

TESTIMONY OF

STEVEN L. ANTONAKES

MASSACHUSETTS COMMISSIONER OF BANKS

On behalf of the

CONFERENCE OF STATE BANK SUPERVISORS

On

“SUBPRIME AND PREDATORY LENDING: NEW REGULATORY GUIDANCE, CURRENT
MARKET CONDITIONS, AND EFFECTS ON REGULATED FINANCIAL INSTITUTIONS”

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Introduction

Good morning, Chairman Maloney, Ranking Member Gillmor, and distinguished members of the Subcommittee. My name is Steven L. Antonakes, and I serve as the Commissioner of Banks for the Commonwealth of Massachusetts. I am also the Chairman of the State Liaison Committee (SLC), making me the newest voting member of the Federal Financial Institutions Examination Council (FFIEC).¹ It is my pleasure to testify today on behalf of the Conference of State Bank Supervisors (CSBS).

CSBS is the professional association of state officials responsible for chartering, supervising, and regulating the nation's 6,206 state-chartered commercial and savings banks, and 400 state-licensed foreign banking offices nationwide. For more than a century, CSBS has given state bank supervisors a national forum to coordinate, communicate, advocate and educate on behalf of state bank regulation.

In addition to regulating banks, 49 states plus the District of Columbia currently provide regulatory oversight of the residential mortgage industry. The one exception is Alaska, which is currently working toward a legislative solution. Under state jurisdiction are more than 90,000 mortgage companies with 63,000 branches and 280,000 loan officers and other professionals.² In recent years, the states have been working diligently to improve supervision of the residential mortgage industry. Despite these ongoing efforts, there are numerous problems in the mortgage lending system significantly impacting consumers in this country as evidenced by the need for this Committee's hearing today.

¹ The Federal Financial Institutions Examination Council (FFIEC) is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) and to make recommendations to promote uniformity in the supervision of financial institutions. The FFIEC website is <http://www.ffiec.gov>.

² The above numbers do not include the State of California's Department of Real Estate's approximately 480,000 licensed real estate agents who could also function as a mortgage broker under their license.

The United States did not arrive at the current disarray in the residential mortgage market overnight and no single party is fully responsible for our current situation. CSBS believes the rapid and drastic changes in the industry created an environment of negligence in lending practices and increased borrower confusion. States stepped in to act as the primary regulator in this new industry, but have been, and continue to be, hampered by federal preemption. State regulators do not eschew responsibility, but Congress, federal regulatory agencies, mortgage lenders and brokers, insured depository institutions, and borrowers must all accept a measure of responsibility for aiding in the creation of our current residential mortgage marketplace.

Madam Chair, in my testimony I will address the recent evolution of the residential mortgage market. I will also address several actions being taken by state regulators to supervise the residential mortgage industry, including the development of a national licensing system, parallel guidance on nontraditional mortgage products, and the intent to develop a parallel statement on subprime mortgage lending, as well as how these and other state efforts have been impeded by preemption. I will also describe a few actions Congress can take to drastically improve the mortgage market.

Evolution of the Residential Mortgage Industry

The changes in the residential mortgage industry over the past twenty years have been dramatic and far-reaching. The mortgage market now has a bigger impact on the economy as a whole, has ushered in new players, and has created an explosion in product choices.

The volume of loan originations has increased drastically over the past two decades. This increase in loan volume was facilitated in part by advances in technology,

such as the automated underwriting systems, the increase of mortgage products available to the consumer, the evolution of the subprime market, and an expansion of the holders in the secondary market for mortgage securities, including international investors, hedge funds, and private equity funds.

Twenty years ago, federal and state regulated savings and loans originated most of the residential mortgages. Federal government-sponsored enterprises (GSEs) or agencies such as Fannie Mae, Freddie Mac, and the Federal Housing Administration (FHA) held a significant percentage of the market share and effectively set standards for the entire industry. Subsequent to the savings and loan crisis in the 1980s, the origination of mortgage loans shifted primarily to mortgage brokers and mortgage lenders.

Mortgage brokers and lenders are not a product of state government. However, state regulation, supervision and enforcement of the mortgage industry are creations of state government. Initially, these providers were unlicensed. But as the market grew, the number of players increased, and practices evolved, the states began requiring registration and licensing of providers. The state regulatory agencies are responding to the needs of the residential mortgage industry and mortgage consumers.

I am aware that some industry observers have referred to our current situation as a “broker problem.” Certainly, the marketing and sales practices of mortgage lenders and brokers, as well as increased accountability, need to be addressed. The coordinated state and federal guidance begin to address this situation. However, a mortgage broker is only as good as his or her ability to obtain funding for a loan. To that regard, the majority of loans now originated by mortgage brokers and lenders at the local level are in fact financed by Wall Street firms that operate at a global level.

The mortgage revolution has brought with it a number of good things: a vast flow of liquidity into the mortgage market, increased availability of mortgage credit, and higher rates of homeownership. It has also brought moral hazard, as the allocation of risk of a mortgage loan default became dispersed through complex contractual arrangements that began with the local mortgage broker, and ultimately ended with a Wall Street investor. This dispersal of risk created opportunities and incentives for some actors to engage in weak underwriting or fraud. As a result, there have been significant increases in fraud and foreclosures.

CSBS and state regulators believe this increase in product choice and loan characteristics are ultimately beneficial to consumers. An expanding variety of products and loan options increase the likelihood that a consumer will purchase a loan that best fits their unique financial situation. CSBS and state regulators are concerned, however, that underwriting standards have decreased nationwide while consumer protection provisions seem to be inadequate and our state efforts to improve them have been preempted. Additionally, with increasingly complex products, federal attempts at disclosure seem more geared toward protecting lender liability than providing clarity for consumers. The pace of product innovation has exceeded the pace of consumer education and understanding. Our concern is that consumers do not fully understand the characteristics and risks of the products they are purchasing and that some brokers and lenders have ignored the borrower's ability to repay the loan. Borrowers should be educated and share the responsibility to realize that their mortgage obligation is more than a monthly payment. Affordability means looking at the total cost of homeownership.

Federal Preemption Issues

Despite all the actions taken by the states on an individual basis and on a coordinated nation-wide basis, CSBS recognizes state supervision of the mortgage industry is still evolving. But we are frustrated in our efforts to protect consumers by the preemption of state consumer protection laws by federal statutes and federal regulatory agencies. The decision was made to preempt state laws in favor of developing laws that offer advantages to the financial services industry. Federal policies and procedures should support, not hinder the role of state supervisors. State legislatures have the right to expect the laws they passed to be followed by companies operating in their state. Preemption must be used for the benefit of both business and consumers. All too often, it seems, preemption benefits tip the scales too far in favor of businesses, leaving consumers at a disadvantage.

