Michigan Mortgage Lenders Association Presentation

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Introduction

MMLA is composed of over 800 members including mortgage banking firms, mortgage brokers, commercial banks, savings banks, credit unions and other business entities providing products and services to the mortgage industry. The Association is in its 84th year having been founded in 1929.

MMLA Mission Statement

To provide our members with the resources, legislative voice and education to effectively support the real estate finance community and guide the people of the State of Michigan in the achievement of the American Dream of homeownership.

Overview of the Michigan Mortgage Industry

- Both depository institutions (banks, savings banks, credit unions) and non-depository institutions (mortgage banking firms and mortgage brokers) originate and service mortgages in Michigan.
- Non-depository mortgage originators account for almost 35 percent of the total 1-4 family mortgage originations nationally.
- The Department of Insurance and Financial Services (DIFS) is the regulatory agency for non-depository mortgage lending and servicing firms, mortgage brokers and mortgage loan originators, with a total of over 600 companies and 5620 individuals licensed or registered.

Overview of the Michigan Mortgage Industry Continued

- Mortgage companies must comply with the Mortgage Brokers, Lenders, and Servicers Licensing Act, 1987 PA 173, for first lien, 1-4 family mortgage lending, and the Secondary Mortgage Loan Act, 1981 PA 125, for secondary mortgage lending.
- Individuals who negotiate and originate mortgage loans must be licensed by complying with the educational and background check requirements mandated by the Mortgage Loan Originator Licensing Act(MLOLA), 2009 PA 75.

Overview of the Michigan Mortgage Industry Continued

In 2002, with the full support of the MMLA, the Michigan Legislature enacted two new laws, which further added to the regulatory tools of the DIFS Director.

a. In May 2002 the "Bad Actors Law", PA 391 of 2002, gave the Director the authority to issue orders banning individual perpetrators who committed fraud, from having an ownership interest in, or being employed by a Michigan mortgage lender, broker or servicer.

b. In December 2002 the Consumer Mortgage Protection Act, PA 660 of 2002 was enacted, which addressed certain abusive and predatory lending practices and gave the Director explicit authority to enforce compliance with, and impose state sanctions for violation of, applicable federal laws and regulations.

Federal Laws Regulating Mortgage Firms

Mortgage Originators and Servicers must comply with many federal Laws and regulations including;

a) The Federal Truth in Lending Act and Regulation Z

b) The Home Mortgage Disclosure Act

c) The Equal Credit Opportunity Act

d) The Home Ownership and Equity Protection Act and Regulations (Enacted to address certain abusive and predatory lending practices)

e) The Fair and Accurate Credit Transaction Act

f) The Dodd-Frank Act enacted by Congress in the wake of the 2007-2008 financial crisis and ensuing recession

Dodd-Frank Act --Major Challenges For the Industry

2013-The Year of Implementation

The Consumer Financial Protection Bureau (CFPB), the agency that enforces the Dodd-Frank Act, has recently issued several thousand pages of new rules to implement the Act including :

- **The Ability to Repay Rule**

  Provides loan originators with a legal safe harbor if the loan is a "Qualified Mortgage" (QM). A QM is defined generally as a loan with points and fees not exceeding 3 percent, with no unconventional features such as interest-only provisions, negative amortization, and balloon payments. This rule becomes effective on January 10, 2014.

- **The Risk Retention Rule**

  Requires mortgage lenders to retain at least a 5 percent interest in a mortgage loan that is sold to investors in the secondary market, unless the loan meets the definition of a "Qualified Residential Mortgage" (QRM). The QRM definition is somewhat similar to the definition of a "Qualified Mortgage", previously discussed, but includes some specific borrower credit history requirements. No firm effective date has been announced.

- **A National Servicing Standards Rule**

  Establishes procedures for mortgage servicers to communicate with borrowers, including specific requirements and timelines for borrowers who are behind in their payments. This rule takes effect in January 2014.

- **A Loan Originator Compensation Rule**

  Prohibits loan originator compensation based on the terms of the loan, other than the loan amount, and would generally prohibit loan originators being compensated by both consumers and other parties. This rule takes effect January 10, 2014.

Major Challenges For the Industry
2013-The Year of Implementation Continued

Other CFPB Rules being implemented include:

- **Rules governing high cost mortgage loans, defined as loans with rates 6.5 percentage points higher than the average rate that borrowers with good credit pay.**
- **Proposed rules to simplify and combine the existing Real Estate Settlements Procedures and Truth-in-Lending Rules.**

Statistical Overview of Michigan's Mortgage Market-Source Mortgage Bankers Association

- Michigan, homeownership rate as of the third quarter of 2012 was 75 percent which is 10 percentage points higher than the national rate of 65 percent.
- Dollar volume of loans originated in Michigan in 2011 was $26.9 billion (184,189 loans) while the national total was $1.39 trillion (6.6 million loans).
- Serious delinquency rate (90 days or more past due or in foreclosure) in Michigan was 5.23 percent in the fourth quarter of 2012, compared to 6.76 percent in the fourth quarter of 2011.
- The Michigan foreclosure starts rate in the fourth quarter of 2012 was 0.73 percent compared to 1.22 percent in the fourth quarter of 2011.
- The Michigan foreclosure rate (percentage of total loans in foreclosure) has been falling significantly over the past two years and is currently at 1.6 percent.

IMPACT OF THE RECESSION OF 2008

- Major increase in delinquencies and foreclosures
- Michigan was in the top ten states with the highest delinquency and foreclosure rates
- A huge fall in mortgage originations for refinancing or home purchase
- These developments resulted in a significant reduction in the number of mortgage brokers, lenders and servicers operating in Michigan.

IMPACT OF THE RECESSION OF 2008 CONTINUED
NEW LEGISLATION FOR MORTGAGE LOAN ORIGINATORS

- In April of 2008 Michigan enacted legislation requiring the registration of loan originators including mandating 24 hours of coursework, the passing of a proficiency exam, FBI background checks, and continuing education.

- In July of 2008 Congress enacted the Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act, which mandated that all states enact mortgage loan originator licensing laws that met certain specific minimum standards.

- In 2009, in response to the federal mandate, Michigan enacted the Mortgage Loan Originator Licensing Act (MLOLA), which repealed the 2008 loan originator registration law. MLOLA, in addition to pre-licensure requirements similar to the repealed Michigan law, required bond coverage for each mortgage loan originator.

The Foreclosure Crisis
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Types of Foreclosure

- Foreclosure by Advertisement
- Judicial Foreclosure

The Foreclosure Crisis Continued
Foreclosure Prevention Act 2009

- The Legislature enacted in 2009, with the support of MMLA, the Foreclosure Prevention Act.
- The Act provides homeowners, behind on mortgage payments, the opportunity during a ninety day period, to negotiate with the lender to modify the loan and thereby avoid foreclosure.
- The law was extended in 2011 and 2012 prior to sunset dates, and will expire June 30, 2013, unless extended.

After Foreclosure

- Redemption
- 1099A
- 1099C (Mortgage Forgiveness Debt Relief Act of 2007)
- Deficiency Judgment
- Credit Effect

Alternatives to Foreclosure

- Sale/Refinance (HARP)
- Deed in Lieu of Foreclosure
- Short Sale
- Mortgage Modification (HAMP and Foreclosure Prevention Act 2009)
- Forbearance

Future Statutory Considerations

- Mandatory discharge of equity liens
- Tax foreclosure hardship

QUESTIONS?

THANKS TO THE COMMITTEE