



Lawyers' Committee for Civil Rights Under Law

1401 New York Avenue, NW
Suite 400
Washington, DC 20005-2124

Tel: 202/662-8600
888/299-5227
Fax: 202/783-0837
Web: <http://www.lawyerscommittee.org>

Direct Dial:

175

June 21, 2002

Co-Chairs

John A. Payton
Gary T. Johnson

Secretary

Robert A. Murphy

Treasurer

William L. Robinson

Counsel

Nicholas T. Christakos

Executive Director

Barbara R. Arnwine

VIA FACSIMILE

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 10552

Regional Vice-Chairs

Midwest Region

Fay Clayton
John S. Skilton

Northeastern Region

Hugh R. Jones, Jr.
Harold C. Pachios

Mid-Atlantic Region

D. Stuart Melklejohn
John S. Kiernan

Southeastern Region

Robert E. Harrington
William E. Hoffman

Western Region

Jack W. Londen
Cheryl W. Mason

Chesapeake Region

George W. Jones

RE: Proposed Changes to OTS Regulations Implementing AMTPA
Docket No. 2002-17

To Whom It May Concern:

The Lawyers' Committee for Civil Rights Under Law ("the Lawyers' Committee") is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. The Lawyers' Committee is committed to improving lending opportunities for minorities and holding lending institutions accountable for discriminatory practices. We are concerned about the increase in predatory lending over the past few years, and the disproportionate burden it has placed on minority borrowers and minority communities. Accordingly, we strongly support the OTS proposal to prohibit state-chartered institutions from using AMTPA to avoid state-imposed limits on prepayment penalties and late fees.

Below are the Lawyers' Committee's specific comments regarding the proposed changes to the OTS regulations:

THE PROPOSED REGULATIONS SHOULD BE ADOPTED BECAUSE THEY WILL PROTECT BORROWERS AGAINST PREPAYMENT PENALTIES AND LATE FEES IMPOSED WHEN LENDERS USE AMTPA TO EVADE STATE REGULATION OF PREDATORY PRACTICES.

AMTPA must not be used by predatory lenders to evade state law that protects borrowers from abusive predatory lending practices, such as prepayment penalties and late fees. In 1982, during a high interest rate environment, Congress passed AMTPA to permit state-chartered institutions to offer Adjustable Rate Mortgages (ARMs), which most states at that time prohibited. In 1996, in order to allow state-chartered institutions greater flexibility in structuring loan transactions, the OTS amended its regulations on AMTPA to permit state-chartered institutions to evade not only state laws preventing ARMs, but also state laws preventing prepayment penalties or late fees. At that time,

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

Office of Thrift Supervision, Regulation Comments
June 21, 2002
Page No. 2

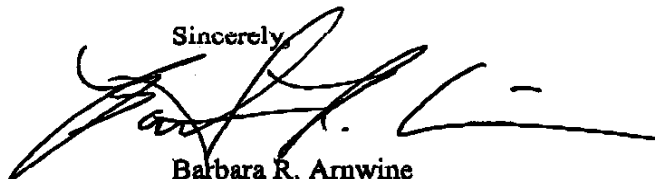
OTS contended that this regulation would provide borrowers with more lending options. Since that time, we have seen a dramatic increase in instances of predatory lending and its particularly pernicious impact on minorities and minority communities.

The Lawyers' Committee believes that communities of color are often the target of predatory lending practices. While not all subprime loans are predatory, these loans are more likely to contain predatory terms. For example, according to Standard and Poor's, while only 2 percent of prime borrowers have prepayment penalties on their loans, 80 percent of subprime loans contain prepayment penalties, which often impose a penalty of approximately 5 percent of the loan or higher. Significantly, studies have found that subprime loans are five times more likely in African-American neighborhoods than in white neighborhoods. Moreover, African Americans who may qualify for conventional loans are steered towards the subprime market. As the income level of the neighborhood increases, so does the disparity between African-American and white borrowers. Accordingly, unscrupulous lenders are able to trap subprime borrowers, most often minorities, into loans with abusive terms, which do not create greater flexibility, but rather increase the cost of credit. For these reasons, the 1996 amendment of the OTS regulations must be reversed to prohibit lenders from using AMTPA to evade state laws and to burden borrowers with abusive and predatory loans.

We urge the OTS to address the proliferation of prepayment penalties and late fees caused by its current regulations and adopt its proposed changes. We believe that preventing lenders from evading state limits on these predatory practices is consistent with the goals of AMTPA and will provide greater protection, particularly to minority borrowers. Should further explanation be required on any of the discussion points above, please feel free to contact Ms. Cheryl Ziegler, the Director of our Housing & Community Development Project. Ms. Ziegler may be reached directly at (202) 662-8331.

We thank you for soliciting and reviewing our comments.

Sincerely,



Barbara R. Arnwine
Executive Director