The Mortgage Record

The Official Publication of the Massachusetts Mortgage Bankers Association

INSIDE:

NEMBC 2007

EXHIBITOR & CONFERENCE BROCHURE

MMBA
MASSACHUSETTS MORTGAGE BANKERS ASSOCIATION
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New England Mortgage Marketplace COMEBACK OF THE YEAR...

Your Starting Lineup in Industry Change

Pos.	Name	1	2	3	4	5	6	7	8	9	10	11
2B	SubPrime Market											
3B	Non-Traditional Guidance											
CF	Suitability											
RF	Reverse Mortgages											
C	Ability to Repay											
SS	Fannie Mae / Freddie Mac											
1B	Secondary Market Guidelines											
DH	Licensing											
LF	Mortgage Bankers Association											
P	Barney Frank (D-MA)											

PROGRAM GUIDE PRESENTED BY:

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The Mortgage Record

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EXECUTIVE DIRECTOR'S MESSAGE

Your Association and the Subprime Blame Game

Welcome to your 15th edition of the Mortgage Record, the official magazine of the Massachusetts Mortgage Bankers Association and the de facto "kick-off" for the 20th Annual NEMBC.

I cannot even begin to get my arms around the dramatic changes that have happened in our industry within the past several months. It is somewhat analogous to the fall of communism in the early 1990s where it seemed every day brought images of dramatic change that took generations to build. I certainly am not draconian (or shallow) enough to equate the changes in the subprime mortgage market to that of the fall of communism, but the speed with which the wave of change has appeared, seemingly out of a coincidental presentation of events, is interesting.

The modern-day subprime mortgage market was the result of innovative yet "high stakes" political decisions by former President Bill Clinton and former HUD Secretary Henry Cisneros to push homeownership to record levels. (Remember the "Rajun Cajun" slogan of "It's the Economy Stupid"?) HUD instructed the GSEs, Fannie and Freddie, to employ strategies to fund more loans by providing more credit primarily to credit-blemished borrowers. Wall Street was energized by the seemingly magical wand of the superhuman Fed Chairman, Alan Greenspan, who spun unprecedented gains through economic wizardry. More money. More credit. More homes. More wealth.

So what happened?

This is too difficult a question to reduce to a simple answer but please allow me to try. The real estate market cooled. There were limited new borrowers left following

KEVIN CUFF, MPA
Executive Director, MMBA

unprecedented productive years. And mortgage professionals were left to fight for every loan. Companies overextended themselves to fill their pipelines and Wall Street declined the responsibility for under-performance. Crash!

As complex as the policy was to drive increases to homeownership, it is equally complex to distribute blame for its failing. Mortgage brokers steered borrowers to loans that they could not afford because they needed the volume to support businesses or lifestyles. Appraisers inflated their objectivity under lender pressure or to drive real estate prices. Lenders relaxed underwriting standards and failed to live up to the "Hippocratic oath" of mortgage lending – the consumer's ability to repay. Real estate agents were the classic enablers, driving up prices because mortgage rates were at historic lows. Wall Street bought securities regardless of underwriting standards because they were high-performing. The government (GSEs, the Fed and other regulators) were driving record levels of homeownership. And the political third rail of the blame game is the consumers, many of whom wanted the loan amount to feed lifestyle and housing wants, disregarding prudence in favor of the bigger and better.

Your Massachusetts Mortgage Bankers Association has been on the proactive forefront of the fallout. We have warned consumers of its peril through a major media campaign. We have participated with regulators in proposing greater barriers to entry (including a financial stake) to the residential mortgage market. We have supported the licensing, appropriate preparation, education and testing requirements for residential mortgage loan officers. We have called for a summit of the top foreclosers in the state in order to negotiate cram-downs and structure a refinancing program. We have called on our state agency, MassHousing, to partner in efforts to provide access to refinance programs for distressed borrowers. We have partnered with community organizations in support of homebuying counseling and financial literacy. And we have considered possible community lending programs in order to provide the appropriate types of loans to the appropriate consumers.