The OCC and the OTS have essentially undermined the states as the laboratory for innovation in the protection of their consumers. With the vast majority of assets under supervision falling under the federal charters and the expansion of preemption to subsidiaries, deemed “divisions” of the bank, and agents of thrifts, states have been neutralized in their response to predatory practices seen in their states. States have tried things as simple as prohibiting prepayment penalties on troublesome loans to solutions as innovative as providing for assignee liability for investment bankers that buy and securitize these subprime mortgages. Many have been blocked at the state level through claims of unfair treatment of state lenders or through threats of a legislatively generated credit crunch in the states. The OCC and the OTS have tried to make it crystal clear through their regulations that any state law that conditions what their federally-chartered institutions, subsidiaries of those institutions, or even agents of those institutions can do are

preempted and the states have no ability to enforce state laws against those institutions. State supervised lenders cry foul when the state legislators try and implement new consumer protections because their federal counterparts do not have to comply.

State Regulatory Responses

For years, the state banking system has been the laboratory for innovation and for developing the best practices in products and services and consumer protection. The states are best positioned to serve this role because it is at the state level that both businesses and consumers have proximity, access, and accountability from their regulatory agencies.

Despite the obstacles of preemption, as the mortgage industry has rapidly evolved, the states have played a more active role in its regulation and supervision. It is worth noting that the residential mortgage industry as we know it is relatively young. Therefore, state supervision of the industry is also relatively new. Conversely, state bank supervision in the United States has been in existence since the late 1700s. The first bank chartered in my home state of Massachusetts, the Bank of Massachusetts, was chartered in 1784. The charter was signed by Governor John Hancock and Senate President Sam Adams. Obviously, state bank supervision has had centuries to evolve and improve. State mortgage supervision grows and improves each day.

The actions taken by the states in response to the evolving mortgage market have focused on protecting consumers through development of licensing and supervision of mortgage brokers and lenders, legislation, and enforcement of consumer protection laws. Each day state regulators take enforcement actions against mortgage lenders and brokers for abusive lending. I have attached, as Exhibit A, a few illustrations of the efforts by state mortgage regulators to supervise and regulate this industry.

Recognizing, however, that many mortgage lenders and brokers operate on a multi-state or nationwide basis, the states, through CSBS and the American Association of Residential Mortgage Regulators (AARMR), are developing cooperative initiatives and tools to more effectively regulate the marketplace.

CSBS-AARMR National Residential Mortgage Licensing System

On a national scale, CSBS has partnered with AARMR to ensure that consumers are protected from fraudulent practices and receive adequate information regarding mortgage service providers. Over two years ago, CSBS and AARMR embarked on an initiative that will change the world of mortgage supervision. CSBS and AARMR are creating a national mortgage licensing system to improve the efficiency and effectiveness of the U.S. mortgage market, to fight mortgage fraud and predatory lending, to increase accountability among mortgage professionals, and to unify and streamline state licensing processes for lenders and brokers. Scheduled to begin operations on January 1, 2008, this system will create a single record for every state-licensed mortgage company, branch, and individual that will be shared by all participating states. This single record will allow companies and individuals to be tracked across state lines and over any period of time.

Last month, 29 states announced their intent to participate in the system by the end of 2009. CSBS expects several more states to announce their similar intent over the next few months. To my knowledge, no other regulator is developing or even contemplating such a system.

State mortgage regulators began discussing ways to bring more accountability and uniformity into state mortgage licensing beginning in 2003 and 2004. In January 2005

regulators began meeting on a monthly basis to create uniform license applications and began actual development of the national licensing system.

This national licensing system will also provide consumer access to a central repository of licensing and publicly adjudicated enforcement actions. This will allow homebuyers a central place to check on the license status of the mortgage broker or lender they wish to do business with, as well as a way to determine whether a state has taken enforcement action against that company or individual.

In June 2006, CSBS contracted with the National Association of Securities Dealers, Inc. (NASD) to develop this system. The NASD developed and now operates two national systems in conjunction with or for state regulators: the securities industry Central Registration Depository (CRD) ® and the financial planning and investment advisor industry Investment Adviser Registration Depository (IARD) ® system. The NASD brings significant expertise in developing and operating national licensing systems that are subject to state regulations.

Each state will continue to retain its authority to license and supervise, but the new system will eliminate unnecessary duplication and implement consistent standards and requirements across state lines. Additionally, the state agencies will be able to divert resources previously used for processing applications to more supervision and enforcement.

The system will provide immediate and profound benefits to consumers, the industry, and the state supervisory agencies. Consumers will have access to key information about the providers that they trust with the most important financial transactions of their lives. Honest mortgage bankers and brokers will benefit from the creation of a system that drives out fraudulent and incompetent operators, and from having

one central point of contact for submitting and updating license applications. Everyone benefits from a system that makes it easier to identify and punish the small percentage of dishonest operators in the mortgage industry.

Uniform Standards for Testing and Education

Another major initiative where states are leading is in the development of education and testing requirements for mortgage professionals. CSBS and AARMR are spearheading a cooperative project of 23 state regulatory agencies called the Mortgage Industry National Uniform Testing and Educations Standards (MINUTES). This initiative, begun early this year, will establish acceptable uniform standards and streamline the process for licensees to comply with these standards. MINUTES will ensure that licensed mortgage providers are held to the same standards and expectations, regardless of the state in which they make loans. To my knowledge, no federal regulatory agency currently requires specific educational or testing standards for the mortgage professionals it supervises.

CSBS-AARMR Guidance on Nontraditional Mortgage Product Risks

CSBS and AARMR also partnered together to develop guidance on nontraditional mortgage product risks. In October 2006, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA) issued final Interagency Guidance on Nontraditional Mortgage Product Risks. The interagency guidance applies to all banks and their subsidiaries, bank holding companies and their nonbank subsidiaries, savings associations

and their subsidiaries, savings and loan holding companies and their subsidiaries, and credit unions.

Recognizing that the interagency guidance is important and useful, but does not apply to those mortgage providers not affiliated with a bank holding company or an insured financial institution, CSBS and AARMR developed parallel guidance. Both CSBS and AARMR strongly support the purpose of the interagency guidance and are committed to promoting uniform application of its underwriting standards and consumer protection provisions for all borrowers. In order to maintain regulatory consistency, the guidance developed by CSBS and AARMR substantially mirrors the interagency guidance, except for the deletion of sections not applicable to non-depository institutions.

Released on November 14, 2006, the CSBS-AARMR guidance has been offered to state regulators to apply to their licensed residential mortgage brokers and lenders. The CSBS-AARMR guidance is intended to hold state-licensed mortgage providers to effectively the same standards as developed by the federal regulators.

As of today, March 27, 2007, 29 states plus the District of Columbia have adopted the guidelines developed by CSBS and AARMR. Ultimately, CSBS expects all 50 states to adopt the guidance in some form.³ Once fully adopted nationwide, all mortgage lenders and brokers will be held to the same underwriting and consumer protection standards for nontraditional mortgage products.

³ To track state adoption of the CSBS-AARMR guidance, go to http://www.csbs.org/Content/NavigationMenu/RegulatoryAffairs/FederalAgencyGuidanceDatabase/State_Implementation.htm.

