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INDEPENDENT REGULATORY REVIEW COMMISSION

PENNSYLVANIA ASSOCIATION OF MORTGAGE BROKERS
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Mortgage Bankers Association of Pennsylvania

August 17, 2007

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DEPARTMENT OF BANKING
LEGAL SECTION

Acting Secretary Victoria Reider
Office of Chief Counsel
Department of Banking
17 N. Second Street, Suite 1300
Harrisburg, PA 17101-2290

Re: Public Comment, Regulation 3-43

Dear Acting Secretary Reider:

The Pennsylvania Association of Mortgage Brokers (PAMB) and The Mortgage Bankers Association of Pennsylvania (MBA of PA), acting through their Joint Council, applaud the Department of Banking (DOB) for its consistent efforts to see that Pennsylvania consumers are treated ethically and fairly in their mortgage transactions. We share this goal with the Department; but are also concerned that the proposed regulations, if not modified, would limit the access to credit for the very consumers that we are concerned about.

We are especially troubled by section 46.2 (e). This part of the regulation, while well-intended, is problematic, as it effectively eliminates stated and NO DOC loans for entities licensed by the Department. We emphasize that this applies only to licensees of the DOB leaving the same products available for use by those that preempt or are not covered under our Mortgage Bankers and Brokers and Consumer Equity Protection Act (MBBCEPA). In addition, the regulation would not provide the ability to accommodate, where appropriate, the variety of borrowers who have income documentation that is not readily available or easily proved.

In addition to the direct harm to consumers in need of these loan products (when used in a appropriate fashion) credit to consumers will also be reduced since we estimate that as many as 30% of the small business owners making up the mortgage broker community in Pennsylvania that serves the consumers who can most benefit from these products will be negatively impacted to the extent that they may be out of the market! Other groups similarly impacted would be mortgage bankers, realtors, title companies, attorneys, appraisers, home builders and others.

We are not suggesting that the loan products referenced in the DOB proposal not be regulated to some extent. We suggest ,in this regard, that the proposed regulation be modified to disallow the use of stated income loans for W-2 wage earners, as one example of how the regulation can be utilized while not preventing the legitimate use of the same loan types for borrowers in need. These would include self-employed borrowers, tipped borrowers, and commissioned borrowers all of whom have income that cannot be easily proved by traditional means. There are responsible ways to make these loans since there are underwriting guidelines that require underwriters to look at other factors such as credit lines, assets, and government information from the Bureau of Labor and Statistics to determine if the income "stated" by an applicant is reasonable and customary. Therefore, we would not want to see these borrowers lose the opportunities available for homeownership , etc. by limiting their access to these loan products.

A related impact is the decrease in the supply of affordable housing for first-time homebuyers when borrowers who cannot obtain financing due to the proposed regulation will not be able to move up into more expensive housing, thereby rendering their less costly homes unavailable for purchase. This also adds to the stagnation of real estate pricing.

As indicated, the additional problem of having the many institutions not subject to the MBBCEPA and the proposed regulation such as Federally-chartered institutions governed by the Office of Thrift Supervision and the Office of the Comptroller of the Currency would still have the ability to make these loans. This competitive inequality not only harms the Pennsylvania licensees and therefore the State regulatory system but also causing competition to decrease thereby increasing the cost of credit to the consumer. It will also have the impact of inducing state creditors to finds ways to operate under the umbrella of federal charters to avoid regulation by the states

The mortgage industry is currently undergoing a market correction as investors are pulling away from the riskiest of loans and only investing in loans that they perceive will perform and be repaid according to their terms. Current underwriting guidelines have already been tightened to ensure a borrower's repayment ability. Therefore, there is less need to impose extreme measures on an industry that have the capacity to cause a great deal of harm to those consumers most in need of assistance in obtaining mortgage financing.

We know that the Department has significantly strengthened its enforcement capability, which we support. We feel that the consumer would be better served by this increasing enforcement of existing laws, modifying the proposal, as indicated, and allowing the market to continue its corrective action. In this regard, the market has worked exceedingly well for the consumer in the past and will continue to do so if left to its own devices with moderate and careful regulation and strong enforcement of existing laws.

The PAMB and MBA of PA through their Joint Council welcome the opportunity to speak further with the Department and to provide guidance on the issues discussed.

Respectfully submitted,

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Joint Council, PAMB & MBA of PA

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