HOW HAS STATE LEGISLATION AFFECTED THE NORTH CAROLINA MORTGAGE MARKET?

PRESENTED TO THE CONSUMER / REAL ESTATE LENDING LAW FORUM
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It is, as always, a pleasure to be with you. I greatly appreciate Christopher Tucci's invitation and your attendance today. My remarks will be about the structure of the residential mortgage market in North Carolina and the impact of this State's legal and regulatory structure on that market.

As I expect you are aware, mortgage lending holds a place of prominence in the national public policy arena these days. Recent events at Fannie Mae and Freddie Mac, and to a lesser extent the Federal Home Loan Banks, come to mind. In addition, it is likely that the upcoming Congress will consider one or more pieces of proposed legislation that will include a national predatory lending standard and a national regulatory scheme for mortgage bankers and brokers. This debate will undoubtedly include a review of North Carolina's anti-predatory lending law and mortgage lending act. In order to prepare for it, I have reviewed the recent performance and structure of our mortgage industry. I would like to share my conclusions from this review with you.

I cannot proceed without publicly expressing my thanks to the Mortgage Bankers Association research staff, and particularly its leader, Doug Duncan, for sharing with me their compilations and analysis of the information on which much of this speech is based. While we do not agree on a number of policy issues, the willingness of MBA to publish and share its research is a great public service. The information that I will present relates to 2003, a year that included a substantial refinancing boom; however, even with the lapse of time and changed market conditions, I believe it has a lot to tell us. I have made several computations from the MBA information that I believe do not cause distortions; responsibility for errors and omissions are, of course, mine alone.

So much for accolades and disclaimers. What's the story?

Mortgage lending in the United States attained a jaw-dropping level of intensity in 2003, with a total dollar volume of *three trillion three hundred fifty billion dollars*. Prime lending accounted for 91.8% of that volume (90.8% of the number of loans) and subprime lending for the remaining 8.2% (9.2% of the number of loans). To put this in perspective, the entire U. S. Gross Domestic Product for 2003 was roughly $10.9 *trillion*. Over 72% of this volume was accounted for by refinancing transactions: 67% prime and 5.75% subprime. This level of mortgage lending activity had an obvious and significant impact on our economy generally.

During that same period, mortgage activity in North Carolina was also substantial, with a total dollar volume of $70.9 *billion*. Prime lending accounted for 93.5% of that volume (91.3% of the number of loans) and subprime lending for the remaining 6.5% (8.7% of the number of loans). As in the United States generally, this volume is substantial compared to the North Carolina Gross State Product for 2003 (estimated) of $314 *billion*. Refinancing accounted for 69.8% of this volume: 65.5 prime and 4.3% subprime. North Carolina's volumes are slightly less as a percentage of gross product than the national average, with lower proportionate share of refinancing and subprime loans in particular.

The differences between the U.S. and North Carolina figures highlight the ground of a critique of our anti-predatory lending law. The mortgage industry (including MBA) and the Office of the Controller of the Currency, among others, have argued that the law has placed limitations on the operation of the mortgage market that have reduced credit to subprime borrowers, shutting them out of the market. Supporters of our law argue that a correct understanding of the relevant information shows that the law has prevented the kinds of conduct and loan terms it was intended to prevent and has not otherwise inhibited subprime lending in North Carolina. All of the studies, to my knowledge, refer to the periods immediately before and after the anti-predatory lending law's effective date. Let's review 2003 information, which is from a period after those previously studied, to see if it gives us further insight.

First, let's review North Carolina more fully in comparison to the United States as a whole. [See Attachment 1] I have compared North Carolina market information to two summaries of United States information: (i) the United States figures from the MBA compilations; and (ii) such figures adjusted to subtract figures from California. Why the adjustment? No, the answer is not Red State animus; it's because California by itself comprised 23% of the U.S. prime mortgage market dollar volume for 2003, and, more importantly for purposes of this discussion, almost 33% of the subprime dollar volume. As the figures just mentioned suggest, California is skewed to subprime lending, which accounts for over 11 percent of the state's total dollar volume. The only other states to come close to that percentage are Rhode Island and Utah. In my view, California is an interesting and huge outlier that skews national comparisons.

