



COALITION OF NEIGHBORHOODS

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June 23, 2002

Ms. Carolyn J. Buck, Chief Counsel
Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

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Attention: Docket No. 2002-17

Dear Ms. Buck:

The Coalition of Neighborhoods (CN or Coalition) is a member of the National Community Reinvestment Coalition (NCRC). Located in Cincinnati, Ohio, the Coalition's mission for our member communities is to maintain, promote and expand healthy, integrated communities. The Coalition strongly supports the proposed changes to the Office of Thrift Supervision's (OTS) regulations implementing the Alternative Mortgage Transaction Parity Act (AMTPA). More specifically, CN is in support of the letter you received on this matter from the National Community Reinvestment Coalition.

The Coalition has been involved in combating predatory lending for several years, especially terms in alternative mortgage loans:

- 1). with a variable rate
- 2). balloon payments
- 3). negative amortization, or
- 4). other terms and conditions not common to fixed rate and fixed term loans.

We have repeatedly seen instances in which unscrupulous lending institutions have used prepayment penalties to trap borrowers in abusive loans. Borrowers have also faced stiff late fees associated with abusive loans. The current AMTPA regulations have facilitated the proliferation of late fees in predatory loans and prepayment penalties. 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 Bank Board) 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.

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This single change in the OTS regulations during 1996 significantly contributed to the dramatic increase in predatory lending of the last few years. Non-depository institutions and mortgage companies that were state-chartered applied prepayment penalties at such a high rate that the great majority of sub prime 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 sub prime borrowers into abusive loans, and that sub prime borrowers would not freely accept prepayment penalties as a means of lowering their interest rates.

We have seen many people who are victimized by the predatory lending practices we are against, including those allowed by the AMTPA. Many borrowers are in financial difficulties trying to keep up with these predatory cost, and many have even lost their only appreciating asset through default and/or repossession, because their incomes can not keep up with the payments. While this is clearly destructive to individual families, its broader destructive impact is in LMI communities. And since sub prime loans are made disproportional to people and communities of color, predatory lending stands as a significant obstacle to the success of the Coalition's mission, since middle class buyers (black and white) attempt to avoid communities where they may also become victimized by predatory practices, the new version of Redlining. This is a weakness in regulatory interpretation and enforcement.

In our discussions within the NCRC network, we also note that 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.

When you consider this amount of overcharging by the lending industry compounded by their other cash and asset stripping terms, further compounded by other negative factors from other industries, you can then assess why local economies and therefore certain communities and populations are experiencing disinvestment symptoms, such as higher late payments, defaults and foreclosures.

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The Coalition of Neighborhoods in advocating the opinion of our members, which supports the concerns as summarized by NCRC and other members 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 Coalition of Neighborhoods strongly urges the OTS to stick with its proposal and to resist industry calls to weaken its proposed regulatory changes.

It is most urgent that AMTPA's preemption of state limits regarding prepayment penalties and late fees on alternative mortgages be removed.

For proposing this change to your AMTPA regulations we applaud the OTS and ask that this change be implemented as quickly as possible after the close of the public comment period. Then, we refer you to the NCRC Anti-Predatory Tool Kit to look at other ways you can help your lender members work better with the intent of fair lending laws.

Sincerely yours,



Deborah Green-Boone
Board Chair

cc: Bond Hill Community Council
Evanston Community Council
Kennedy Heights Community Council
Madisonville Community Council
North Avondale Neighborhood Association
Paddock Hills Assembly
City, Federal and State Legislators
National Community Reinvestment Coalition
Affiliated Organizations