Proposed Interagency Statement on Subprime Mortgage Lending

CSBS and AARMR have also offered our strong endorsement of the recently proposed interagency Statement on Subprime Mortgage Lending. In conjunction with the 2006 Interagency Guidance on Nontraditional Mortgage Product Risks and the parallel CSBS-AARMR guidance, the proposed statement offers sound underwriting and consumer protection principles that institutions and all residential mortgage providers should consider when making residential mortgage loans. CSBS and AARMR are already working to develop a parallel statement for state supervisors to use with state-supervised entities. All 50 states will be expected to adopt the statement on subprime lending, providing state agencies with an additional supervisory tool to protect consumers, ensure sound underwriting standards, and hopefully decrease the number of foreclosures nationwide.

CSBS believes the Guidance on Nontraditional Mortgage Product Risks and the Statement on Subprime Mortgage Lending strike a fair balance between encouraging growth and free market innovation and draconian, stern restrictions.

State Predatory Lending Laws

Currently, 36 states plus the District of Columbia have enacted predatory lending laws.⁴ Attached as Exhibit B is a list of chart of state predatory mortgage lending statutory provisions. First adopted by North Carolina in 1999, these state laws supplement the federal protections of the Home Ownership and Equity Protection Act of 1994 (HOEPA). The innovative actions taken by state legislatures have prompted significant changes in industry practices, as the largest multi-state lenders have adjusted their practices to comply

⁴ Source: National Conference of State Legislatures.

with the strongest state laws. All too often, however, we are frustrated in our efforts to protect consumers by the preemption of state consumer protection laws by federal statutes. Preemption must be used for the benefit of both business and consumers.

State Enforcement of Consumer Protection Laws

In addition to the extensive regulatory and legislative efforts, state attorneys general and state regulators have cooperatively pursued unfair and deceptive practices in the mortgage market. Through several settlements, state regulators have returned nearly one billion dollars to consumers. A settlement with Household resulted in \$484 million paid in restitution, a settlement with Ameriquest resulted in \$295 million paid in restitution, and a settlement with First Alliance Mortgage resulted in \$60 million paid in restitution. These landmark settlements further contributed to changes in industry lending practices.

But successes are sometimes better measured by actions that never receive media attention. States regularly exercise their authority to routinely examine mortgage companies for compliance not only with state law, but with federal law as well. These examinations are an integral part of a balanced regulatory system. Unheralded in their everyday routine, examinations identify weaknesses that, if undetected, might be devastating to the company and its customers. State examinations act as a check on financial problems, misapplication of consumer protections and sales practices gone astray. Examinations can also serve as an early warning system of a financial institution conducting misleading, predatory or fraudulent practices. Attached as Exhibit C is a chart of enforcement actions taken by state regulatory agencies against mortgage providers. As an example, in 2006, states took 3,694 enforcement actions against mortgage lenders and brokers.

Proposals for Fixing the Residential Mortgage Market

The ongoing upheaval in the residential mortgage market has caused justifiable concerns among policymakers, regulators, investors, members of the industry, and consumers. Any approach Congress takes to improve the mortgage market, however, should focus first and foremost upon the borrowers. A Congressional bail out of subprime lenders, brokers and investors would greatly undercut market discipline and fail to provide relief to those who need it most; the consumers. I offer the following suggestions.

First, Congress should update the federal predatory lending law to incorporate the time-tested consumer protections implemented by the various states over the last decade, as embodied by legislation proposed last session in the House of Representatives by Reps. Miller, Watt and Frank. Introduced last year as H.R. 1182, the Miller-Watt-Frank bill would have created a national standard that would set sensible limits on high-cost subprime loans, while retaining the states' ability to address new abuses in the market. In addition, Congress should state clearly and unambiguously that lenders are required to consider a borrower's ability to repay a loan.

Second, we need to develop a standard to prevent unscrupulous subprime lenders and brokers from taking advantage of borrowers with credit problems. Congress should require that a loan to a subprime borrower should be a thirty-year fixed rate loan that most consumers understand. Any other choice of subprime loan should depend on the borrower taking affirmative action to opt out of the default loan and receiving in-person independent counseling on the benefits of the transaction. Subprime lending should be a bridge to create sustainable homeownership, not a detour into a second-class, high-priced mortgage system.

Third, Congress should support the coordination of the supervision of non-bank mortgage brokers and lenders by the states. CSBS and AARMR have, in partnership with the NASD, organized a coordinated national system to license and track the activities of these enterprises. Through working on the development of the system, states and a number of industry representatives have begun a dialog that will lead to broadly consistent national standards with regard to licensing of firms and individuals. Congress can promote this system through funding the start-up of the system and by requiring states that do not wish to join the system to affirmatively opt-out of the system. Given the same kind of Congressional “encouragement” that the insurance regulatory community got in Gramm-Leach-Bliley, this system can be a valuable resource in regulating the market in the future.

Fourth, Congress already has tools at its disposal to facilitate the flow of credit to responsible subprime lending. Congress should take immediate steps to modernize FHA to enable it to be a viable option for homeownership by borrowers with credit blemishes. Much of the growth of the subprime industry came at the expense of FHA. Clearly, Congressional concerns over the solvency of the FHA insurance fund led it to overreact and hamstring the FHA from serving the subprime market.

In addition, Congress should encourage the GSE’s to devote their primary attention to affordable housing for all Americans, particularly the subprime market. The GSEs have done wonders to increase the liquidity in the conventional mortgage market. In addition to their potential direct impact in the subprime market, the standards set by the GSEs for loans they purchase have an impact that ripples through the marketplace.

With over a million subprime loans scheduled to reset this year⁵, state and federal regulators should encourage our supervised entities to reach out to those consumers who will be affected. The communication with these borrowers should provide a clear explanation for their loan reset, and provide the exact dollar amount that their monthly payment will increase and when it will occur. My message to consumers is that you can work with your mortgage servicer on your payment problems before you reach foreclosure.

Conclusion

Ultimately, there is a trade-off between increasing the availability of credit in the mortgage market and the level of foreclosures. CSBS is concerned by this trade-off. My fellow state supervisors and I are finely tuned to the needs of the communities we serve. Like members of Congress, state supervisors are not only concerned with national trends, but with the overall economic health of our local communities. Even a relatively small number of foreclosures can be devastating to a small town.

As regulators, we must find a balance between encouraging market innovation, product choice and credit availability with consumer protection. The states will continue to improve supervision of the mortgage industry by strengthening state statutes, signing on to the CSBS-AARMR mortgage licensing system, or adopting parallel guidance for our regulated entities. Only by continuing coordination on a nationwide level can we create an effective supervisory framework that both protects consumers and supports financial services providers.

⁵ Source: *Mortgage Payment Reset: The Issue and the Impact*, by Christopher L. Cagan, Ph.D., First American CoreLogic, Inc. 4 First American Way, Santa Ana, CA, 92707. March 19, 2007.

Subprime lending can prove very beneficial to consumers as they try to access the capital necessary to purchase a home. Product choices and payment options allow consumers the flexibility to tailor their mortgage to their specific needs. These innovations in the mortgage market are positive developments. But with any market expansion and increase in complexity, there will also be an increase in the opportunity for predatory lending and fraudulent lending practices. As a state financial regulator, my charge is to protect the consumers of Massachusetts while allowing the financial service providers the opportunity to compete with their fellow providers and flourish in the marketplace in a safe and sound manner.

