

MORTGAGE LENDING WORK GROUP

April 3, 2008

1:00 p.m. – 3:00 p.m.

Conference Room 260, Labor & Industries Building

350 Winter Street NE, Salem, Oregon

Meeting Summary

Lou Savage, Senior Policy Advisor, Department of Consumer and Business Services (DCBS) and work group facilitator, called the meeting to order at 1:08 p.m.

Work group participants gave brief introductions.

Cory Streisinger, Director, DCBS, welcomed participants and introduced the work group. She said the work group has the opportunity to envision the lending market we want. The Department will produce legislation regarding this issue and wants as much input, thought and guidance as possible. Unlike the previous work, this will not necessarily be a consensus process; DCBS intends to go forward with the assumption that there will not be federal legislation, and wishes to be ready with state legislation for the fall to meet legislative deadlines. Ms. Streisinger thanked the group for their interest and welcomed any input.

State Representative Paul Holvey thanked the work group for their work. He said there are many legislators that might not necessarily follow the Governor's ideas. He would like to see this group go forward and take a stand against prepayment penalties, which trap people into payments that they cannot escape.

State Representative Suzanne Bonamici suggested looking at Washington's mortgage lending legislation passed last session.

State Representative Mike Schaufler was concerned that the Governor's bills would be sold as consensus bills and he did not want this to happen if there was not going to be consensus from the work group. He also wanted the work group to wait to see what the federal government comes up with. Rep. Schaufler asked for clarification from Ms. Streisinger whether there will be legislation coming out of the group even without a consensus within the group.

Ms. Streisinger responded that the agency wants to put together a package of bills that will be filed pre-session along with the Governor's other bills. The agency wants as much consensus as possible, but lack thereof will not prevent the agency from proposing legislation.

Mr. Savage discussed the ground rules and the mortgage lending work group process. He described a work plan for the work group:

1. Development of principles. Group will look at the proposed principles and brainstorm additional ones or delete as needed.
2. Issue identification. Group will brainstorm ideas around known problems and will come up with solutions.

Mr. Savage said the department's goal was to ultimately discuss specific proposals, and he wanted to begin with a clean slate and have high level discussion on problems. He added the group will have to break into subcommittees to focus on specific issues.

Attendees brought up additional questions regarding whether consensus would be sought.

Ms. Streisinger responded that the goal of the group is to build consensus. However, if that cannot happen, then the agency will put forth bills regardless. Mr. Savage mentioned that compromise and consensus are not much different. He asked group participants to withhold judgment before the group meets in order to develop consensus.

Mr. Savage introduced the proposed principles to the group:

1. Borrowers have a variety of lending needs
2. Loans should be designed to be successful for the borrower
3. Borrowers should be aware of all costs and obligations that are part of their loan
4. Not all consumers need the same degree of protection
5. Not all loans and lending institutions are the same
6. Oregon's economy depends upon a healthy mortgage lending industry
7. Regulation should be limited to that needed to achieve the desired outcomes

The group made a few modifications and additions to the principles, which will be emailed, posted on the website, and provided at the next work group meeting.

The new additions to the principles were as follows:

- Resources should be sufficient to enforce the laws to achieve the desired outcomes
- A strong lending industry should be based on good faith and fair dealing by all participants

Phil Goldsmith, attorney with the Law Office of Phil Goldsmith, raised concerns about the wording of Principle 4. Mr. Savage asked Mr. Goldsmith and Todd Williams, with the Evergreen Ohana Group, to work together on the language for Principle 4.

There was general agreement on the principles.

Mr. Savage identified initial issues and potential problems that need to be addressed. Ms. Streisinger mentioned that these issues are worthy of discussion as part of the work group agenda, but this does not mean that each must be addressed with legislation.

The initial issues were:

1. Benefits to the borrower if a loan is refinanced
2. Best loan for a borrower's circumstances

3. Clear disclosure of all fees and costs
4. Determining the borrower's ability to make the loan payments
5. Use of prepayment penalties

The group made a few modifications and several additions to the issues, which will be emailed, posted on the website, and provided at the next work group meeting.

Additions to the issues were:

- Enforcement
- Obligations of mortgage brokers to borrowers
- Compensation, fees, and terms
- Loan originator/loan officer education
- Consumer education/financial literacy and counseling
- Which loans, which lenders are regulated by which agencies; level playing field
- Complementary with federal standards

There was general agreement on the issues.

