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Spitzer, NYRL go after sub-prime lenders

By ROY KILKEARY
Gazette staff writer

The advocacy group New Yorkers for Responsible Lending proposed legislation last week to help stop sub-prime lending to under-informed consumers.

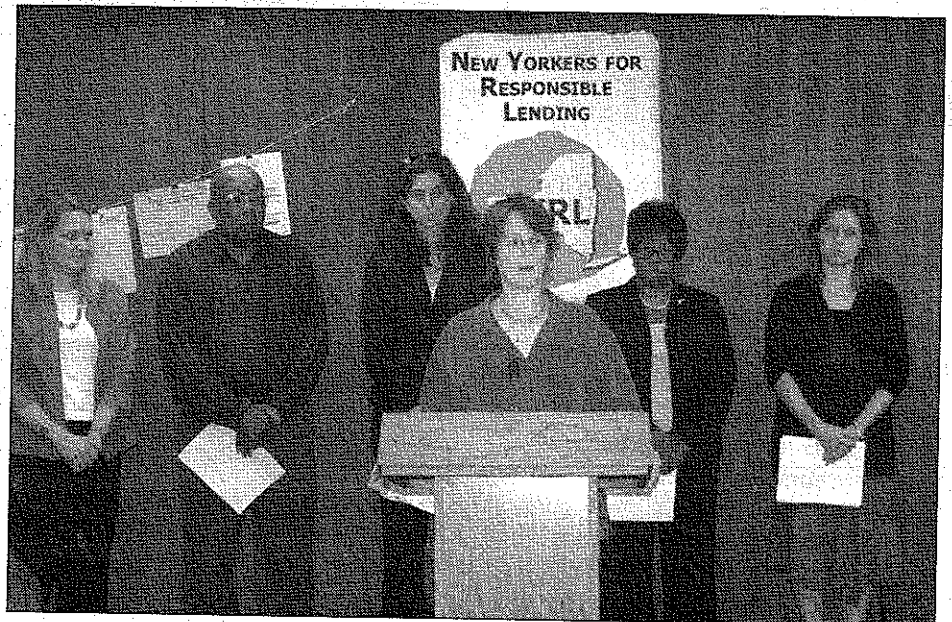
The proposed bill would require loan officers to demonstrate the borrower's ability to pay the loan and include principal, interest, real estate taxes, homeowner's insurance, assessments and mortgage premiums in monthly payments.

Sub-prime lending involves extremely high interest rates usually given to those with poor credit. According to NYRL, an estimated one in five sub-prime loans end in foreclosure.

A sample loan on display at NYRL's press conference showed that on a \$463,083 home loan, the interest would be 10.620 percent, creating more than \$1.4 million in interest fees over the lifetime of the loan, and resulting in a \$325,000 balloon payment — an additional lump sum payment or series of higher monthly payments — at the end of the mortgage.

The bill would also prevent mortgages where monthly payments do not cover the full interest incurred and the borrower ends up accumulating surplus interest costs monthly.

"We are seeing a range of abusive and fraudulent mortgage lending practices, from rampant broker fraud to lenders making unaffordable, high-cost mortgages that virtually guarantee homeowners will lose their homes," said Meghan Faux, co-director of the Foreclosure Prevention Project at South



Gazette photo by Roy Kilkeary
Sarah Ludwig of the Neighborhood Economic Development Advocacy Project and other advocates speak at a press conference about legislation to protect consumers from predatory lending.

Brooklyn Legal Services.

These loan agreements are often entered into under false pretenses, or with promises of low interest rates and no mention of huge interest increases in several years resulting in extraordinarily high monthly payments, say the members of NYRL.

"My broker lied to me about the terms of the mortgage and now I am in a mortgage I can't afford," said Edward Jordan, a 78-year-old retired postal employee and resident of Brooklyn. "I had a fixed rate mortgage before and would never have refinanced into this mortgage had I known the true terms. Now I can't sleep at night because I am worried about losing my house."