The interagency guidance on nontraditional mortgage products, the proposed statement on subprime mortgage lending, the parallel guidance, and the nationwide licensing system developed by CSBS and AARMR address safety and soundness concerns within the mortgage industry and provide effective consumer protections. These tools will improve the quality of mortgage loans, which I believe will therefore decrease the number of residential foreclosures.

It is not the goal of CSBS to limit credit access to subprime borrowers or those consumers that are traditionally underbanked. My fellow state supervisors and I will continue to vigilantly supervise the residential mortgage industry to improve the quality of credit available to consumers, improve standards for loan providers, ensure consumer protection provisions, and punish those who engage in predatory or abusive practices. The economy is not benefited by putting consumers in homes they cannot afford. Instead, we are working towards a marketplace with cooperative and seamless supervision that benefits both consumers and providers.

Thank you again for your invitation to testify today and for this Subcommittee's interest in improving our mortgage market system.

Exhibit A: Examples of Actions Taken by Individual States

In addition to the cooperative efforts of state regulators through CSBS and AARMR, I have detailed a small sampling of state regulator actions in the mortgage arena. There are similarities and differences in the initiatives undertaken by the states. I believe this differentiation is a sign of health in state supervision. State regulators with a deep knowledge and understanding of local circumstances are free to tailor their supervisory framework to the unique conditions in their state.

Arizona

In January, the Arizona Department of Financial Institutions (DFI) issued the parallel Guidance for Nontraditional Mortgage Product Risks developed by CSBS and AARMR.

The DFI has led other state and federal regulators to form a mortgage fraud task force. The task force, created by Superintendent of Financial Institutions Felecia Rotellini, consists of the Arizona DFI, the Arizona Department of Real Estate, the Arizona Housing Department, the Federal Bureau of Investigation, the Department of Housing and Urban Development, the Internal Revenue Service, the Arizona State Board of Appraisers, and local law enforcement. The task force was formed to pool agency resources, to share expertise and to more effectively investigate and prosecute, both civilly and criminally, individuals engaging in mortgage fraud.

In January 2007, legislation was introduced in the Arizona legislature that would require all loan officers and originators be licensed. This legislation would also define mortgage fraud as a felony, punishable up to 10 years in prison.

The DFI has been investigating mortgage fraud and illegal lending practices since 2005. In January 2006, Superintendent Rotellini created the Regulatory Enforcement Unit

to assist state examiners with their increased caseload and increased enforcement actions. Also during 2006, the DFI hired two field investigators to conduct interviews and focus on the illegal practices in the residential mortgage industry. In the past three months, the DFI has been inundated with complaints, tips, and information about predatory practices, mortgage fraud, and foreclosure rescue schemes. The DFI has been working closely with state and federal law enforcement, the professional associations that represent the mortgage and real estate industries, and journalists to heighten consumer and industry awareness, to weed out the worst actors, and to send a message that industry will be held accountable for predatory or abusive lending practices.

California Department of Corporations

The Department of Corporations actively pursues its mission to protect consumers. In addition to conducting standard regulatory exams of its licensees, including those that make subprime loans, the Department collects information regarding the extent and nature of the nontraditional mortgage loan products offered by its licensees.

The Department has also taken Administrative action to protect borrowers. The Department issued a Desist and Refrain Order to New Century Mortgage Corporation and an Order to Discontinue Violations and Unsafe and Injurious Practices to New Century Mortgage Corporation and Home 123 Corporation on March 16, 2007.

The Department has implemented additional oversight procedures. Specifically, to help anticipate and prevent closure of a mortgage company due to adverse financial conditions, the Department has identified the largest lenders among its licensees, companies that together comprise approximately two-thirds of the total loans made by its licensees. The Department has requested financial information from those lenders; a review of that information will allow the Department to identify which companies require

closer monitoring. “Closer monitoring” consists of the company providing the Department with daily reports regarding the status of loans in the pipeline; the status of warehouse lines of credit; and, if necessary, a Corrective Action Plan to address any significant deficiencies.

In the event of a sudden and unanticipated closure of one of its licensees, the Department takes several steps to help protect borrowers. These steps are summarized as follows:

First, the Department contacts the company’s CEO, and directs them to provide specific information concerning pending loans and company operations, including consumer complaints.

Second, the Department communicates vital information concerning the closure to consumers, including updates and contact information, via the Department's website.

Third, the Department will investigate the company's activities to determine responsiveness in handling consumer issues.

Fourth, the Department will examine the circumstances involving the closure and take additional actions as necessary.

Failure to comply with any demands of the Department as outlined above (corrective action or other steps) could result in more serious enforcement action by the Department.

The Department is in the process of adopting additional regulations, including the CSBS-AARMR guidance on nontraditional mortgage product risks. The Department is also working with other state regulators to address this national problem.

In order to maximize consumer protections and customer service, the California Departments of Corporations, Real Estate, Financial Institutions and the Office of Real

Estate Appraisers have collaborated to develop a centralized Internet location for consumers to verify licensing information from all four departments at once. The combined California Real Estate and Financial Services License Status check feature can be accessed from any of the aforementioned departments' websites. Consumers are encouraged to check the license status of real estate agents, mortgage brokers, mortgage lenders and others involved in the processes of purchasing or refinancing their homes before signing any documents.

Since loans can be made or arranged under a real estate broker license as well as a Department of Corporations (DOC)-issued Residential Mortgage Lender (RML) license and a California Finance Lender (CFL) license, the DRE and the DOC have a Memorandum of Understanding (MOU) to cross-check license applicants and disciplinary actions. This arrangement prevents a mortgage loan broker who has been disciplined by one department from obtaining a license from the other to continue operating. In the last fiscal year, the Departments crossed-checked over 6,000 applicants. In addition, to lessen the burden on consumers, the DRE and DOC proactively refer complaints to one another.

California Department of Real Estate

The California Department of Real Estate (DRE) licenses and regulates the activities of real estate salespersons and brokers. In order to engage in licensed activity, a salesperson must be employed and supervised by a broker. Licensed activity includes, among other things, the listing and sale of real property, property management and mortgage brokering.

At the end of fiscal year 05/06, there were 137,410 license real estate brokers and 366,734 salespersons for a total licensee population of 504,144. Licenses are generally valid for four years.

In order to become licensed as a real estate broker or salesperson in California, an individual must have completed certain pre-license educational requirements, and in most cases experience requirements for broker applicants, as well as pass a written examination. All applicants are fingerprinted and background reports are received from both the California Department of Justice and the Federal Bureau of Investigation. Once an individual is licensed, the California Department of Justice also provides subsequent arrest notices to the DRE should one occur. Real estate licenses are issued for a period of four years and there are continuing education requirements which must be met for all renewals. Unless working for an exempt institution, all individuals who negotiate loans in California must be licensed as either a real estate broker or as a properly licensed salesperson who works under the supervision of a real estate broker.

The DRE has the authority to issue and discipline real estate licenses. Discipline can range from a Public Reprimand, suspension, or revocation of a license. The DRE has limited authority to fine and cannot criminally prosecute cases. However, referrals to criminal enforcement agencies are made when appropriate. Less substantial violations are addressed with a corrective action letter and these are not counted in the enforcement action statistic totals.