If you accept my adjustment -- dare I say normalization? – of the national mortgage lending figures, North Carolina looks close to average. Prime lending has a share of the total market in North Carolina that is 1% higher than the prime lending share nationally. The subprime share is, accordingly, just under 1% lower than the national average and, in fact, is higher with respect to subprime home purchase loans. The difference is entirely accounted for by the fact that subprime refinance loans have a share of the national market that is 1% higher than such loans have of the North Carolina market. These results are consistent, in my opinion, with the conclusions drawn by the law's supporters (e.g., prevention of "flipping").

If you do not accept my adjustment to the U.S. numbers, the differences between the U. S. and the North Carolina numbers are greater, with the substantial variances being North Carolina's significantly larger prime new home share and the U.S.'s significantly larger subprime refinancing share. These results are, again, consistent with the law's supporters' conclusions. In fairness, I should note that to equal the unadjusted U.S. subprime share, North Carolina subprime lending would have had to increase by a dollar volume of $1.3 billion (approximately 13,000 additional loans); roughly half those increases if share equal to the adjusted U.S. numbers is the comparison.

Prior studies of the North Carolina anti-predatory lending law do not compare our market to the national market. They compare North Carolina to some combination of the states of South Carolina, Georgia, Tennessee and Virginia. I have made a comparison of the 2003 information for such states. [See Attachment 2] In my view, this comparison makes us look sort of average. The subprime share of market in North Carolina is higher than two of the states and lower than the other two. The same is true for the subprime refinancing loan share of market. I am somewhat concerned that the subprime new home purchase share is next to lowest in the group and will be watching subsequent reports with interest to see if that circumstance continues. While these results may be affected by legislative activities or economic conditions in the states in question of which I am not aware, I believe that a fair comparison of North Carolina with its "control" states does not show Tar Heel subprime borrowers to be at a national disadvantage.

Critics of the anti-predatory lending law have also claimed that the law drove some lenders from the market, which resulted in a reduction in available credit. I have reviewed recent information regarding the leading lenders in North Carolina to see who is doing business here and who is not. The results of this inquiry are heartening to me.

First and foremost, the market in general appears to be a highly competitive one, served by the largest national firms and a number of strong local and regional institutions. In 2003, the top 15 mortgage lenders in North Carolina included six of the top ten mortgage lenders nationally. [See Attachment 3] North Carolina's top ten lenders accounted for 53% of the State's originations by dollar volume and 36.4% of the dollar volume nationally. North Carolina's mortgage lending laws do not effect the lending activities of these firms, most of which is prime lending; and it does not appear that they have been a disincentive to the operation here of the leaders in the business.

In the subprime market, the results seem much the same. [See Attachment 4] Nationally, the top 15 subprime mortgage lenders accounted for 62.4% of the dollar volume of such loans in 2003. In North Carolina, the top 15 lenders accounted for 61.3% of the State subprime volume and 38.5% of national volume. Six of the nation's top ten subprime mortgage lenders are included among North Carolina's top 15 subprime lenders and each of them has significant market share. From this review, it does not appear that significant national lenders have been run out of the North Carolina subprime market. We have every indication that these lenders have accommodated themselves to our laws and are competing actively and successfully.

In summary, I believe that a fair interpretation of the information that we have just reviewed together supports the conclusion that North Carolina's mortgage lending laws have been a successful experiment in market regulation. As the debate proceeds on national standards for predatory lending and the supervision of mortgage firms, I believe that North Carolina's experience should be a guide to the federal standards and policies that are to follow.

This is not to say that I think we do not have further work to do to improve our administration of these laws. My colleagues and I are working with the industry and regulators from other states to develop and implement a national licensing and surveillance program to allow large multi-state firms to comply with state licensing laws more easily and on a more uniform basis. I hope to have more to report on this during this year. In addition, we must continue and enhance our work with other agencies of government, including law enforcement, to reduce or eradicate mortgage fraud. Finally, I hope that we can continue to work with industry, the professions and our colleagues in government to educate consumers more effectively with regard to mortgage transactions so that their choices can be informed and effective.

The last two of the efforts just mentioned are critically important to address a very troubling phenomenon: the accelerating rate of foreclosures. A review of foreclosures over the last five years shows that filings have doubled State-wide and almost tripled here in Mecklenburg County. [See Attachments 5 and 6] Those of you in this room who – like me – have actually foreclosed on someone know this is serious business. Having a family watch while you auction off its home is not a pleasant experience, nor is it an easy one to forget.