Gov. Eliot Spitzer is also looking to get tough on predatory lenders, announcing

recently the creation of an interagency task force to deal with the widespread problem for home buyers.

"Lending practices that prey upon the public cannot and will not be tolerated," Spitzer said. "This task force will take a comprehensive look at the sub-prime lending industry and recommend steps to protect borrowers, particularly minorities and the elderly."

In many instances first-time home buyers are unable to make their mortgage payment when the economy takes a downturn and end up seeing their homes foreclosed upon.

The task force to Halt Abusive Lending Transactions, or HALT, will try to identify people most at risk, develop loan and refinancing programs to help those whose

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NYRL

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current loans are not in their best interest, create a public education and outreach campaign, identify companies involved in racial or age discriminatory loan steering, and pursue penalties against companies involved in illegal conduct.

HALT will be chaired by state Banking Superintendent Richard H. Neiman. Also serving on the committee will be the heads of the State of New York Mortgage Agency, the Division of Human Rights and the Consumer Protection Board, as well as representatives from the

governor's executive chamber.

Input from community, advocacy, law enforcement and industry groups will be considered by the task force, which is in the process of holding day-long community meetings to bring these stakeholders together to discuss the problem in local areas.

The first of these meetings was held in New York City on April 11, with the next planned to occur this summer in Buffalo.

"By taking this grassroots approach to understanding the regional challenges facing New Yorkers, we learn firsthand how our current laws and regulations impact borrowers and whether any

legislative or regulatory changes are needed," said Neiman.

"The flip side of our mission to assist people in purchasing their first home is to help them keep their home, and to make sure their housing costs are affordable," said Priscilla Almodova, president and chief executive officer of the New York Housing Finance Agency and State of New York Mortgage Agency.

Assemblywoman Audrey Pheffer, D-Far Rockaway, chairwoman of the consumer affairs and protection Committee, said she considers sub-prime loans an important issue and will be attending a hearing Tuesday to discuss the issue with involved parties.

"It sounds like much of what they [NYRL] are asking for are things that we are considering," said Pheffer, but she warned that it would be hard to craft new regulations that would apply to both federal and state banks.

"We're limited in that certain items are pre-empted by federal law," said Pheffer.

She also stressed the importance of educating the public and said it is "much of what consumer affairs has to do."

"It's a very, very difficult topic, not only to legislatively correct, but for the heartache that so many consumers are going through from making unfortunate mistakes," said Pheffer.

Group seeks sponsor for legislation on anti-abusive subprime lending

The Business Review (Albany) - Wednesday, May 23, 2007

A coalition of 131 civic and community groups is calling for New York lawmakers to pass a bill aimed at stopping abusive subprime lending practices.

The alliance, New Yorkers For Responsible Lending, has drafted the legislation, but has not yet found a sponsor in either the state Senate or Assembly. Bill Ferris, spokesman for AARP in Albany, N.Y., said the coalition is in talks with the administration of Gov. Eliot Spitzer and the banking committees of both houses.

Provisions include a requirement that lenders verify a borrower's ability to repay the loan, both at the outset and when the interest rate changes; a legal duty for brokers to act in the borrower's interest; a requirement that lenders put property taxes and mortgage insurance in escrow; and prohibitions against abusive terms such as balloon payments, prepayment penalties and negative amortization.

"The Legislature must act now to stem the foreclosure crisis that's been mounting in our state," said Sarah Ludwig, executive director of the Neighborhood Economic Development Project, a coalition member in New York City. "The coalition's bill updates our existing laws in New York, which do not capture the array of abusive practices that now pervade the subprime and exotic mortgage markets."

The problem has gotten the attention of legislators. The state Assembly has scheduled a hearing for May 29 in Albany, to examine subprime lending practices in the state and discuss what improvements should be made in law or regulation. The hearing is the first in a series, but future dates and locations have yet to be announced.