In the area of enforcement, it should be noted that California does have a predatory lending law. The three licensing agencies over mortgage lending in California, the DRE, the Department of Corporations (DOC), and the Department of Financial Institutions (DFI) are jointly responsible for enforcing this law within their respective jurisdictions.

As an additional note, the DRE is in the process of adopting regulations to adopt the CSBS-AARMR Guidance on Nontraditional Mortgage Products, which mirrors the interagency guidelines.

Real estate licensees have fiduciary duties to both the lender and borrower when negotiating loans and can be disciplined for violations of the Real Estate Law. Violations include making a misrepresentation, fraud, dishonest dealing, negligence, and criminal convictions. Failing to disclose all material facts about a loan to a borrower or misrepresenting the facts to a lender (such as knowingly misstating a borrower's income) are actionable offenses. A mortgage broker has an obligation to act in the best interest of the borrower.

Although the DRE does random audits, a majority of the audits are in response to complaints filed with the DRE. The 252 audits of mortgage brokers represent 38% of the total audits, even though mortgage brokers represent less than 15% of the licensee population. Of these 252 audits, 186 uncovered potentially actionable violations. Those violations not deemed sufficient to warrant formal disciplinary actions result in a compliance action letter. The most common violations found in the audits involved the failure to provide the proper Mortgage Loan Disclosure Statement. The second most cited violation in the audits involved lack of supervision and improper record keeping. Thirteen of the audits found trust fund shortages, totaling \$295,394.

Of the 149 total disciplinary actions based on mortgage loan broker violations, the most common violation cited was failing to provide a borrower with the proper Mortgage Loan Disclosure Statement (29). As noted above, 23 actions were based, in part, on the mortgage broker making a substantial misrepresentation to the borrower. And 17 actions were based, in part, on the broker making a misrepresentation to the lender.

It is worth noting that nearly all the actions were initiated by a consumer complaint. Misrepresentations are difficult to prove without a complainant. And unless patently obvious, misrepresentations are difficult to discover in a random routine audit or

examination of records.

Since loans can be made or arranged under a real estate broker license as well as a DOC issued Residential Mortgage Lender license (RML) and a California Finance Lender license (CFL), the DRE and DOC have a Memorandum of Understanding (MOU) to cross check license applicants and disciplinary actions. This arrangement prevents a mortgage loan broker who has been disciplined by one department from obtaining a license from the other to continue operating. Last fiscal year, the Departments crossed checked over 6,000 applicants.

In addition, to lessen the burden on consumers, the DRE proactively refers complaints to the DOC when it is determined the activity was conducted under a DOC issued license and not a DRE issued broker license. Last fiscal year, the DRE referred 75 complaints to the DOC.

As noted above, the DRE is an administrative agency and does not have the authority to prosecute criminal or civil violations. Such violations may be pursued by local municipalities or the Attorney General (AG). Existing law allows a district attorney or the AG to bring civil actions for unfair business practices and misleading advertising.

The DRE routinely makes referrals to local law enforcement and provides technical assistance when appropriate. Last fiscal year, the DRE either referred or provided assistance on over 35 criminal cases. Many of the criminal referrals involved loan fraud.

Los Angeles County has also established a Real Estate Fraud Task Force of which DRE is a member. The task force meets once a month and participants include Los Angeles Police Department, Los Angeles Sheriff's Department, the Department of Housing and Urban Development, the Internal Revenue Service, the Federal Bureau of Investigation, and the California Departments of Corporations and Consumer Affairs.

With respect to broker education, the DRE has already begun a series of efforts to further ensure brokers fully understand their responsibilities to inform borrowers of the relative merits and risks of nontraditional mortgages. The DRE has recently published an article explaining that brokers have a duty to fully explain to a borrower the merits and risks of alternative mortgage programs before the point of document signing. The article also makes the point that real estate brokers have a fiduciary duty to the borrower and as such, must act in the best interest of the borrower.

With respect to marketing and advertising, existing law requires that real estate brokers disclose all material facts about a product in the ad or materials used to solicit borrowers. Any promotion of a nontraditional mortgage must include the material facts of the product so the ad or promotional material is not misleading. This would include disclosures of the possibility of negative amortization, frequency of payment or rate adjustments, and the amount of the balloon payment if the program is not fully amortized. This is also true of any verbal discussion a broker has with a borrower.

The DRE has also made an extensive effort to educate borrowers so they may make informed decisions. In this regard, the premier publication of the DRE is the consumer booklet on "Using the Services of a Mortgage Broker". This booklet educates a borrower on what questions to ask to ensure an understanding of the loan terms, especially the terms related to nontraditional mortgages. This booklet was first produced over 15 years ago and is updated periodically. The department is currently in the process of updating the booklet again so it more accurately reflects the information in the guidance.

Massachusetts

In the Commonwealth of Massachusetts, mortgage supervision has been the primary focus of the Division of Banks for well over a year.

In 2006 alone, the Massachusetts Division of Banks issued a total of 104 formal and informal enforcement actions against mortgage lenders and brokers. Included in these actions were several cease and desist orders essentially shuttering companies found to be intentionally overstating income on reduced documentation loans or engaging in other types of deceptive practices. In September 2006, the Division issued an industry letter relative to reduced documentation loans indicating that severe action will be taken should evidence of mortgage fraud be found and implemented emergency amendments to their regulations governing mortgage lenders and brokers, significantly expanding the number of existing prohibited acts and practices that constitute grounds for the issuance of cease and desist orders and license suspension or revocation.

Massachusetts was one of the first to adopt the parallel guidance on nontraditional mortgage product risks, developed by CSBS and AARMR, in the form of a regulatory bulletin. This action is essential toward ensuring a level playing field is maintained within the mortgage market and that the consumer protections within the guidance are enforced uniformly.

Finally, in an effort to develop a comprehensive strategy to address increasing foreclosure rates, the Division of Banks hosted a Mortgage Summit in November 2006. Nearly 50 individuals representing 29 government, industry, and nonprofit organizations attended the Mortgage Summit with the stated goal of seeking to address the increasing number of mortgage foreclosures across Massachusetts and to develop a statewide foreclosure prevention strategy that will put into place lasting measures to help consumers confronted with the loss of their homes.

Following the Summit, two Working Groups were established to focus on Rules and Enforcement and Consumer Education and Foreclosure Assistance. The goal of the

Working Groups is to take the ideas and suggestions from the Summit and develop specific recommendations. Since January, the Working Groups have met every two weeks and set a deadline of March 31 to conclude their deliberations.

The new legislative session is also underway. Several bills dealing with mortgage foreclosures have already been introduced, including provisions which would require loan originators to be licensed and extend the Massachusetts Community Reinvestment Act to licensed mortgage lenders.

Minnesota

In December 2006, the Minnesota Department of Commerce issued the Guidance for Nontraditional Mortgage Product Risks developed by CSBS and AARMR to all state-licensed entities.

The Department's 2005 legislation, which became effective on January 1, 2006, requires licensed residential mortgage originators to conduct background checks on loan officers and prohibits a person convicted of a financial crime from serving as a loan officer without prior written consent of the Commissioner of the Department of Commerce.

