

# SOUTHERN NEIGHBORHOODS NETWORK

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May 30, 2002

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:

As a member organization of the National Community Reinvestment Coalition, the Southern Neighborhoods Network strongly supports the proposed changes to the Office of Thrift Supervision's regulations implementing the Alternative Mortgage Transaction Parity Act (AMTPA). I should also note that our organization, through its periodical Southern Communities, has often publicized the problem of predatory lending, and in a recent issue the use of AMTPA to preempt state legislation against predatory lending was explicitly mentioned.

AMTPA has been targeted by informed persons as a large part of the problem. The Act has outlived its usefulness. It was passed in 1982 during a high-interest-rate environment, 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 and its successor, the Office of Thrift Supervision, granted state-chartered thrifts and non-depository institutions preemption under AMTPA from state law so they could offer ARMs. During this time period the Bank Board and the OTS did not allow institutions to preempt state law on alternative mortgages, and thus prepayment penalties and late fees were limited.

In 1996 the OTS reversed course and allowed institutions to preempt state limits regarding prepayment penalties and late fees on alternative mortgages. This single change contributed significantly to a dramatic increase in predatory lending. Non-depository institutions and mortgage companies that were state-chartered have applied prepayment penalties so frequently that the great majority of subprime borrowers (about 80 percent of them) now are charged prepayment penalties. At the same time only 2 percent of prime borrowers are charged prepayment penalties. This huge difference is, on its face, a gross inequity in the credit market.

Prepayment penalties trap subprime borrowers, who often do not have the same range of choice, into abusive loans. Surely no one can think that these borrowers voluntarily accept prepayment penalties as a means of lowering their interest rates.

The OTS 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, and thus AMTPA is no longer needed.

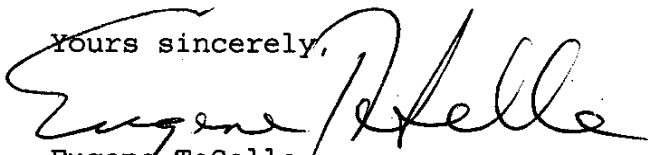
This means that predatory lenders are using AMTPA and the existing OTS regulations to evade state law and prey upon unsuspecting and vulnerable borrowers. Southern Neighborhoods Network cannot emphasize enough how urgent it is to remove AMTPA's preemption of state limits.

The OTS could have made its proposal stronger. The AMTPA statute gives OTS the discretionary authority 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 federal 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 often pay 5 percent or more of the loan amount as a prepayment penalty).

Southern Neighborhoods Network believes that limiting prepayment penalties across the board would have achieved a greater degree of uniformity in the regulatory framework, and would have reduced the gross inequities in the treatment of subprime and prime borrowers. If the OTS does not adopt this more comprehensive approach, we strongly urge the OTS to stay with its proposal and resist industry calls to weaken the proposed regulatory changes.

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

Yours sincerely,



Eugene TeSelle  
President

Cc: National Community Reinvestment Coalition