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when the interest rate spikes. Brokers would also have to, by law, act in the borrowers best interests. Balloon mortgages, and penalties for trying to pay off the loan early would be prohibited. The Attorney General and State Banking Superintendent would enforce the laws.

Governor Spitzer has set up a task force to study the problem of predatory lending, but the group has not yet produced legislation. The groups say they realize, with just 15 days left in the legislative session, their measures stand little chance of becoming law.

In the meantime, Ortiz says he feels "embarrassed" about getting himself into a bad financial deal, and Jordan says he can't sleep nights because he worries about losing his home.

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State law urged to reduce home foreclosures

Mortgage lenders should be required to fully assess borrowers' ability to repay, civic groups say

By Eric Anderson, Deputy business editor
First published: Thursday, May 24, 2007

ALBANY -- Lenders would be required to make sure a borrower could afford to repay a mortgage -- including taxes, insurance and fees -- under legislation proposed Wednesday by a coalition of community and civic groups.

While that seems like Banking 101, New Yorkers for Responsible Lending says too many brokers are ignoring the fundamentals or committing outright fraud. The result: Borrowers are stuck with loans they can't afford.

"The Legislature must act now to stem the foreclosure crisis that's been mounting in our state," said Sarah Ludwig, executive director of the New York City-based Neighborhood Economic Development Advocacy Project, a coalition member.

The legislation also would require that brokers act in the borrower's interest and would prohibit such terms as balloon payments, where the balance of a mortgage comes due all at once.

"We are seeing a range of abusive and fraudulent mortgage-lending practices, from rampant broker fraud to lenders making unaffordable, high-cost mortgages that virtually guarantee homeowners will lose their homes," said Meghan Faux, co-director of the Foreclosure Prevention Project at South Brooklyn Legal Services.

The Assembly will hold a series of hearings on the topic, with the first one at 10:30 a.m. Tuesday in Hearing Room B at the Legislative Office Building.

"We definitely want to look at the scope of the problem to see what it is we can do," said Sisa Moyo, an Assembly spokeswoman. "We want to make sure that we have something that's effective."

Peter Edman, director of the Senate Banking Committee, said the panel, chaired by Sen. Hugh Farley, R-Niskayuna, would review the testimony from the Assembly hearings.

The coalition met with Farley's staff Wednesday afternoon and will offer proposed legislation in the next day or two, Edman said.

The state law wouldn't cover nationally chartered banks, lending institutions or their subsidiaries.

And the coalition's effort comes with just four weeks left in the current legislative session, leaving little time for action this year.

Some think it's already too late for legislation. "The horse is already out of the barn, and I don't think they get that," said Tracy Petersen, a counselor with the nonprofit Affordable Housing Partnership in Albany.

Petersen counsels people who are facing foreclosure. Where she once saw four people a month, she now sees as many as three a day.

Petersen also would like to see a foreclosure moratorium so banks could review individual troubled loans and restructure those that could be salvaged.

"The banks can restructure the deals that make sense," she said. But, she added, "I don't think everybody's home can be saved."

Petersen said it's often a challenge finding out just who holds the loan.

The coalition, meanwhile, said brokers and lenders often don't return phone calls, claim that documents faxed to them are missing, or that applications have been lost.

Officials at the New York Association of Mortgage Brokers could not be reached for comment.

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Let's KO loan thugs who prey on needy

By Errol Louis
Daily News Columnist

Thursday, May 24th 2007

Even with a national spotlight shining on predatory lenders, scam artists in the mortgage business continue to use fraud and trickery to rip off low-income New Yorkers, especially senior citizens.

Yesterday, a statewide coalition of 131 consumer and neighborhood groups called New Yorkers for Responsible Lending declared war on the predators at a press conference in Albany. Lawmakers need to heed their urgent call for new laws to prevent the mortgage sharks from doing to others what they've done to Edward Jordan.

