

NEWS RELEASE

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N.C. Commissioner of Banks Proposes Mortgage Rules

Public hearing and comment period established

RALEIGH—The N.C. Office of the Commissioner of Banks (NCCOB) announced today that it is proposing mortgage rules to help reduce foreclosures, to improve consumer protection and the functioning of the mortgage market, and to implement the S.A.F.E. Act. Major proposals are described below:

Foreclosure Prevention

NCCOB continues to have significant concerns that homeowners too often face foreclosure when alternative solutions exist that would benefit both the homeowner and the mortgage company or investor. NCCOB proposes rules that would:

- **Require a mortgage servicer to stop foreclosure efforts pending the consideration of a request by the homeowner for assistance (Proposed Rule 703).** Currently, most mortgage servicers continue to advance toward foreclosure, even when they are working with homeowners to modify the delinquent loan. Unfortunately, servicers continue to struggle to qualify homeowners for assistance in a timely fashion, and in some cases, foreclosure occurs prior to the homeowner being considered for existing programs. In addition, continuing foreclosure efforts reduces the likelihood of receiving assistance by adding significant fees and costs to the loan. Proposed Rule 703 has provisions to protect servicers from homeowners seeking to game the system.
- **Require a mortgage servicer to respond promptly and clearly to homeowner requests for assistance (Proposed Rule 702).** NCCOB has observed significant failures among mortgage servicers in their ability to respond promptly to borrowers and to provide concise and needed information regarding their ability to qualify for assistance. This leads to homeowner frustration, multiple calls to the mortgage servicers, and basic communication failures that result in needless foreclosures. Proposed Rule 702 provides a timeline for communications to homeowners and specifies the required content of communications to increase the reliability, transparency, and efficiency of the foreclosure prevention process.

Consumer Protection and Functioning of the Mortgage Market

While many of the loan products most susceptible to abuse are not currently offered in the market, NCCOB believes the mortgage market has flaws that reduce the likelihood of the origination of fair, affordable, and sustainable mortgages. NCCOB proposes rules that would:

- **Prohibit lenders from making loans if the use of the lender was required in order**

to obtain a discount from an affiliated party, such as a homebuilder (Proposed Rule 602). In the last decade, homebuilders have routinely conditioned discounts from the purchase price of the home on the use of the homebuilder's lender. By eliminating competition from other mortgage lenders, the homebuilder's lender has the potential to mark up the rates or fees for these loans. Furthermore, this relationship creates potential for inflated home values, as homebuilders have incentives to set sales prices high enough so that the "discount" offered to the borrower is significant enough to keep the borrower from shopping for a lender other than the homebuilder's lender. To date, NCCOB has reached settlements with two national lenders affiliated with homebuilders: Beazer Mortgage Corporation (see <http://www.nccob.org/NR/rdonlyres/819D61BC-E50B-41DA-ACB9-F99B118EE971/0/Beazerpressreleasefinal.pdf>) and Ryland Mortgage (see <http://www.nccob.org/NR/rdonlyres/73780419-9261-4218-B394-A178F3024A67/0/Rylandpr3408.pdf>). Proposed Rule 602 would eliminate this activity, but would not prevent homebuilders from offering discounts to homebuyers, as long as they were not tied to the use of a particular lender.

- **Require mortgage lenders to provide an early disclosure that compares a proposed loan offer to a standard 30-year fixed-rate mortgage loan (Proposed Rule 603).** During the housing bubble, many homeowners received complex mortgage products, such as payment option ARMs or "exploding" subprime ARMs that borrowers did not understand and that had features that increased the likelihood of foreclosure. In order to encourage the use of traditional 30-year fixed rate loans and the making of informed decisions about alternative options, Proposed Rule 603 will require that if a borrower qualifies for a standard mortgage offered by the lender, then the lender will provide an early disclosure of how any proposed non-standard (or alternative) mortgage compares to the standard mortgage. Proposed Rule 603 does not require a lender to offer a standard mortgage or prevent a borrower from choosing a non-standard mortgage.
- **Prohibit compensation to lenders and brokers that are based on the terms of the loan (Proposed Rule 601).** Loan originators in the mortgage market are typically paid on commission. These commission systems may be manipulated to encourage the origination of more expensive loan products than the borrower qualifies for and the origination of "exotic" loan products not suitable for borrower's circumstances. Two years ago, the General Assembly banned this type of compensation for mortgage brokers offering subprime loans. Proposed Rule 601 would extend this ban to all loans and all loan providers.
- **Require clear labels of solicitations for refinance (Proposed Rule 604).** NCCOB regularly receives complaints of deceptive solicitations for loan refinances that appear to be from the homeowner's current lender or from a government agency. Proposed Rule 604 will require clearer and more prominent disclosures of the identity of the lender, broker, or loan originator soliciting the refinance and requirements that reduce the likelihood of deception or confusion as to the nature of the solicitation.

NC S.A.F.E. Act

Congress enacted the federal S.A.F.E. Act in 2008 to set minimum standards for individual mortgage loan originator licensing and registration. The General Assembly enacted the NC S.A.F.E. Act to meet these minimum federal standards in 2009. NCCOB is proposing a number of rules to implement the technical provisions of this new legislation.

A public hearing regarding the changes to N.C. Administrative Code, Title 4, Chapter 3, will be held at 9:00 a.m. on Dec. 8 at NCCOB. The rules were published in the N.C. Register on Nov.

2 at <http://www.oah.state.nc.us/rules/register/> (Volume 24, Issue 09) and may also be found on NCCOB's website at: <http://www.nccob.org/NCCOB/Mortgage/Default.htm>. The public comment period began on Nov. 2 and runs through Jan. 2, 2010.

NCCOB regulates state-chartered banks, thrifts, savings and loans, trust companies, and more than 875 mortgage lenders/servicers/brokers and 9,800 mortgage loan originators, as well as numerous consumer finance companies, check-cashers, and other financial services. NCCOB is funded by industry fees and assessments and not taxpayer dollars.

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