



Predatory Lending Is Everybody's Problem

Most of us in the mortgage industry take great pride in the work that we do, and the people we help on a daily basis. Unfortunately, there are always a few bad apples that spoil the whole darn orchard.

Predatory Lending has become one of the hottest topics, and one of the biggest threats to our industry. As borrowers from around the country tell stories of unscrupulous lenders charging exorbitant fees, stripping away property equity, and loan “flipping” tactics, it’s easy to see why consumer groups and political leaders cries for action are getting louder.

Predatory practices, while practiced by a relative few in the industry, gives us all a black eye. The issue seems simple enough to understand, but is complex in how to deal with and eliminate. The first problem is in trying to actually “define” predatory practices. Even Senator Phil Gramm (fmr. Chair Banking Committee) stated that we cannot attempt to regulate something we cannot clearly define. We know it when we see it, it’s just hard to really get our arms around it.

The reason is, every situation is different in nature, and what might seem predatory to one, might be completely reasonable to another. For example, many might say that charging 10 points on a loan with a 14.5% interest rate is outrageous! Until they realize that the loan amount is \$20,000, and that the borrower has a credit score of 522 with a foreclosure pending – and the loan is to save the house and payoff a tax lien. The borrower may see this as completely reasonable!

While the Home Owner Equity Protection Act (HOEPA), and subsequent Section 32 revisions were designed to help combat the problem on a federal level, many feel that it is clearly not enough. In the absence of stronger federal legislation, many states and cities all over the country have started tacking this difficult issue on their own. There are no fewer than 77 state and local regulations, or pending bills designed to address the problem. New York has introduced 2 new bills, California, Ohio, Texas, Illinois, North Carolina, Pennsylvania, Massachusetts, and many others. Cities such as Dayton, DeKalb (GA), Philadelphia, Chicago, Washington DC, and Atlanta are also trying to take a stand. This is just the beginning.

While many situations are extreme and outrageous, each one is different, and needs to be weighed with the borrowers interests and situation in mind. While we can certainly not accept the job of “morality police” for our borrowers, there are things we can do to combat the problem as an industry.

Solutions

When faced with problems, we need to look for solutions – but these won’t come easily or quickly. I believe that the problem needs to be attacked from two fronts. First, federal legislation needs to be enacted to tighten up certain lending practices, *but* without choking off the access to credit for people that need it – and it needs to preempt state and local actions. The industry cannot operate effectively with a “patchwork” of regulations where lending is restricted differently all over the country. Senator Sarbanes who is working on this issue very closely, is said to be somewhat receptive to this approach. Continued local and state efforts will only drive lenders away, eliminate or reduce lending in communities, or force some needy borrowers to the “seedy backroom” lending options of long ago – which we’ve worked hard to try and eliminate!

Second, we need to take it upon ourselves as an industry to “police our own”. That comes in the form of education. We need to spend more time educating the members of our profession as to the right way to conduct our lending practices, and implement more mandatory educational requirements for initial and continued licensing, as many states have done.

The NAMB and MBA have been working tirelessly on efforts to create meaningful and practical national legislation, and various educational programs to assist the industry. Visit their websites (www.namb.org and www.campusmba.org) to learn more about the educational opportunities.

In addition, we need to educate our customers. Consumers are far more informed and intelligent than ever before, but we need to make a conscious effort to take the time to reach out into all segments of

the population, and clearly explain and help them evaluate various lending programs, mortgage options, costs, and to understand the financing process better.

Brokers, lenders, wholesalers, and industry vendors all play an important role in combating this problem, and industry leaders such as Ellie Mae have stepped up to the plate to help support these efforts.

Although you may see yourself as far removed from the problem, predatory lending is everybody's problem. By understanding it, combating it, and educating people against it, you not only protect yourself – you help protect our industry.

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