Jordan, a retired postal worker, was living comfortably in his Bedford-Stuyvesant, Brooklyn, home - a place he'd bought for \$40,000 back in 1975 - relying on his monthly pension check and money from two tenants, one of them his granddaughter, to keep up with the payments on his mortgage.

But Jordan's granddaughter recently lost her job and couldn't pay rent, and the 78-year-old owner met, at the suggestion of a neighbor, with a broker from a company called Apex Financial Group.

Big mistake.

The broker talked Jordan into refinancing his plain vanilla, fixed-rate 6% mortgage in March of this year with a 1% loan that looked cheaper - but the rate zoomed up after just two months to more than 8%. Jordan's monthly payments increased to \$2,600 from \$1,347.

It quickly dawned on Jordan that something was wrong and that he could lose his home. On closer examination of his loan, he says, it turned out the Apex broker had claimed the retired postman was making \$8,000 a month in order to push through a \$375,000 loan - far more than he needed, at a rate he can't afford.

"Everyone involved really misled him," says Jordan's lawyer, Megan Faux of South Brooklyn Legal Services, who's considering a lawsuit against Apex. "There's rampant fraud, deceptive practices, violations of the Truth in Lending laws. These kinds of loans are completely unsuitable for borrowers who are living on a fixed income."

Faux says she's seen half a dozen cases like Jordan's in the last couple of months.

"New York must wake up to this issue right now," says Sarah Ludwig of the Neighborhood Economic Development Advocacy Project, a consumer-rights group. "We cannot have any more brokers and companies exploiting low-income New Yorkers. We don't have the luxury of time."

That's putting it mildly. Some studies suggest 15,000 homeowners in New York City could be facing foreclosure after taking on loans they can't possibly repay. The typical victim is a senior citizen who falls victim to brokers using fast talk and fake numbers to convince borrowers they're getting a bargain.

Model legislation suggested by Ludwig's group and others would prohibit brokers and lenders from giving balloon loans and interest-only loans to people on a fixed income.

Most importantly, lenders would have to certify that borrowers could truly afford the loan being offered to them - not just the super-low introductory teaser rates like 1%, but the true cost of the loan that hits when the rate rises. Violators would face stiff fines.

"It's caused a lot of sleepless nights. I feel like an idiot for signing the wrong papers," Jordan told me yesterday. On the contrary, he should be praised for quickly going public with his experience to prevent others from falling into the same trap.

The question of the hour is whether the Albany pols - especially those who represent the inner-city neighborhoods where these scams are concentrated - are going to take action, or stand idly by as constituents lose their homes.

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AMERICAN BANKER

Mortgage Production News and Trends

Thursday, May 24, 2007

By Kate Berry, William Launder, Harry Terris and Marc Hochstein

Prime Time

Richard Powers, the general manager of **GMAC LLC's Ditech** unit, said the direct-to-consumer lender's new "People Are Smart" advertising campaign is meant to better align the Ditech brand with prime lending in the minds of borrowers.

"We have a very large cross section of folks who know Ditech, they've seen our ads, but they don't pick up the phone and call us because they perceive us as a subprime company," Mr. Powers said Tuesday at Ditech's Costa Mesa, Calif., headquarters.

That perception was the reason Ditech [ditched](#) a character in its television ads — that goofy banker who bemoaned that he "lost another loan to Ditech" — late last year.

The new television, newspaper, and radio campaign is designed "to make sure our products are much more clearly aligned with who we are," Mr. Powers said. It was created by **Keith Goldberg**, Ditech's senior vice president of marketing, who oversaw **Capital One Financial Corp.**'s "What's in Your Wallet?" campaign.

April was Ditech's best funding month since October 2005, said Mr. Powers, who joined the lender in August from **Metrociti Mortgage Corp.**

"The fallout from subprime has helped our business," he said. "Consumers migrate towards brands they trust."

Foreign Exchange

The Santa Fe, N.M., real estate investment trust and prime lender **Thornburg Mortgage Inc.** has introduced a jumbo and super-jumbo loan product for affluent foreign nationals interested in purchasing a second home in the United States.

