

American Conference
of
Uniform Consumer
Credit Code States

June 21, 2002

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

RE: Docket No. 2002-17

Dear Sir or Madam:

The American Conference of Uniform Consumer Credit Code States ("ACUCCCS") submits these comments to the Office of Thrift Supervision on its proposed rules on the Alternative Mortgage Transaction Parity Act ("Parity Act"). We support OTS' proposal to delete its rules on prepayments and late charges from the list of provisions that apply to state housing creditors under the Parity Act.

ACUCCCS is an organization of consumer credit regulators from states that adopted the Uniform Consumer Credit Code ("UCCC"). Each of our member states has its own statutes or regulations addressing whether lenders making loans to its residents may contract for and impose late fees and prepayment penalties and if so, in what amount and under what conditions. These laws apply equally to traditional and alternative mortgages. In addition, each member state has its own licensing or registration requirements that apply to non-depository housing creditors. These statutory enactments were made by each state's legislature after full and open debate, and reflect each state's judgments about appropriate consumer credit protection.

The effect of the Parity Act and current OTS regulations has been to defeat state attempts to adopt and enforce reasonable consumer credit protection laws. The Parity Act was enacted at a time of high interest rates. Some state laws restricted adjustable rate mortgages and other non-traditional

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mortgages. None of our member states now statutorily prohibit adjustable rate mortgages and the market contains a vast array of traditional and alternative mortgage products. We do not believe there is any continued justification for OTS regulations that preempt state laws on prepayment penalties and late fees, nor that these features are unique to alternative mortgages.

There is at least anecdotal evidence that certain lending practices may result in loss of home equity or home ownership or extremely high debt amounts for unsophisticated borrowers. In 1994, Congress expressed its concerns about predatory lending by enacting the Home Ownership and Equity Protection Act for high-rate, high-fee mortgage loans. In so doing, Congress recognized that unrestricted prepayment penalties, balloon payment provisions, and negative amortization may be detrimental to home ownership. The Parity Act and OTS regulations should not be used to override state laws restricting or prohibiting prepayment penalties and lock consumers into high cost loans.

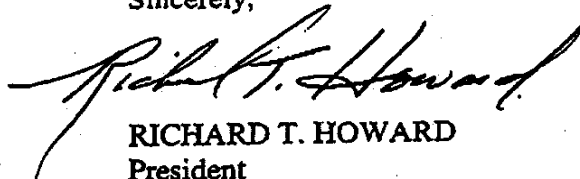
A number of states have passed or are considering state legislation to prohibit predatory lending practices. These laws may be ineffective or unenforceable due to the preemptive effect of current OTS regulations. These regulations on prepayment penalties and late fees enable unscrupulous lenders to engage in predatory lending. Our experience indicates that some housing creditors we license structure their transactions as alternative mortgages to take advantage of OTS regulations that preempt state laws in these areas.

As a general rule we believe all lending institutions, whether depository or non-depository, should be subject to the same state laws. State housing creditors that are neither chartered, supervised, nor examined by the OTS should not be able to assert their unverified compliance with the OTS regulations and thereby preempt the substantive provisions of state consumer credit laws. As an organization of state consumer credit regulators, we are concerned about federal preemption of state consumer credit protection laws in general, and specifically object to preemption by institutions not chartered or supervised by the federal government.

For these reasons, we support amending the OTS rules on prepayment penalties and late fees to delete their applicability to state housing creditors. We also concur with the OTS suggestion that Congress revisit the Parity Act and, if it remains in effect, establish a new opt-out period and require housing creditors to identify themselves.

We appreciate your consideration of these views.

Sincerely,



RICHARD T. HOWARD

President

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