

**COALITION on HOMELESSNESS  
and HOUSING in Ohio**

56

July 3rd, 2000

Manager, Dissemination Branch  
Information Management and Services Division  
Office of Thrift Supervision  
1700 G Street, N.W.,  
Washington, DC 20552

OFFICE OF THRIFT SUPERVISION  
DISSEMINATION BRANCH  
2000 JUL -7 A 9:23

Attn: Docket No. 2000-34

Dear Office of Thrift Supervision:

On behalf of the Coalition on Homelessness and Housing in Ohio (COHHIO), I would like to take this opportunity to respectfully comment on the Office of Thrift Supervision's Responsible Alternative Mortgage Lending rule making, Docket No. 2000-34. First, the Office of Thrift Supervision (OTS) should promulgate regulations to prevent federal thrifts from engaging in predatory lending practices. Predatory lending practices have increased dramatically in recent years. Not only do they harm low-income and minority homeowners, but they also impair the safety and soundness of institutions engaging in these practices, since such practices often lead to borrower default. Since traditional federal thrifts are beginning to be active players in the subprime market, now is the appropriate time for OTS to set the appropriate standards of conduct through regulation. In addition, many finance companies engaged in subprime lending have applied to OTS to obtain thrift charters.

An appropriate federal regulation on subprime home loans would be based upon three fundamental principles. First, no subprime home loan (defined as a loan having an interest rate greater than conventional loans) should contain a pre-payment penalty. Pre-payment penalties trap borrowers in high-rate loans, which all too often lead to foreclosure. They also act as the "glue" that enables broker-based racial steering. In fact borrowers in predominantly African-American neighborhoods are five times more likely to be subject to a pre-payment penalty than borrowers in white neighborhoods. The marketplace will help enforce fair lending principles and police steering if borrowers can get out of bad loans as soon as they realize they are harmed, but pre-payment penalties prevent this from happening. Borrower choice cannot explain the prevalence of pre-payment penalties in subprime loans, since only two percent of borrowers accept pre-payment penalties in the competitive conventional market. The subprime market, however, is a different story. According to Duff and Phelps, of subprime loans they rate, approximately 80 percent contain pre-payment penalties.

Second, no home loan should contain up-front, lump-sum credit insurance premiums or debt cancellation and/or suspension agreements that are financed into the loan. In addition, OTS should implement additional protections for subprime loans that exceed HOEPA thresholds, such as prohibiting balloon payments, the financing of fees into the loan amount, mandatory arbitration, and requiring homeownership counseling before closing. The Office of Thrift Supervision should also require thrifts, their affiliates, and subsidiaries to "upstream" potential borrowers to the lowest-cost products offered by their related entities. Thrifts should receive unfavorable CRA consideration for the origination, purchase or facilitation of loans with harmful characteristics, such as subprime loans with pre-payment penalties, financed credit insurance or debt cancellation/suspension agreements, and fees greater than three percent of the loan amount as defined by HOEPA.



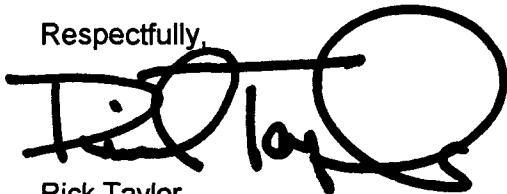
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Second, OTS should revise its Alternative Mortgage Transaction Parity Act (the "Parity Act") regulation (12 CFR 560.220.) to remove pre-payment penalties and late fees from the list of applicable regulations. This revision would enable individual states to better regulate non-depository state housing creditors (primarily finance companies). Under current regulation, these state housing creditors are able to preempt state law restrictions on prepayment penalties and late fees by structuring loans as alternative mortgages (either adjustable rate mortgages or mortgages with balloon payments). These lenders are thus able to take advantage of federal preemption without any corresponding obligation to submit to agency regulation. The Office of Thrift Supervision's role under the Parity Act is to identify which thrift regulations apply specifically to mortgage loans with alternative structures. Since the provisions relating to pre-payment penalties and late fees apply to all mortgage loans generally, these provisions should be removed from the list of regulations applicable to state housing creditors. Certainly, time has demonstrated that allowing unregulated, non-depository institutions to piggyback on federal thrift preemption has inadvertently facilitated predatory lending practices.

The mortgage lending market has changed dramatically over the past twenty years. Alternative mortgages are commonly accepted in the marketplace, and lenders have many more options available to manage asset-liability problems associated with mortgage lending. Therefore, the Parity Act in its current form is somewhat antiquated. Not only is it out of date, it has proven to be harmful to state efforts to restrict deceptive terms that meet the Parity Act's definition of "alternative" mortgages.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Rick Taylor". The signature is stylized with a large, circular flourish at the end.

Rick Taylor  
Housing Policy Director