To qualify for the loan, borrowers must have a bank account in the United States and either a Social Security or individual taxpayer identification number.

Borrowers without credit reports can use the loan to finance up to 60% of the home's value — or 100% if they can pledge eligible investments in lieu of a down payment.

Joseph H. Badal, the president and chief executive of Thornburg's lending unit, said in an interview Tuesday that few other lenders served high-end foreign homebuyers.

Many of these customers buy second homes in the United States as a safe haven for some of their money, he said. They often work for multinational companies and spend a lot of time in a U.S. office; sometimes

they come from countries where credit reports are not available.

Thornburg also has joined the [growing list](#) of companies that offer hybrid option adjustable-rate mortgages. The rate on Thornburg's version is fixed for the first three to 10 years and the term ranges from 15 to 40 years.

Mr. Badal called the loan ideal for consumers with high credit scores who want to make interest-only payments for 10 years before treating the loan like a fully amortizing 30-year note. Thornburg stressed that the product was not intended for first-time homebuyers who could not afford the 80% combined loan-to-value.

Option ARMs usually start adjusting after the first year. Thornburg already offered a regular option ARM, but Mr. Badal said the product was "not one we have pushed." (Thornburg's traditional option ARM is not available to foreign nationals.)

Speedy Solution

Jim Gladden, an executive vice president with **ATM Corp.**, a vendor management company, says there has been "a significant [migration](#) to a managed approach" for appraisals in the past couple years.

The problems in the subprime market have created "even more significant demand" for a "truly arm's-length evaluation of the collateral as opposed to just using approved appraisers that the loan officers have relationships with," he said.

However, Mr. Gladden said, lenders have shown "resistance" to "using a vendor management company to perform appraisals" because it makes loan officers feel "out of the loop." The "perception" among loan officers is that hand-picked appraisers with whom they have established relationships produce quick turnarounds, he said.

Today his Pittsburgh company will announce the availability of a package that it says preserves elements of loan officer control while ensuring arm's-length valuations.

The Streamlined Settlement Package also cuts the time between application and closing to as few as six days, or "four days faster than its nearest competitor," ATM Corp. says.

The package lets loan officers schedule guaranteed appraisal appointments — specific to date and time — with the borrower at the time of application. Appointments can be scheduled for as soon as two days after an order is placed. Competing vendors may take up to two days to confirm an appointment, Mr. Gladden said.

"We're giving the lenders days back in the process" so they can "close more loans in the same 20-day business month," Mr. Gladden said.

The package also includes an electronic document-management system and steps that shorten the title process. All told, it should let lenders schedule closing at the time of application, Mr. Gladden said. ATM Corp. pilot tested the package with a lender whose "traditional cycle time" was shaved by "10-plus days" in certain markets, Mr. Gladden said.

Schumer Mirrored

New Yorkers for Responsible Lending, a coalition of 131 civic and community organizations from

across the state, presented legislation in Albany Wednesday aimed at curbing predatory subprime lending.

The group says it is seeking sponsors for the bill in the **New York State Assembly Banking Committee**, the **New York State Senate Banking Committee**, and the administration of **Gov. Eliot Spitzer**.

The bill, similar to a [federal one](#) backed by New York's senior senator, **Charles Schumer**, would require lenders to escrow property taxes and mortgage insurance and verify borrowers' ability to pay loans. It would also prohibit abusive terms like balloon payments, the group said.

"The legislature must act now to stem the foreclosure crisis that's been mounting in our state," **Sarah Ludwig**, executive director of the **Neighborhood Economic Development Advocacy Project** and a spokeswoman for the coalition, said in a [press release](#).

The coalition cited the experience of a 78-year-old retired postal worker whose broker allegedly lied to him about the true costs of refinancing.

"Now I can't sleep at night because I am worried about losing my house," the retiree, **Edward Jordan**, said in the release.

