



City of Chicago
Richard M. Daley, Mayor

Department of Housing

John G. Markowski
Commissioner

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June 24, 2002

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Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552

Attention: Docket 2002-17

Dear Chief Counsel:

As Commissioner of the Chicago Department of Housing, I am writing to express support for the Office of Thrift Supervision's ("OTS") proposal to eliminate its regulations pertaining to prepayment penalties and late fees from the list of regulations applicable to non-federally-chartered lenders under the Alternative Mortgage Transactions Parity Act ("Parity Act"). Applying these two regulations to such lenders is not necessary to further the Parity Act's goal of facilitating alternative mortgages. In fact, doing so may have helped unscrupulous predatory lenders avoid efforts by states to end those lenders' unconscionable practices.

As OTS has stated in its notice of proposed rulemaking, it is not necessary to preempt state laws relating to prepayment penalties and late fees in order to facilitate alternative mortgages. Such fees and penalties are no more relevant to alternative mortgages than they are to any other type of mortgage loan. Indeed, nearly every mortgage contains a provision for late fees, regardless of whether the loan is an alternative mortgage. In addition, the ability of states to regulate prepayment penalties is a necessary weapon in their arsenal against predatory lenders. Prepayment penalties, often as high as 5% of the amount of the loan or higher, are a common method by which unwary homeowners become locked into abusive loans.

The Parity Act's preemptions had become nearly irrelevant by the 1990s. That changed in 1996, when new OTS regulations added provisions relating to prepayment penalties and late fees to the list of regulations that apply to non-federally-chartered lenders. This change undoubtedly is partly responsible for the dramatic increase in predatory mortgage lending practices in recent years, and the resulting alarming increase in home foreclosures, described below.



Regulation Comments

June 21, 2002

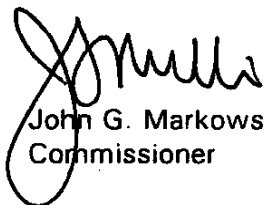
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Because of the devastating effects of predatory lending, states should not be hampered in their efforts to curtail these practices. According to the National Training and Information Center, foreclosures started in Chicago by subprime lenders, the segment of the lending industry where predatory lending primarily occurs, increased from 69 in 1993 to 2,382 in 1999. Foreclosures destroy what is for most Americans the principle opportunity to build wealth –owning a home. Not only are foreclosures catastrophic to individual families, they also undermine the stability and revitalization of neighborhoods.

The increase in foreclosures has left more and more homes unoccupied for long periods of time. Vacant and deteriorating homes mean neighboring owners cannot realize increases in home values. Ripe for crime and drugs, vacant homes further damage neighborhoods already battling to survive as healthy communities.

In conclusion, the City supports the rule change proposed by OTS to eliminate its regulations pertaining to prepayment penalties and late fees from the list of regulations applicable to non-federally-chartered lenders under the Parity Act, and commends OTS for taking an important step in stopping predatory lending.

Sincerely,



John G. Markowski
Commissioner