The "Perfect Storm" analogy is disingenuous to the good fisherman from the great city of Gloucester. But, the complexities of the modern-day residential mortgage market have been a product of a tremendous convergence of systems and events. We have much to improve, but the biggest disservice within our industry will be a retraction that would not allow the good fisherman access to the appropriate credit to live his American dream. ◆

INSIDE THE MBAs

INSIDE SECRETS

Changing Times

My first few months as chair of the association have been extremely rewarding and challenging. It is an honor for me personally and a tremendous responsibility. Although rates have risen slightly and there have been some changes to the industry through consolidation and downsizing, coupled with a cooling in the real estate market, there is still quite a bit to be optimistic about. We are still looking at a near-record low interest rate environment and a developing marketplace with many interesting and optimistic opportunities. However, with change and uncertainty comes opportunity.

I am looking forward, once again, to spending a terrific week in Providence enjoying all that our businesses have to offer. As an industry, we have enjoyed tremendous growth and success. However, with that has come some disconcerting developments. If left unchecked, developments can become pervasive in our industry. Unfair and discriminatory business and lending practices, fraud, lender office closures, sanctions and compliance issues are occurring with some disturbing regularity. These problems are not new, unique or insurmountable. We will survive, we will prosper and we will be stronger and wiser because of them. Industry-wide efforts by government sponsored enterprises and lenders to promote housing opportunities for the underserved and unbanked have exposed ethical breaches in the lending system. In turn, this has led to additional and warranted scrutiny by the regulators, a development which has presented them with fiscal and human resource challenges. Assuredly, MMBA welcomes this scrutiny and endorses and supports it.

As an association, and in response to these events, we have revamped our mission statement and bylaws with an emphasis on business ethics and standards of practice. We have expanded our educational offerings and created and successfully launched the MMBA Learning Center in Burlington. In addition, we have participated in a Fair Lending Task Force.

Internally, we have exhaustively sought to respond to issues facing the consumer. Recently, we commissioned two committees – Compliance and Foreclosure Prevention – to study these areas of concern and report back to the full board with their recommendations. Through the mutual efforts of Commissioner of Banks Steven Antonakes and our executive director, we have engaged in open and ongoing dialogue to discuss possible strategies to protect the consumer from unscrupulous business practices and deceitful lenders. Currently, we are in the midst of designing a certification program for lenders, to include an emphasis on business ethics and behavior. As an association and an industry, we must be ever-vigilant for wrongdoing and respond accordingly, we must police ourselves and we must be advocates of the highest ethical standards in business practice.

If we are to be committed to being the moral compass for the industry, we can do more, and we must! Additional consumer outreach initiatives – in concert with nonprofits – in the form of free seminars and media campaigns, will be created and funded to educate the consumer. In tandem with these efforts, MMBA established The MMB Foundation with a $75,000 initial contribution. Subsequent contributions bring the total to an estimated $150,000 to support not-for-profit housing efforts, which funded 17 different grants in 2006 and 2007.

For our membership, educational program offerings on fair lending, ethics and related topics need to be available at a reduced or minimal cost to encourage greater member participation. More specifically, we need to provide our membership a value-added proposition, complete with updated Web site, protocols, suggested policies to address fair lending and best practices issues.

From the consumer's perspective, we need to balance access to capital with products and affordability and in doing so, remain steadfast in support of the ideals upon which this association was founded. I have been involved in the association since 1985 and I have the highest regard for the people I have encountered and befriended. I encourage you to look around during the NEMBC. Some of the players are different, perhaps vastly so, but I remain convinced that the virtuous nature inbred in the spirit of our past members is alive and prospering in each one of you. As an associaion, we will continue to strive to be as diverse a representative body as the consumers we serve. It is only through this diversity that we can appreciate what is in the best interests of the people we serve, the consumer and our membership.

Essentially, we have two paths from which to choose. We can embrace the changing business and regulatory climate and build on our tradition of integrity or we can choose to conduct business as usual. I trust you to make the right choice and I look forward to working with you in the implementation of this decision. ◆

ROBERT F. LAVELLE

MMBA
MASSACHUSETTS MORTGAGE BANKERS ASSOCIATION

Name, Title and Occupation:
Robert F. Lavelle, chair of Massachusetts Mortgage Bankers Association; senior vice president of Middlesex Savings Bank; banker for the credit administration.

Favorite book you read recently:
"Trinity" is my all time favorite, but not something I read recently.

Favorite movie you saw recently:
Don't go to movies often, but enjoyed "The Greatest Game Ever Played."

First job: Lifeguard (first fulltime position).

If you were not a mortgage banker, what would you do: Oceanographer.

What is your favorite NEMBC memory:
I have many.

What would you change to improve the mortgage industry: Our executive director.