While we can't outlaw or prevent all of the causes of foreclosures -- ranging from borrower financial folly to sharp practices by developers, brokers and lenders -- we can and should seek to address at least some of these causes and to reduce the number of foreclosures, even if only marginally. My counterpart in Pennsylvania, Bill Schenk, and his colleagues have just completed a path breaking study of foreclosures in selected markets with an eye to this important goal. I believe it is in our interest in North Carolina to do something similar. The personal and social consequences of failing to do so are, in my view, unacceptable. Needless to say, I hope you agree with me.

The home mortgage industry is a vital contributor to the growth and well-being of our economy and society. All of us have an interest in its efficiency, fairness and health. I look forward to working with you and our professional colleagues in the future to enhance and protect this important industry.

Thank you very much for your attention.

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Mortgage Market Dollar Volume

	Total	Prime	New	Refin.	Subprime	New	Refin.
US	3,350,779	3,074,500	24.7%	67.0%	276,279	2.5%	5.8%
CA	805,304	714,602	19.3%	69.4%	90,702	4.1%	7.2%
Adj. US	2,545,475	2,359,898	26.4%	66.3%	185,577	2.0%	5.3%
NC	70,913	66,310	28.0%	65.5%	4,603	2.2%	4.3%

Total Mortgage Market Dollar Volume rounded to the thousand (ooo,ooo's)

Mortgage Market Dollar Volume

	Total	Prime	New	Refin.	Subprime	New	Refin.
VA	112,628	106,739	27.6%	67.2%	5,889	3.7%	1.5%
GA	84,273	77,354	28.2%	63.6%	6,919	3.2%	5.0%
NC	70,913	66,310	28.0%	65.5%	4,603	2.2%	4.3%
TN	36,377	33,548	30.0%	62.2%	2,829	2.6%	5.2%
SC	30,655	28,897	32.2%	62.1%	1,758	1.8%	3.9%

Total Mortgage Market Dollar Volume rounded to the thousand (ooo,ooo’s)

Top 15 Mortgage Lenders in NC

Originations per Institution (Dollar Volume)	State (%)	Nation (%)	National Ranking
Wells Fargo Home Mortgage	8.4	9.9	1
Branch Banking & Trust Co.	6.7	0.5	30
Bank of America, NA	6.4	3.9	4
Countrywide Home Loans	6.1	5.5	3
Wachovia Bank	5.1	0.9	16
Chase Manhattan Mortgage Corp.	3.5	3.7	5
State Employees Credit Union	3.1	0	
Washington Mutual Bank, FA	2.3	6.4	2
National Bank of Commerce	2.1	0.1	88
National City Mortgage Corp.	2.1	3.4	6
ABN AMRO Mortgage Group, Inc.	2	2.8	7
RBC Centura Bank	1.7	0.5	33
First Horizon Home Loan Corp.	1.3	1.3	11
First-Citizens Bank and Trust	1.3	0	
Principal Residential Mtg, Inc.	1.2	0.7	18

Top 15 Subprime Lenders in NC

Originations per Institution (Dollar Volume)	State (%)	Nation (%)	National Ranking
Option One Mortgage Corp.	8.1	6.2	5
First Franklin Financial Corp.	7.9	6.8	2
Equifirst Corporation	5.1	0.08	31
New Century Mortgage Corp.	4.9	8.2	1
Equity One, Inc.	4.6	0.6	37
Southstar Funding, LLC	3.9	1	27
First Greensboro Home Equity	3.4	.1	70
Citifinancial Services, Inc.	3.2	3.5	8
Long Beach Mortgage Corp.	3.2	3.9	7
Novastar Mortgage, Inc.	3.1	2.1	14
CIT Group	3.0		
Fremont Investment & Loan	2.9	3.9	6
Beneficial Mortgage Company	2.7	1.7	17
Centex Home Equity Co.	2.7	1.1	24
Delta Funding Corp.	2.6	0.6	36

Foreclosures in North Carolina

- 2000: 20,579
- 2001: 25,871
- 2002: 35,589
- 2003: 44,209
- 2004: 42,882

108 % Increase in 5 years

Source: Center for Responsible Lending, Self-Help

Foreclosures in Mecklenburg Co.

- 2000: 2,295
- 2001: 2,931
- 2002: 4,414
- 2003: 6,225
- 2004: 6,584

187 % Increase in 5 years

Source: Center for Responsible Lending, Self-Help