These requirements are very similar to Section 19 of the FDI Act.

A Department proposal presently under consideration by the Minnesota state legislature would improve and strengthen regulation of mortgage originators. The proposal, if enacted, would require the following:

1. That all licensees be a business entity with a minimum tangible net worth of \$250,000 (or a surety bond or letter of credit of \$100,000);
2. Require an affirmation that they are in compliance with the background check requirement;

3. Require maintenance of a perpetual roster of loan officers that would be provided to the Department on demand;
4. Require loan officers to have 16 hours of education on state and federal mortgage laws before serving;
5. Give the Department of Commerce the authority to examine licensees and charge for these exams; and
6. Make mortgage fraud a specific crime in Minnesota, which is based upon a recent law passed in Georgia.

This proposal is expected to be enacted.

The Department of Commerce has recently halted a kickback scheme and imposed enforcement penalties of more than \$1 million on title insurance companies that set up sham affiliated businesses with real estate agents, mortgage originators and developers to get around state and federal laws prohibiting direct payments for referrals. The Department identified 35 affiliated business arrangements between First American and more than 600 referral partners that included real estate agents and brokers, mortgage originators, building contractors, land developers, and others.

New York

The New York State Banking Department has been a regulatory leader in identifying and responding to the market challenges posed by the subprime sector. The Department supervises the activities of mortgage bankers and brokers operating in the state. Currently the Department licenses 321 mortgage bankers and 2453 mortgage brokers. Out of the 520 employees currently working at the Department, 61 examiners are assigned to the Mortgage Division and charged with supervising regulated mortgage bankers and brokers.

A detailed discussion of the numerous initiatives and examination strategies employed in this effort is beyond the scope of this summary, but the following highlights are representative of the Department's decisive role:

Early diagnosis of the problem. In 1999, the Department had already identified the potential for crisis in the subprime sector and launched a comprehensive campaign against predatory lending accordingly. This campaign was a highlight of the Department's Annual Report for that year (refer to page seven of the 1999 Annual Report) and included increased consumer education, expanded probes by the Criminal Investigations Bureau, and the formation of the Fair Lending Unit.

Specialist examination support. The Fair Lending Unit provides specialist expertise that has increased the effectiveness and efficiency of the examination process. The Unit assists the examiners by providing cutting-edge statistical and underwriting analyses that focus risk and pinpoint findings. Reports prepared by the Unit's Specialists can quantify the amount that a consumer has been overcharged down to the penny. This has led to substantive changes in industry practice; for example, the discontinuance of single-premium credit life insurance. The Unit also played a key role in obtaining settlements for the Department and consumers, such as in Delta Funding and Ameriquest.

Enforcement Actions. In the area of enforcement, the New York State Banking Department is part of several federal and state law enforcement task forces and works closely with these institutions to provide technical assistance as they prosecute instances of mortgage fraud in New York State. In 2006, through the Department's supervisory process, 468 institutions had their licenses or registrations suspended, 8 institutions had their licenses revoked, and fines were levied against 45 institutions for a total of \$400,840.

Also in 2006, the Banking Department increased its per day fine for violations of its mortgage laws and regulations.

Positive interagency relationships. New York took the lead in developing a dedicated examination support unit to combat unfair lending practices and exported this concept to other agencies. The Fair Lending Unit is a model and a resource that has influenced other state and federal regulators. For example, the FDIC also developed a nationwide Fair Lending Specialist program, and the NYSBD Fair Lending Unit trained specialist staff from other state and federal regulators. The NYSBD, through the Fair Lending Unit, has been an example of the proactive approach to consumer protection that should be adopted nationally. This positive cooperation between agencies works to eliminate jurisdictions where abusive lenders may hide.

High standards for supervised institutions. The Department also requires that all applications for new charters or licenses, mergers and acquisitions, and changes in control be reviewed for fair lending prior to approval. Institutions indicate the robustness of their compliance strategy through the submission of a Fair Lending Plan that is reviewed by the Specialists of the Fair Lending Unit. Only when a lender demonstrates their ability to comply with their responsibilities under fair lending laws through sound lending practices is an application approved.

Innovative regulations. New York State has some of the most comprehensive consumer protection laws and regulations in the nation. For example, lenders making loans in New York may only charge a prepayment penalty within the first year of any mortgage on which the interest rate exceeds 6%. The Department developed Part 41 of the General Regulations of the Banking Board to place certain limitations on high-cost home loans. While the possible effect of pre-emption on Part 41 remains an outstanding issue, the

regulation has been among the first of its kind for states and has brought the matter of anti-predatory lending to the attention of national legislators. Recently, New York strengthened protections for consumers with the passage of the Home Equity Theft Prevention Act on July 26, 2006 and a Mortgage Loan Originators Bill on December 6, 2006. The Home Equity Theft Prevention Act mandates specific disclosures that must be made to homeowners upon the filing of a notice of pendency. The Mortgage Loan Originators Bill requires that any person who originates loans on residential property in the State of New York be authorized annually by the Banking Department and specifies educational requirements that an authorized originator must maintain in order to continue to originate loans in the state.

Services for the underbanked. The creation of the Banking Development Districts (BDD) program has encouraged depository institutions to open branches in underserved communities. When traditional lenders leave a neighborhood, it creates a vacuum that subprime lenders quickly fill. Banks have also been encouraged to fulfill their obligations under the Community Reinvestment Act through the origination of residential mortgages.

Consumer Help Unit. The Department maintains a Consumer Help Unit that monitors a toll-free Consumer Helpline (1-877 BANK NYS) to answer questions, make referrals or mediate between the consumer and the regulated entity when problems arise. The Consumer Help Unit has five trained mortgage examiners as part of its staff who are assigned to specifically address mortgage-related issues. In 2006, the mortgage section of the Consumer Help Unit handled an average of 81 calls per day and was able to secure more than \$875,000 in refunds for consumers.

Consumer Outreach. On April 11, 2007, the Department's Consumer Services Division will kick off its "Halt Abusive Lending Tactics and Mortgage Fraud" campaign

which will bring together community groups, government agencies, law enforcement and industry representatives to find ways to promote collaborative efforts aimed at assisting consumers and communities affected by rising foreclosure rates, predatory lending and mortgage fraud.

The key for the Department today is to build on the present momentum created by these past achievements, as controlling the continuing risk to consumers and to the market remains at the forefront of this agency's mission.

North Carolina

Earlier this month, the North Carolina Office of the Commissioner of Banks (NCCOB) issued Guidance on Nontraditional Mortgage Product Risks (NTM guidance) developed by CSBS and AARMR. The North Carolina NTM guidance included a specific discussion of how the NTM guidance fit within the state regulatory scheme, its application to mortgage brokers and mortgage lenders in their different roles, and provided examination procedures used by state examiners to ensure compliance.

This year, NCCOB has supported the introduction of two bills to the General Assembly to improve the mortgage market. The first bill would make mortgage fraud a felony under state law and would simplify prosecution of mortgage fraud at the state level. This legislation is modeled after the Georgia mortgage fraud law, the first of its kind. The second bill would require that all deeds of trust secured by residential property identify the name and license number of a mortgage broker, if one was involved in the transaction. This legislation is the result of a state legislative study commission on foreclosures that has met regularly over the past year.