From FBI to Fannie

Louis J. Freeh, a former director of the **Federal Bureau of Investigation** and executive of **MBNA Corp.**, has been elected to the board of **Fannie Mae**.

Mr. Freeh ran the FBI from 1993 to 2001, and was the general counsel, corporate secretary and ethics officer at MBNA from 2001 to 2006. (**Bank of America Corp.** bought MBNA last year.)

The eighth new director elected to Fannie's board since 2004, he sits on the compliance and compensation committees.

Mr. Freeh, who runs an eponymous consulting firm, is also a director of **Bristol-Myers Squibb** and **L-1 Identity Solutions**.

Quotable ...

"Who made this mess? ... People who get a commission when the deal happens. ... Good loan? Bad loan? Who cares? ... Frankly, it's too easy to hang a shingle and call yourself an expert in mortgages. We need licensing of brokers."

John M. Robbins, the chairman of the Mortgage Bankers Association, [speaking](#) at the National Press Club on May 22 on the causes of the subprime debacle.

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Coalition Wants New Laws Against Predatory Lending

Karen DeWitt

ALBANY, NEW YORK (2007-05-23) A coalition of groups is pushing legislation to crack down on predatory lending practices in New York that they say has caused an epidemic of foreclosures.

Edward Jordan, a retired postal service worker, owns a three story brownstone in the Bedford Stuyvesant neighborhood of Brooklyn. When his granddaughter, who lives in the first floor apartment, lost her job earlier this year and could no longer pay rent, he decided to re-finance his 6.125% mortgage loan to help make his monthly payments. Jordan said a company named APEX told him he could get a 1% interest rate mortgage.

"I didn't understand everything she said," said Jordan, who said he relied on the broker's assurances that the loan was everything she had promised.

"At the closing, the bank lawyer told me that I was getting \$180,000 in cash. I was very surprised," he said.

Jordan was even more surprised to learn that his interest rate was 8%, and could go up even higher, that he'd paid \$20,000 in closing costs, and the broker had lied, and inflated his income on the forms, so it looked like he could afford the loan.

Victor Ortiz, a school custodian from Rochester, said he had good credit and little debt. He had a 12.5%, 15-year mortgage, and decided to look into getting a lower rate. He talked to a broker, but rejected the loans offered as too costly. Then, he said the broker called him back, with an offer that seemed too good to be true. It was. He thought he was getting a fixed rate, low interest mortgage, with the taxes and insurance escrowed, and the ability to pay off the loan early. Instead he got an adjustable rate mortgage that starts at over 8%, no escrowed account for taxes, and he would face penalties if he tried to pay it back early.

"I will almost pay an extra \$100,000 to pay off my balance," said Ortiz.

While both Jordan and Ortiz are being assisted by legal justice centers, their lawyers say there is little recourse in the courts, because there are few laws against any of the practices employed by the lending companies and brokers.

Sarah Ludwig, with the Neighborhood Economic Development Advocacy Project, says Jordan and Ortiz are among thousands of New Yorkers who've signed up for loans that they can't afford to pay back. She says while it's clear crimes are being committed, it's often hard to prove.

"You end up in these situations where it's 'he said, she said'", said Ludwig. "It is fraud. There's no question. Some of us believe it's criminal fraud."

New York has an anti-predatory lending law, but advocates say it has not kept pace with the newest shady practices. They want new laws that say lenders have to actually verify that borrowers can repay the loan

when the interest rate spikes. Brokers would also have to, by law, act in the borrowers best interests. Balloon mortgages, and penalties for trying to pay off the loan early would be prohibited. The Attorney General and State Banking Superintendent would enforce the laws.

Governor Spitzer has set up a task force to study the problem of predatory lending, but the group has not yet produced legislation. The groups say they realize, with just 15 days left in the legislative session, their measures stand little chance of becoming law.

In the meantime, Ortiz says he feels "embarrassed" about getting himself into a bad financial deal, and Jordan says he can't sleep nights because he worries about losing his home.

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