Welcome to NEMBC

This is the 20th year for the New England Mortgage Banking Conference. Accolades must be given to all of the committee members, whose tireless efforts bring us the best conference in the region. The conference offers the best of all possibilities and opportunities to its participants. Planned social events allow us personal interaction with our peers and partners – both old and new. There will be numerous educational functions as well to offer the newest innovations in product development and in technology. The Marketplace Exhibitors are a must-see. Sponsors and exhibitors not only offer their newest products, but also make the scope of the conference possible.

As a mortgage professional for the past 20-plus years, I cannot think of a better way to improve my grasp of the industry, while having some fun at the same time. Welcome and enjoy the conference. ◆

MELINDA BOEHM

Mortgage Bankers Association of Maine, Inc.

Name, Title and Occupation:
Melinda Boehm, president of Mortgage Bankers Association of Maine; mortgage underwriter for First Horizon Home Loans Corp.

Favorite book you read recently:
"The Da Vinci Code."

Favorite TV shows: "CSI Miami," "NCIS."

First job: In retail, as a kitchen supplier and home brewmaster.

Favorite music group:
Depends on my mood. Lately, Diamond Rio.

If you were not a mortgage banker, what would you do: Join a nonprofit group and work with the elderly.

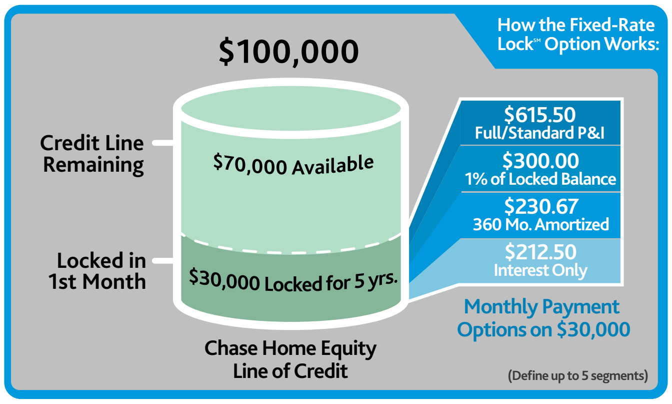
What is your favorite NEMBC memory:
I am still developing them.

What would you change to improve the mortgage industry: Synchronize regulation so bankers, supervised lenders and mortgage brokers would follow the same rules.

The Chase Fixed-Rate Lock℠ Option.

Now with new payment choices, you can offer your Home Equity borrowers even greater lending flexibility.

As the nation's leading home equity lender, Chase continues to add more ways for you to better serve your borrowers. For example, we've added three new payment options to our already flexible Chase Fixed-Rate Lock℠ Option feature. In addition to a standard fixed-rate P&I payment, borrowers can now select interest only, 1% of the locked balance, or a 360-month amortization payment. And each new payment option is available for lock terms of 3, 5 or 7 years. The Fixed-Rate Lock℠ Option already gives your customers the peace of mind of a fixed-rate loan with the flexibility of a line of credit. Now they can choose a payment that works better for them. Build your home equity business with innovative features available only from Chase. Contact your Chase Home Equity Account Executive or visit www.chaseb2b.com/fixedratelockoption.do for an interactive demo.



CHASE

Reaching for Our Goals

While the mortgage industry as a whole appears to be going through "an adjustment period," it is my pleasure to report that the Rhode Island Mortgage Bankers Association (RIMBA), as a trade group, remains alive, exciting and vibrant. As an organization, we have just completed an extremely busy and successful 2006, and believe 2007 will be no different! As always, RIMBA remains focused not only on its members, but also the consumer, by working to promote the mortgage banking industry's service to the community.

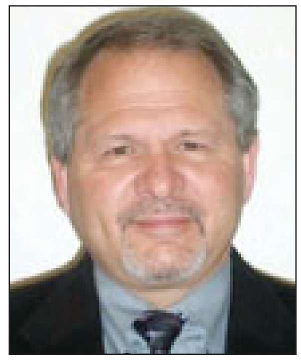
One of our primary goals at RIMBA involves the monitoring of all legislation that may have an impact on our industry. Our legislative committee reviews hundreds of pieces of legislation on an annual basis. Here our focus is aimed at assisting those in the mortgage industry, while at the same time protecting consumers against what we believe may be harmful legislation.

