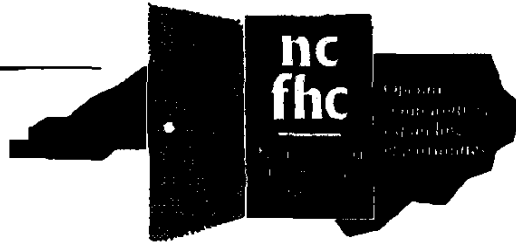


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Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision 1700 G Street, NW
Washington, DC 20552

Attention: Docket No.2002-17

To Whom it May Concern:

The North Carolina Fair Housing Center (the Center) was incorporated on February 23, 1994 to support and encourage equal opportunities in housing and equal access to credit in the state of North Carolina. The Center strongly supports the proposed changes to the Office of Thrift Supervision's regulations implementing the Alternative Mortgage Transaction Parity Act (AMTPA). The North Carolina Fair Housing Center has been actively involved in combating predatory lending for several years. We have repeatedly seen instances in which unscrupulous lending institutions have used prepayment penalties to trap borrowers in abusive loans. The Center has experienced first hand the negative impact of current AMTPA interpretations. North Carolina was the first state in the nation to pass legislation intended to stop several abusive predatory lending practices. We have seen lenders under the cover of AMTPA continue to charge exorbitant pre-payment penalties, stick people in adjustable rate mortgages that can only increase and never decrease, and other abuses prohibited by our law but, through AMTPA they feel they can bypass state regulation. Borrowers have also faced stiff late fees associated with abusive loans. The current AMTPA regulations have facilitated the proliferation of prepayment penalties and late fees in predatory loans.

AMTPA has outlived its usefulness. Congress passed AMTPA in 1982 during a high interest rate environment in order to provide state-chartered institutions the ability to offer adjustable rate mortgages (ARMs) and other alternative mortgages. At that time, many states had outlawed ARMs. From 1983 to 1996, the Federal Home Loan Bank Board (the OTS' predecessor agency) and the OTS granted state-chartered thrifts and non-depository institutions preemption under AMTPA from state law on alternative mortgages so that they could offer ARMs. During this time period, however, the Bank Board and the OTS did not allow institutions to preempt state law on alternative mortgages that limited prepayment penalties and late fees. In 1996, the OTS inexplicably reversed course and allowed institutions to preempt state limits regarding prepayment penalties and late fees on alternative mortgages.

This single change in the OTS regulations during 1996 significantly contributed to the dramatic increase in predatory lending of the last few years. You can trace the growth in subprime and predatory lending to this one single act. This action by the OTS in 1996 made seniors and minority neighborhoods targets for unscrupulous lenders across this country and has led to the proliferation of bankruptcies and foreclosures across this nation. Non-depository institutions and mortgage companies that were state-chartered applied prepayment penalties at such a high rate that the great majority of subprime borrowers (about 80 percent) now have prepayment penalties. In contrast, only 2 percent of prime borrowers have 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 subprime borrowers into abusive loans, and that sub prime borrowers do not freely accept prepayment penalties as a means of lowering their interest rates. Recently, Jon Seward, assistant attorney general of the Civil Rights Division of the US Department of Justice noted that 20% of the borrowers of one subprime lender under investigation had credit scores of 700+. 90% of those 700+ borrowers were AFRICAN AMERICAN. Pre-payment penalties mean they cannot get out of this market once they find out that they do not belong there. Many are forced to pay interest rates as high as 800 basis points above what a prime rate loan would cost. AMTPA facilitates and encouraged this type of abuse.

The North Carolina Fair Housing Center is currently investigating over 100 cases involving a manufactured home dealer in Henderson North Carolina. We have tried to assist several of the homeowners in refinancing their loans, because of the exorbitant prepayment penalties associated with their loans we were unable to safe, decent and affordable credit for these families.

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 AMTP A is no longer needed. Instead, predatory lenders are using AMTP A and the existing OTS regulations to evade state law on alternative mortgages and prey upon unsuspecting and vulnerable borrowers. The North Carolina Fair Housing Center cannot emphasize enough how urgent it is to remove AMTPA's preemption of state limits regarding prepayment penalties and late fees on alternative mortgages.

The Center notes that the OTS could have made its proposal stronger. The AMTPA statute provides OTS with the discretion to prescribe general limits on loan terms and conditions. The OTS could have adopted a two-year limitation on 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.

The North Carolina Fair Housing Center believes that limiting prepayment penalties across the board would have achieved a greater degree of uniformity in the regulatory framework for different institutions. If the OTS does not adopt a more prescriptive approach, The Center strongly urges the OTS to stick with its proposal and to resist industry calls to weaken its proposed regulatory changes.

We applaud the OTS for proposing this change to their AMTPA regulations and ask the OTS to implement this change as quickly as possible after the close of the public comment period.

Sincerely,



Stella Adams
Executive Director
North Carolina Fair Housing Center

cc.
National Community Reinvestment Coalition