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Executive Update --

Home ownership protection — aka 'Predatory Lending'

By Roger M. Beverage
President and CEO, Oklahoma Bankers Association
From the April 2003 issue of Oklahoma Banker

Most bankers know we've been dealing with the general subject of "predatory lending" for the past three years at both the state and federal level. Many of those same bankers haven't been too concerned about the subject so far, primarily I'm convinced, because there have been no allegations that commercial bankers are involved in these activities.

In other words, if it isn't me or my industry, then why bother to be concerned about the issue? Good question and one that deserves more space than it's been given in the past.

The lack of engagement by bankers is probably my fault. Apparently I haven't effectively made the connection between these efforts and the lending process in a way that most bankers would clearly understand.

The connection is this: advocates on the other side of this issue ultimately want to apply the restrictions they propose to all the loans in your notecase. When it comes to home loans, or home equity loans, they ultimately want their "people" to be able to avoid repaying the underlying debt and still keep the house.

On the other side of this legislative fight are pro-consumer groups, including the AARP and the Community Action Project in Tulsa. We've been able to defeat earlier proposals that they have proposed in past sessions, but the fight is getting more and more complicated.

This year the OBA Board gave staff a directive to try and develop a coalition of parties potentially affected by these so-called "predatory lending" bills (bankers, mortgage brokers, mortgage bankers, small loan companies, "B" lenders, credit unions and others) and see if consensus was possible on language that would address many of the concerns expressed by the AARP and CAP. The guideline was that any such language should not unduly impact or restrict legitimate lending practices.

A task force led by OBA Board member Burns Hargis (Vice Chairman, Bank of Oklahoma, N.A.) has been meeting over the past several months in an effort to address concerns raised by these pro-consumer groups. This ad hoc coalition of affected parties – excluding the consumer advocates – drafted language that brings Oklahoma law up to federal HOEPA standards in eight specific respects, and actually exceeds HOEPA standards in 10 others.

Unfortunately, AARP and CAP – led by Steven Dow of Tulsa – will not agree to what they term the “industry’s proposals” because it doesn’t go far enough. Much stronger measures are needed to “effectively remove the most egregious abuses in the subprime lending industry” according to Mr. Dow.

The ad hoc coalition’s efforts have been dismissed simply as “little more than adding more disclosures to the already huge stack of papers that most borrowers plow through at closing.” When asked directly, Mr. Dow said that further disclosure requirements are simply not satisfactory and that more must be done.

The good news in that statement may be that these consumer advocates now admit that the boatload of disclosures on which they have previously insisted really don’t help consumers very much. An admission that’s a little too late, to be sure, but an admission nevertheless.

What the “more (that) must be done” is is somewhat disconcerting to bankers. Ultimately they want standardized rates, i.e., lower rates, for subprime borrowers regardless of the risk to which the lender might be exposed.

They want to remove certain products from the mix – like single-premium credit life insurance – simply because in their view these products are too costly, and people are too stupid to understand the world from their perspective.

They want to prohibit certain standard clauses in loan agreements, like prepayment penalties, because, well, it’s not right in their view.

And the list goes on.

I’ll keep you posted as we try to work toward developing some common ground, but my best guess is agreement is not likely in the near future, or maybe ever. The truth is, these consumer advocates and legitimate lenders simply don’t have the same view of the world. And that makes it difficult to come to an agreement about what it really should look like at the end of the day.