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Trends & Analysis

Predatory Lenders Might Be In for a Hit This Year

ANDY MEEK | *The Daily News*

When it comes to state laws that curb predatory lending, Memphis attorney Webb Brewer first suspected Tennessee was behind the pack when homeowners with delinquent mortgages began flocking in droves to his nonprofit group, Memphis Area Legal Services.

Their mortgages were in default, not because they were swamped with medical bills or were unemployed, but because they had become ensnared in unscrupulous loans they could no longer afford. MALS quickly began looking for ways to challenge some of those loans in court.

"But it would be a lot easier and more direct if there was a state law," said Brewer, general counsel and director of advocacy for MALS, which has more than 20 cases pending in federal court related to predatory lending.

Preying on the predators

Because of the persistence of industry experts like Brewer and support from local lawmakers - both in Memphis and Shelby County and beyond - interest continues to simmer among state legislators to make that a reality. The Memphis City Council and Shelby County Commission have both supported resolutions backing a state predatory lending law in recent weeks.

Brewer was among a group that met with Gov. Phil Bredesen last month to discuss the issue. One of the strongest signs that legislation could be in the works sometime this year is that Bredesen "expressed openness" to the idea, Brewer said, a major change in the administration's thinking.

"I know there are efforts ongoing right now to try to persuade the administration that this is something that's necessary to protect the interest of citizens," Brewer said. "It's a big problem for thousands of families who are getting victimized, and a lot of them are seniors who have saved, paid on a home and then put it at risk by entering into one of these loans."

When needs outweigh logic

When home mortgage lenders aggressively reached out in the 1990s to draw underserved populations into the home buying market, it meant extending loans to people with shaky credit. And they're among the most at-risk consumers for getting caught up in predatory loan arrangements, according to the MemphisDEBT Collaborative.

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Formed in 2001, the collaborative defines predatory lending as loans that "intentionally use misleading features and marketing tactics to create a debt that results in a negative impact on the consumer, neighborhood and the community."

The loans come with everything from hidden fees to balloon payments and high interest rates. And what's worse, billboards, flyers, radio and television advertisements bombard almost every neighborhood in the Memphis area with offers for predatory loans, according to the group.

Self-interest, morals collide

The collaborative has more than 160 members representing a cross-section of the government and business communities in Memphis. It's one of several local organizations that's cracking down on shady loan practices.

For Brewer and others, the fundamental question in that effort is a moral one. As he put it, does the state have a moral duty to help people with predatory loans or to preserve the status quo?

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"There have been some federal laws introduced, but nothing is really going anywhere," he said. "State laws are the only place where there's been protection for consumers. And I think half of the states have enacted some form of comprehensive anti-predatory lending legislation."

Considering the options

One barrier apparently has been a misconception about the scope of the problem. There are 15,000 mortgage brokers operating in Memphis, according to Beth Dixon, president of the RISE (Responsibility, Initiative, Solutions, Empowerment) Foundation. There are only 30,000 in the whole state.

Jacqueline McFerren, who started her own mortgage company, Lifetime Funding, in Memphis in 1997, said particular areas of the city are most at risk.

"It's in places like Frayser, around Lamar Avenue - lower-income areas where people aren't really abreast of what's going on," she said.

But so much has been published about the prevalence of fly-by-night mortgage lenders and victims of shady loans in Memphis, Brewer said he thinks many people see the problem as a Memphis one.

Signed in blood

However, research from the North Carolina-based Center for Responsible Lending tells a different story.

"Some of that shows that rural areas are perhaps hardest hit with having loans that include some of the worst terms," Brewer said.

Local campaigns like the Don't Borrow Trouble Memphis effort are still reaching out to educate unsuspecting borrowers, but MALS official Jackie Cobbins said more still needs to be done. Don't Borrow Trouble Memphis, which started in 2004, was essentially an informational program designed to help people avoid being scammed.

It was launched by a group that included Memphis Mayor Willie Herenton, Shelby County Mayor AC Wharton Jr., Freddie Mac and other public and private organizations.

"Most of the people who come to us, we can't help," Cobbins said. "They've signed a contract. They didn't know what they were signing, but they signed it."

Industry experts said the best help that is available to people comes on the front end, before the contract for an abusive loan is ever signed and an individual's finances are transformed, literally and figuratively, into a house of cards.

"It is a real big, big problem here," Brewer said. "It's especially a big problem in communities that have high concentrations of racial minorities and seniors. Marketers are pretty sophisticated about being able to find out the demographics of areas, and I think those are the areas that really get targeted."