Mr. Savage moderated group discussion regarding the issue of "benefits to the borrower if a loan is refinanced." He requested that someone from the industry give their perspective on this issue – how the refinancing worked in practice and what problems the industry has seen.

Eric Wiley, with Pacific Residential Mortgage, discussed the tangible benefit for refinance transactions. He said several states have instituted a new tangible benefit form in the last 12 months. All the forms from other states were generally the same and identified things such as: a better interest rate, cash-out above a certain threshold, lengthening of the term, fixing an adjustable rate, or some other benefit. The forms generally did not have a safe haven for the lender, to allow a consumer that still wants to proceed with a loan they deem beneficial and qualify for, but that the loan originator does not believe to be of benefit to the borrower.

Mr. Wiley recommended that in addition to other states' good examples of forms, Oregon places an 'other' box on the form to confirm that the consumer has acknowledged that he or she sees the benefit in the loan and why. In general, most mortgage lenders are already working with people toward a benefit in refinance transactions.

Mr. Savage asked Mr. Wiley about the problems that occurred recently and their causes.

Mr. Wiley believes that rapid market appreciation has made consumers and lenders used to this market. People have the idea that they can take a lower payment in trade for a loan that isn't being paid down or amortized fully because the value of their home will continue to

appreciate.^[VR1] Consumers think they are making a good decision at the time of the purchase, but later see that maybe it was too aggressive a decision.

Participants continued to discuss the issues related to benefits to the borrower if a loan is refinanced, including the following:

- Taking out a loan with the expectation of constant appreciation
- Automated Underwriting System (AUS)
- Equal Credit Opportunity Act
- Discussion of advantages and disadvantages of refinance loans
- Borrower's statement of benefit and detriment
- The status of current disclosures
- Trigger points/ One-page summary sheet of benefits to refinancing
- Measurement of benefit
- Prohibition of some loans for some borrowers or restriction of use
- Suitability
- Focus on risk
- Education/classes before certain loans are given; high cost triggers; HUD

Throughout the discussion about "benefits to the borrower if a loan is refinanced," participants engaged in "Q&A's" and some of the topics related to this issue include:

- The point at which the loan originator factors in the borrower's education and understanding level; the Equal Opportunity Act; (under the act loan originators cannot refuse a loan to a consumer if they are approved even if there is no benefit to the borrower)
- The possibility of discussing with clients the advantages and disadvantages of moving forward with a loan
- Requirement to have the borrower write in his or her own handwriting what the benefit/detriment of the loan might be (unethical loan originator cannot take advantage of consumer)
- ARM disclosures and the availability of a side-by-side comparison; it was offered that there was no standard disclosure, and the side-by-side comparison was mostly done on a yellow pad
- Summary statements in a disclosure that would identify major trigger points; suggestion was made that maybe people are missing the major points in the large disclosure; HUD and Washington are requiring a summary sheet/major points; currently, the closest to a summary sheet is the Truth in Lending Statement, but the index does not show the worst case – it is not required

- Public policy problem - too often there are incentives for short term rather than long term decisions regarding loans; there is more benefit in the long term; many people are stuck in the month to month hump and cannot accumulate wealth
- Restrictions of loans to consumers; people should not be prohibited to obtain certain loans; it is impossible to ban loans from consumers because of out of state loan originations
- Whether more disclosure is useful (more disclosure could be useful depending on how it is presented)
- Risky loans; the problem could be addressed through education for the borrowers and for the industry; certain triggers (high cost loan, for example) should require mandatory counseling for borrowers

Mr. Savage proposed to form a subcommittee of four to six people to tackle the above-mentioned list of issues regarding the benefit to the borrower if a loan is refinanced. Their goal will be to see whether people can find agreement on these issues and come back to the full group for a response.

For the next meeting, the work group will continue to discuss the list of issues and will form subcommittees to refine the issues.

People who are appointed to the first subcommittee should work on the first issue between now and the next meeting of the full work group. Mr. Savage asked participants to email him if they were interested in being on the subcommittee.

A schedule for the next meetings will be sent out soon.

The next work group meeting will take place on May 8, 2008 from 10 a.m. to 12 p.m. in conference room 260 of the Labor & Industries Building.

Page: 4
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