From: "Scott Cheffer" <scheffer@ticoam.com> on 08/15/2006 07:05:08 PM

Subject: Home Ownership and Equity Protection Act

Building Sustainable Home Ownership:

Responsible Lending and Informed Consumer Choice

To the Board of Governors of the Federal Reserve System
Docket No. OP-1253

Via Email: regs.comments@federalreserve.gov
Date: 8/15/2006
From: Title Company of America, Inc.,

To Whom It May Concern:

I sponsor a Second Saturday Seminar every month. On August 12, 2006, the topic was proposed Federal rules and related legislative actions. This wasn't a huge event. On the one hand, we had three broker-owners, one originator, one net branch manager, two sub-prime lender underwriters and me at the session. Or, we had six women and two men, two African-Americans and six European-Americans. This small group is very sensitive to good customer service and ethical behavior. As small business owners, it is their personal reputations on the line. I am not good guessing ages, but suffice to say we both exuberance and experience around the table. I believe our comments may be helpful, as they are sincere.

Most of the broker/owners and Title Company of America, Inc. (TCA) are members of the Illinois Association of Mortgage Brokers (IAMB). In addition, TCA is a member of the Illinois Mortgage Bankers Association (IMBA) and the American Land Title Association (ALTA). TCA concurs with the testimony offered in Chicago by the President of the National Association of Mortgage Brokers.

Illinois has passed many laws related to home mortgage lending in the past four years. As of July 1, 2005, for example, mortgage loan originators must be registered. Besides the fee, each must pass a written exam, have not related criminal background and be in good financial condition. Each must complete six continuing education units annually to renew. This effort was supported by the above-mentioned associations. Illinois has its own high-cost loan act with triggers that are lower than HOEPA. We have strict rules on foreclosure rescue, and are in the mist of enacting a Pilot Program for Predatory Lending.

The latter is one of the worst products of any state legislature. I mention this because it is responsible for bringing mortgage brokers together to debate the wisdom and impact of such legislation. We have met with regulators and politicians. Some have been productive, others abrasive. But, this grass-roots effort had been going on for the for the past year, so what you see here is not just shoot-from-the-hip reaction by a group of people whose lives and livelihoods are shaped by the regulations promulgated in this area.

The time was structured around observations made by a mortgage broker who attended the Chicago meeting June and took copious (27 pages) notes.

A good part of the discussion, revolved around lenders' Account Executives (AEs). I believe the consensus was that SOME are still too willing to help a deal through. One of the reasons AEs get this way is that they don't actually sign anything related to a specific loan, even though they oversee much of the process. In that regard, they are not legally accountable like originators, processors and underwriters. (Some get greedy and know they won't get sent to jail.) Of course, lenders are mostly publicly-owned companies that put a lot of emphasis on short-term earnings. This is truly amazing, considering they are selling products that are advertised to 'last' fifteen, twenty, thirty or more years. If any industry should know better, it … Oh well.

Part of the Illinois predatory lending pilot database includes the contact information of those at the closing. The IAMB and IMBA proposed a law in the past that mandates the disclosure of all contributing parties. In the event of either criminal fraud or foreclosure, where there is unethical behavior, the perpetrators would be easier to spot. I believe such a law was introduced to the current congress, and would encourage its review. However, when this issue is raised, the Account Executive again flies below the radar. This group would support including the AEs on that list. They have real power in the process.

The discussion moved to the fact that lenders no longer require a cover letter outlining the broker's thinking in selecting this loan for this borrower. The letter acted as part summary and part statement of intent. It was a communication to the underwriter. I realize that employees are not as literate today as in the past, and maybe the letters became irrelevant. But, that letter seems to be missed as a pivotal communication. This was important to the discussion, and I believe deserves further consideration.

These letters have vanished as the rush toward automation quickened. Productivity has risen across the board because of computer systems. While some companies take advantage of the situation, for the most part we are better off. We appear to be getting closer to truly smart systems and paperless closings, but things are still quite messy in the transition. We encourage the Federal Reserve Board to continue to work toward better data-transfer standards. We believe both carrots and sticks are needed.

We also discussed the fact that there are very few studies about why people actually go into bankruptcy and foreclosure. Most of the discussions, especially those in print are devoid of statistical support. Those studies that have been done, though hardly comprehensive, do not point to predatory loans as the root cause of foreclosure. Rather they point to unusual circumstances. Leading the list is job loss (by one or both borrowers). Second are extraordinary expenses like medical expenses. Substance abuse and gambling are in the mix as is general consumer debt (credit cards) and poor personal credit discipline. Couples and certainly singles that live paycheck-to-paycheck will have big problems if one or both loses a job, or gets seriously ill, or can't manage their revolving debt urges. Unless America can boost its saving rates, this will remain a problem. Home equity can't do the job on its own. For one thing, you need a job to get a loan. The reasons for foreclosure and bankruptcy are the most important topics for further research.

FHA loans require preemptive counseling by HUD-approved counselors, yet we are told by the media that FHA loans have the highest rate of foreclosure of any product group. (The reports say that's why HUD has launched loss mitigation programs, and is restructuring its insurance rates.) How is expanding the concept of preemptive counseling, done by HUD-approved counselors, supposed to help for sub-prime borrowers and/or lenders? It does not help FHA loans. Preemptive counseling is being confused with public education, and individual tutoring is not cost effective.

The counseling programs that seem to work are just-in-time counseling looking at the immediate situation. This works best when combined with other available services. The City of Chicago, working with the Chicago Branch of the Federal Reserve Bank has done well in this area and could lead national reform. They have also done well at public education. Counseling vs. public awareness/education is the second-most important topic for further research.

As a matter of public policy, I believe the Federal Reserve Bank should revisit the Great American Dream of home ownership. Is it being oversold? What is the optimum rate of home ownership for US economic stability? What changes in the general economy affect this optimum rate? Why isn't renting a nice apartment part of the American Dream? Rent does not build equity, but it has other advantages to renters and to society. Condominiums provide the equity opportunity at minimum cost. But for many people, having a landlord is a better option. Significant numbers of condominiums are not owner-occupied. The legal climate for renters and landlords is much better today than it was in 1950. Cities have come a long way in building and maintenance codes. FHA and VA loans were responses to the post-war housing shortage of the late 1940s. Do we have a housing shortage today? If we do, it's not a nationwide crisis, is it? No. Should the solutions, therefore, be nationwide? No. Unlike flood insurance, or conditions before 1950, the private sector is able to cope with this situation. FHA lending should be phased out. This is a topic for further research.

The Federal Reserve Bank should be setting goals and standards for all these areas of research. Comments were also made that universities should be utilized, as many of the studies in these areas seem to stress a conclusion, not draw one. Since the 1990 census, we have better tools and more accurate data. This is, after all, the information age. The Federal Reserve Bank should leverage its staff and position to maximize these efforts.

Respectfully,

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