Last year, our legislative team worked tirelessly to keep our membership informed of all pending and new legislation. The Rhode Island Home Loan Protection Act, which is Rhode Island's very own Predatory Lending Bill, heavily weighted the agenda at that time. In 2007, our legislative team's focus remains the same; to keep our membership informed on all pending and new legislation, whatever that may encompass.

Going forward, our livelihood in the mortgage industry depends upon the ability to find and secure mortgage financing, especially affordable housing. I remember when I purchased my first home in 1978. It was a two-family in Pawtucket and I paid $43,000! With market conditions being what they are today, we all need to explore alternative ways of doing business and, more importantly, doing what's best for those seeking financing. I strongly feel it is our responsibility and duty to make sure we attempt to pair borrowers with products that best suit their needs.

On the lighter side, I would also like to take the opportunity to make you aware of the following RIMBA-sponsored events that have been planned for 2007: For the third consecutive year, as our way of saying thank you to our entire membership, our 2007 program began with Member Appreciation Night in January at Dave & Busters. As always, it was well attended. Next on the calendar was an educational breakfast meeting in March regarding Private Mortgage Insurance, which is now tax deductible. The board felt this was a timely topic. This was followed by our annual RIMBA After Hours, where the main focus was on current legislation. Our very popular Loan Officer University was held in April, to be followed by our 18th Annual Golf Tournament in June, held at one of the premiere golf courses in Rhode Island – the Potowomut Country Club.

In closing, I, along with the board of directors and our entire membership, would like to extend our hospitality as you prepare to venture back to Providence, R.I., for the 20th annual New England Mortgage Banking Conference. Whether this is your first visit or you are a returning guest, we hope you enjoy your days here! ◆



PAUL J. CAPPELLO

RHODE ISLAND
MORTGAGE BANKERS ASSOCIATION

Name, Title and Occupation:
Paul J. Cappello, president of Rhode Island Mortgage Bankers Association; senior vice president of lending at Pawtucket Credit Union.

Favorite book you read recently:
"The Camel Club" by David Baldacci and "Casino Royale."

Favorite movie you saw recently:
"The Departed."

First job: Lifeguard at the local YMCA.

If you were not a mortgage banker, what would you do: College baseball coach.

What is your favorite NEMBC memory: "Night Times" in downtown Providence.

What would you change to improve the mortgage industry: Simplify the mortgage process for first-time homebuyers.

Striving to Serve You

Welcome to the 20th New England Mortgage Banking Conference preliminary program guide. It is the fifth time that the conference is being hosted in Providence, R.I., and the planning committee has done another excellent job.

We have seen a great deal of changes this year with lenders consolidating, cutting back and many just going out of business. We have seen many brokers closing their doors and regulators concerned with the subprime industry. On the state and national level, there are moves to register and train our loan officers. It is more important than ever that we as mortgage bankers support and are active in our state mortgage bankers associations.

The Connecticut Mortgage Bankers Association has been serving its members for over 30 years by providing leadership, direction, education and support. Our strategy is to be a resource to the mortgage industry and our members. Quality seminars are offered on timely topics and a loan officer's university is conducted semi-annually for new and experienced loan officers alike.

We remain an advocate in the state legislative process by protecting our interests every time new legislation is introduced. Our association lobbyist, and the legislative committee, meet constantly with our state legislators and the banking department to help form and pass legislation that will protect and improve our mortgage industry.

The seminars, social events and legislative activities would never be as successful as they are if we did not have a strong core of active members and committees. We could always use more help, and everyone is welcome and encouraged to join one of our committees or start a new one. Please check our Web site at www.cmba.org for more information on the CMBA.

A big thank you to our Executive Director Barbara Goodrich and her hardworking staff for helping to make the Connecticut Mortgage Bankers Association the success it is today. ◆

TOM EGAN

Connecticut Mortgage Bankers Association, Inc.
Opening Doors

Name, Title and Occupation:
Tom Egan, president of Connecticut Mortgage Bankers Association; area sales manager for Indymac Bank.

Favorite book you read recently:
Frank McCourt's "Angela's Ashes."

Favorite movie you saw recently:
"The Departed."

First job: Caddie.

If you were not a mortgage banker, what would you do: Run my own business doing something fun.

What is your favorite NEMBC memory:
A round of 83 at the Newport Country Club.

What would you change to improve the mortgage industry: Make Kevin Cuff president of the national Mortgage Bankers Association.

