMPTA. If the OTS does not adopt a more prescriptive approach, the IN State NAACP Economic Development Office strongly urges the OTS to stick with its current proposal and resist industry calls to further weaken its proposed regulatory changes.

We applaud the OTS for proposing this change to their AMPTA regulations and ask the OTS to implement this change as quickly as possible after the close of the public comment period on June 24, 2002.

Sincerely



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Carol E. Davis, Chair
IN State NAACP Economic Development Office

c.c. National Community Reinvestment Coalition