

Commercialappeal.com – Memphis, TN

Parts of anti-predatory lending bill dropped

By David Flaum
February 16, 2006

Anti-predatory lending advocates have dropped several proposed pieces of a model comprehensive lending bill after talks with banking and mortgage industry people.

But they still hope a wide-reaching law will be passed in this session of the Tennessee General Assembly, Webb Brewer, a coalition member, told the Memphis Shelby County Anti-Predatory Lending Coalition Wednesday.

Even with several dropped provisions, at least one group, the Tennessee Bankers Association, isn't jumping in to support the legislation.

Most of the changes came at the suggestion of the TBA, Brewer said.

For example, the prohibition on prepayment penalties envisioned in the law would be restricted to high-cost loans -- those with fees of more than 5 percent of the loan amount or an interest rate 8 percentage points or more higher than the 10-year Treasury note rate.

"This is where just about all the abusive lending is going on anyway," Brewer said.

Because of the administrative difficulties it would cause for lenders, the coalition dropped backing for judicial foreclosure of high-cost loans, he said.

And to get around the authority that federal regulators claim over national banks when it comes to state laws, the proposed law wouldn't apply to them or, by extension in state law, to state chartered banks, Brewer said.

"About 95 percent of predatory lending is by nondepository (nonbank) institutions -- mortgage and finance companies," he said. "That's where the real problem lies."

While sponsorship of the anti-predatory lending bill isn't certain, Brewer said he expects Sen. Roy Herron, D-Dresden, to sponsor legislation in the Senate.

The Senate was in session Wednesday and Herron could not be reached for comment.

The coalition-proposed changes help, said Tim Amos, general counsel of the Tennessee Bankers Association, "but it doesn't get over our bigger concern . . . is this really the right approach?"

With a comprehensive law, Amos said, "You take a group of borrowers, no matter whether they're high risk or substandard, and define high-cost loans in a way that you put so many hurdles in front of making those loans that they would be stupid to lend money under those circumstances."

Issues get thrown to trial lawyers, juries and judges to determine, Amos said, and lenders hate that kind of uncertainty.

Instead, it would be better to focus on what the problems are and whether there are more direct ways than a predatory lending law to get at them.

A good example: The Tennessee law giving the Department of Financial Institutions the power to license, supervise and sanction mortgage brokers. That will have an impact on improper lending practices, Amos said.

Nonetheless, he did have a compliment for the pro-law group.

"The coalition has really made a lot of progress ... in alerting people to the bad actors and letting them know how to protect themselves," Amos said.

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PREDATORY LENDING SCHOLARSHIP COMPETITION

Organizer: Memphis-Shelby County Anti-Predatory Lending Coalition.

For: High school students.

Divisions:

Essays of 500 words or less.

Posters with drawing, photo or other visual depiction.

Prizes: Scholarships of \$500, \$250 and \$100 in each division to be used for any school-related expenses, from tuition to books to computers.

Entry deadline: April 3.

Applications: Martha Perine, Federal Reserve Bank of St. Louis, Memphis branch; Prof. Julie Heath, University of Memphis; and school guidance counselors starting next week.

Sponsors: Center for Economic Education, U of M; Federal Reserve Bank of St. Louis, Memphis branch; Memphis Fair Housing Center; Memphis Consumer Credit Association.

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