In addition to the legislative effort on mortgage fraud, NCCOB has hired three additional staff to pursue evidence of mortgage fraud. The NCCOB has trained all of their

mortgage examiners on mortgage fraud (through AARMR training) and have prioritized detecting fraud in their examination process.

NCCOB has supported the development of improved standards in the mortgage brokerage business, through the encouragement of an industry-led certification program for mortgage broker firms.

Pennsylvania

In Pennsylvania the banking department invested more than a year researching residential foreclosures across the state. Their study revealed that the state's 2003-2004 spike in foreclosure rates could not be explained simply by cyclical economics or more-traditional foreclosure factors, such as illness, job loss or divorce. The study documented that subprime loans disproportionately represented a majority of loans that resulted in foreclosure. Data also made clear, however, that not all subprime loans are predatory loans. When responsibly applied, subprime products help borrowers for whom homeownership may otherwise have been impossible.

In 2005, pursuant to its request, the banking department provided a report to the Pennsylvania House of Representatives' Commerce Committee. The report included recommendations developed by the department and informed by vigorous debate with policymakers, financial industry leaders and consumer advocates.

Recommendations fell into roughly three categories: changing the way the banking department conducts business under existing authority; adding specificity to present statutes via regulation; and amending current state laws. Significant progress has been made over the past two years in achieving these recommendations, including:

1. Changing the way the Pennsylvania Department of Banking conducts business under existing authority.

To date, the department has:

- Doubled the number of examiners who focus on nondepository licensed entities, including mortgage bankers and brokers;
- Executed interagency information-sharing agreements and expanded the department's licensing division to ensure effective background checks on applicants;
- Created an investigations unit which has focused more than 80% of its efforts in the past two years on entities involved in mortgage lending;
- Supported the Pennsylvania Office of Financial Education, added staff to its consumer hotline, created a position of consumer group liaison, coordinated with other state agencies and developed print/electronic materials to educate consumers about the rapidly innovating mortgage marketplace;
- Secured nearly \$1.2 million in refunds for the state's mortgage consumers in 2006;
- Issued a policy statement to licensees that defines dishonest, fraudulent, unfair, unethical and illegal practices under existing state law for which the department can suspend, revoke, or refuse to renew a license; and
- Emphasized multi-state coordination in addressing concerns with regard to the mortgage marketplace (including but not limited to the landmark Ameriquest settlement; developing the CSBS-AARMR guidance on nontraditional mortgage product risks; working toward and providing financial support for a multi-state licensing system; developing collaborative examiner education).

2. Adding specificity to present statutes via regulation.

In July 2006, the Pennsylvania Department of Banking published for public comment an advanced draft of a proposed regulation to define proper conduct of business for mortgage bankers, brokers, and consumer discount companies that originate mortgage loans under Pennsylvania law. In very general terms, the proposed regulation requires two things. First, it requires additional (but not duplicative) disclosures of important loan terms to consumers. Such terms may include but are not limited to, whether a loan: escrows taxes and insurance; includes a balloon payment or prepayment penalty; employs a variable interest rate or negative amortization. Second, it requires that state-licensed mortgage professionals reasonably determine a borrower's ability to repay the offered loan given all its terms and conditions, not just the introductory payment.

It is expected that a revised draft will be published and begin the state's independent regulatory review process in the coming weeks.

3. Amending current state law.

After more than a year of working with policymakers, financial industry leaders and consumer advocates, six bills were crafted and introduced in the Pennsylvania legislature in the summer of 2006. Because last year was an election year and a new legislative session began in January, it was necessary to re-introduce the bills. As introduced on February 21, 2007, Senate Bills 483 – 488 would, among other provisions:

- Require individual mortgage loan originators to be licensed by the state;
- Eliminate realtor, builder and insurance exemptions from the state's mortgage lending statutes;
- Increase the cap of the state's loan interest and protection law and allow for annual adjustment;

- Add members to the state’s appraiser board and increase maximum civil penalties;
- Create a structure to monitor foreclosures on a statewide basis;
- Enhance the state’s emergency foreclosure assistance program; and
- Provide the banking department with certain additional enforcement authority.

Washington

In 2006, Washington State amended the Mortgage Broker Practices Act to include licensing for loan originators, routine examination authority for mortgage brokers and stricter enforcement provisions. The Department of Financial Institutions added several new examiners and enforcement attorneys to handle an increasing caseload of examinations, complaints, predatory lending investigations and mortgage fraud.

The 2006 Legislature also amended the state’s mortgage fraud law extending the sunset period to 2011. With an original sunset of 2006, the amendment showed the success of this unique law focused on the funding of prosecutions and cooperative working agreements between the DFI and local prosecutors. With an allocated budget of over \$1 million per year specifically dedicated to mortgage fraud investigation and prosecution the agency has been able to investigate over 30 fraud cases, and has seen several prosecutions ranging from misdemeanor to felonies with sentencing up to seven years.

Despite its geographical remoteness, Washington has long been a leader in the investigation of predatory lenders operating at the national level. In cooperation with the Attorney General, Washington DFI was a leader in three of the four largest national predatory lending settlements, and each year conducts numerous regional and state enforcement actions under its administrative authorities. These actions are generally

significant; however, frequently they do not receive appropriate press recognition due to their localized nature.

Exhibit B: Chart of State Predatory Mortgage Lending Statutory Provisions

Source: National Conference of State Legislatures

State	Statutory Citation	Flipping Banned	Negative Amortization Banned	Prepayment Penalties Banned	Financing Credit Insurance Banned	Consumer Credit Counseling Provision	High Debt to Income Ratio Provision (Ability to repay loan)
AL							
AK							
AR	Ark. Stat. Ann. §23-53-101 <i>et seq.</i>	X	X		X	3 rd party required	Give due regard
AZ							
CA	Cal. Finance Code §4970 <i>et seq.</i> and §4973 <i>et seq.</i>	X	X			Disclosure	Presumption at 55%
CO	Colo. Rev. Stat. §5-3.5-101 <i>et seq.</i> and §38-40-105	X	X			Notification	Give due regard
CT	Conn. Gen. Stat. §36a-746 <i>et seq.</i> and §36a-521		X			Notification	Presumption at 50%
DE							

DC	D.C. Code Ann. §26-1114. and §26-1151.01 <i>et seq.</i>		X	X			Give due regard
FL	Fla. Stat. §494.0078 <i>et seq.</i>	X	X			Notification	Give due regard
GA	Ga. Code §7-6A-1 <i>et seq.</i>	X	X		X	3 rd party required	Presumption at 50%
HI							
ID							
IL	Ill. Rev. Stat. ch. 815, 137/1 <i>et seq.</i> and ch. 765, 77/70	X	X		X	Notification	Presumption at 50%
IN	Ind. Code 4-6-12 and 24-9-1 <i>et seq.</i>		X		X	3 rd party required	Give due regard
IA							
KS							
KY	Ky. Rev. Stat. §294.010 <i>et seq.</i> and §360.100	X	X		X	Notification	Presumption at 50%
LA	La. Rev. Stat. Ann. 6:1096(G) and 9:3572.6(C)						
ME	Me. Rev. Stat. Ann. tit. 9-A, §2-509, tit. 9-B, §429; tit.		X				Give due regard

