



The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

ROBERT M. KOCZERA
REPRESENTATIVE
11TH BRISTOL DISTRICT
ACUSHNET • FREETOWN
LAKEVILLE • NEW BEDFORD

House Chairman
Committee on
Housing and Urban Development
ROOM 38, STATE HOUSE
TEL. (617) 722-2470
FAX (617) 722-2897

Rep.RobertKoczera@house.state.ma.us

September 19, 2000

Thomas J. Curry, Commissioner
Massachusetts Division of Banks
One South Station
Boston, MA 02110

RE: Written Comment to Draft Amendments to Regulations and Regulations: 209 CMR 32.00: Disclosure Of Consumer Credit Costs And Terms and 209 CMR 42.00: The Licensing Of Mortgage Lenders And Mortgage Brokers; and the adoption of proposed new regulations, 209 CMR 40.00: Unfair And Deceptive Practices In Consumer Transactions.

Dear Commissioner Curry:

Please accept this as my written testimony on the Division of Banks' amendments to existing regulations and proposed new regulations regarding high cost loans in Massachusetts. On behalf of homeowners in my district and throughout Massachusetts, thank you for your leadership to amend the regulations governing sub-prime and predatory lending activities in Massachusetts. As you know this is a problem that has plagued homeowners for many years and has resulted in foreclosures on homes where people, in many cases seniors, have been left without the benefit of any equity from their property.

Additionally, as the House of Representatives seeks to provide more dollars to assist individuals and families in achieving homeownership, there must also be a concurrent effort to ensure that these new homeowners are not unduly exposed to predatory lending practices that would jeopardize their new homes. Constituents in my district are subjected to high pressure advertising by mail and telephone to take out consolidation, home repair, or other loans. The ads offer large sums of money without regard to income, credit history, or current financial situation. The only requirement is equity in your home. These, along with a number of other sub-prime lending practices that you have focused on, result in the loss of equity and possibly the loss of constituents homes --primarily by the elderly, who, after decades of work to secure their homes, find themselves facing the real possibility of being without a home and without any benefit of the choice of selling their property for some personal financial gain.

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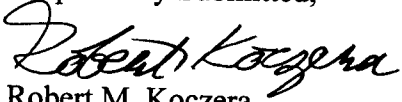
NKS

The proposed regulations would establish a number of restrictions to protect homeowners from unscrupulous lenders. There are several areas in the draft regulations that I would like to highlight and comment on:

1. In order to ensure that lenders will not take unfair advantage of borrowers who are unable to repay loans because of limits on their incomes, lenders are provided a safe harbor if monthly loan payments do not exceed 50% of monthly income. This new “means test” prohibits lenders from making high cost loans unless the borrower has the ability to make payments based only on their current income and other financial resources but not their home equity. This means test, along with the requirement of an independent verification of a borrowers ability to pay, sets an objective standard that lenders must abide by before making high-cost loans to discourage predatory lending;
2. Lenders disclosing in their advertising, increases in monthly payments and the total amount of the loan, will provide borrowers who are bombarded with advertising the information they need up front;
3. Requirements such as providing borrowers with a list of approved counseling agencies and a large print notice warning borrowers that less costly financing may be available and of increased loan payments under a high cost loan, helps highlight necessary information of alternatives and costs of high cost loans; and
4. Finally, I would like to comment regarding the proposed 209 CMR 32.32(6)(m)(2) that requires borrowers over 60 years of age to complete a mandatory counseling program on high cost home loans from approved counselors. This mandatory counseling provision for borrowers age 60 and over is based on a similar provision in our reverse mortgage statute which the legislature passed in 1998. However, this is only one of many protections in that reverse mortgage legislation, which taken together provide comprehensive protections for elderly borrowers. Without the inclusion of these more extensive protections, such as a seven day cooling off period, prohibition of any pre-payment penalties throughout the term of the loan and others, the proposal of only mandatory counseling provides less protection than our reverse mortgage statute. I would request that all of the protections of our reverse mortgage statute be required under these regulations for borrowers over 60.

I support your efforts regarding the proposed regulations. Without these changes, communities throughout the Commonwealth will continue to suffer the financial loss, heartbreak and possible displacement from their homes and communities.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert Koczera". The signature is written in a cursive style with a large initial "R".

Robert M. Koczera
State Representative