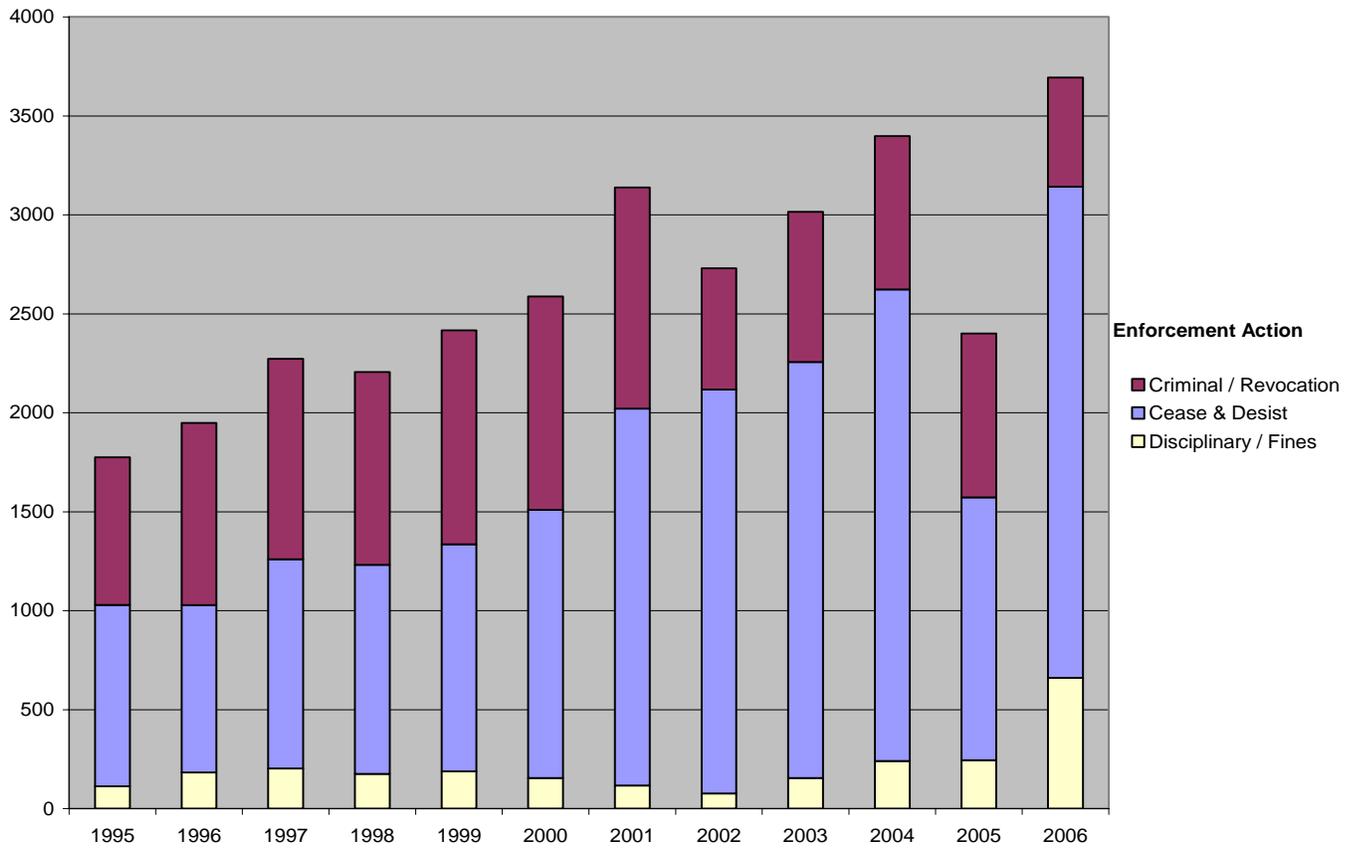
	9-A, §8-103, §8-206-A, tit. 9-A, §10-102 and tit. 33, §506						
MD	Md. Commercial Law Code §12-127, 12-311, 12-409.1 and 12-1029	X	X		X	3 rd party required	Presumption at 45%
MA	Mass. Gen. Laws Ann. ch.183, 28C		X	X		3 rd party required	Presumption at 50%
MI	Mich. Comp. Laws §445.163 1 <i>et seq.</i>		X		X	Notification	
MN	Minn. Stat. §58.137					Notification	
MS							
MO	Mo. Rev. Stat. 375.937						
MT	Mont. Code Ann. §32-5-306						
NE	Neb. Rev. Stat. §45-702, 45-704 and 45-705				X		
NV	Nev. Rev. Stat. §598D.01			X	X		Give due regard

	<i>0 et seq.</i>						
NH	N.H. Rev. Stat. Ann.140: 1 <i>et seq.</i>						Give due regard
NJ	N.J. Rev. Stat. 46:10B-22 <i>et seq.</i>		X		X	3 rd party required	
NM	N.M. Stat. Ann. §58-21A-1 <i>et seq.</i>	X	X	X	X	3 rd party required	Give due regard
NY	N.Y. Banking Law 6-1	X	X		X	Notification	Give due regard
NC	N.C. Gen. Stat. §24-1.1E and §24-10.2 and §53-243.01 <i>et seq.</i>	X	X	??		3 rd party required	Presumption at 50%
ND							
OH	2006 S.B. 187 Ohio Rev. Code Ann. §1322.06 2, 1322.07 and 1322.08	X	X	X	X		Give due regard
OK	Okla. Stat. tit. 14A, §3-204 and tit. 59, §2081 <i>et seq.</i>	X					Give due regard
OR							
PA	Pa. Cons. Stat. tit. 63,					Notification	Presumption at 50%

	§456.101 <i>et seq.</i>						
RI	2006 Chapters 569 & 573 R.I. Gen. Laws §34-23-5 R.I. Gen. Laws §34-25.2- 1 <i>et seq.</i>	X	X		X	3 rd party required	Presumptio n at 50%
SC	S.C. Code Ann. §37- 23-10 <i>et seq.</i>	X	X		X	3 rd party required	Presumptio n at 50%
SD							
TN	2006 Public Chapter 801	X					Presumptio n at 50%
TX	Tex. Finance Code §343.001 <i>et seq.</i> and Tex. Gov. Code §2306.00 1 <i>et seq.</i>		X	X			Give due regard
UT	Utah Code Ann. §61- 2d-101 <i>et seq.</i>		X		X	Notification	
VT							
VA	Va. Code §6.1- 422.1 and §6.1-422	X					
WA	Wash. Rev. Code §31.04 <i>et</i>						

	<i>seq.</i>						
WV	W. Va. Code §31-17-1 <i>et seq.</i>			X			
WI	Wis. Stat. Ann. §428.202 <i>et seq.</i>	X	X		X	Notification	Give due regard
WY							

Exhibit C: Enforcement Actions by State Regulatory Agencies against Mortgage Providers



Source: Mortgage Asset Research Institute