Increasing Education

The New England Mortgage Banking Conference is always an annual highlight for me. I have been fortunate to volunteer several years at the conference and have enjoyed every minute of it. It has given me the opportunity to meet and speak with each mortgage banker/broker board member from Connecticut, Vermont, Massachusetts and Rhode Island.

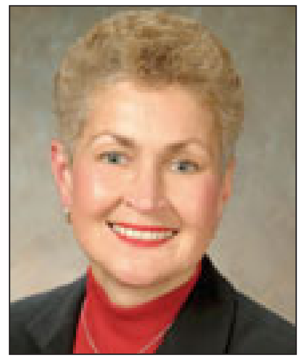
During slow periods, when I have been on the registration desk, I have had the opportunity to stroll the marketplace. I am always looking for new products and innovative ideas to help increase my production, since I'm a working loan originator and sales manager. The educational breakout sessions are extremely important to me because they allow me to listen and learn from some of the top originators and mortgage professionals in our industry.

Networking at the conference reminds me of old home day. It is always so much fun to see former colleagues and friends, as well as forge new relationships along the way, especially the new friends I have made in the other New England states throughout the years.

As the newly elected New Hampshire president for the 2007-2008 year, I am looking forward to sharing my industry knowledge and vision with others in New Hampshire. My year as president will focus on two initiatives: educating individuals in the mortgage finance industry and emphasizing the importance of maintaining high ethical standards. One of the ways I will accomplish these is through the systematic promotion of our Certified Mortgage Professional designation, a symbol of competency, experience and ethics.

It has always been my pleasure to attend the New England Mortgage Banking Conference, either as a paid attendee or volunteer, over the many years (25) I have been in this industry. This year the conference planning committee, made up of representatives from the six New England states, diligently worked together to offer you a worthwhile conference with lots of networking opportunities, educational forums, the hugely successful marketplace and, of course, fun.

See you there! ◆



GLADYS A. WHITE

Mortgage Bankers and Brokers Association of New Hampshire, Inc.

Name, Title and Occupation: Gladys A. White, loan officer/sales manager; president of Mortgage Bankers and Brokers Association of New Hampshire

Favorite book you read recently: "Life of Princess Diana."

Favorite movie you saw recently: "Chicago."

First job: A teller at Framingham Savings Bank.

If you were not a mortgage banker, what would you do: Play around. Only kidding – I would go back to banking.

What is your favorite NEMBC memory: The party at the Biltmore – WILD!!!

What would you change to improve the mortgage industry: Have everyone on the same page, ETHICS.

Expand Your Horizons

As the new president of the Vermont Mortgage Bankers Association (VMBA), I am consistently learning something new. Among those new experiences will be my first visit to the New England Mortgage Banking Conference! I am looking forward to seeing the many vendors, keynote speakers and industry advances in technology, as well as opportunities to just have some fun and meet my colleagues from around New England. I would like to encourage everyone to take advantage of all NEMBC has to offer.

VMBA takes education very seriously and we strive to provide interesting educational opportunities for our members. Our Education Committee has run a successful School of Mortgage Banking for several years. This year, we decided to offer numerous seminars with timely updates on products, reverse mortgages and the growing area of fraud in the mortgage industry.

Each year, VMBA holds a legislative luncheon, where we encourage members to build relationships with other industry professionals and legislators. In this manner, we can work together as allies to support the housing industry in our state. In early February, I attended the Vermont Association of Realtors Legislative Day at the Vermont Statehouse. After a breakfast reception, we were able to visit various committee meetings to observe our legislators at work. We then spent an hour with the VMBA lobbyist, who shared guidelines and general tips on how to take a more active role in our government. The advice was extremely valuable. By getting to know your legislators and staying informed on current bills affecting real estate, housing and mortgage lending issues, each and every person can make a difference. I challenge you to get involved.

I look forward to what lies ahead in our ever-changing industry. We will need to stay on top of the inevitable changes that will most certainly come our way – changes such as lack of real estate appreciation, greater use of technology, potential downsizing and the need to decrease the cost of origination, as well as any market reactions to ongoing subprime lending issues. Be flexible, learn something new, get involved in your local or state government and expand your horizons. You'll be glad you did. ◆

KATHY SIMANSKAS

VMBA

Name, Title and Occupation: Kathy Simanskas, president of Vermont Mortgage Bankers Association; mortgage services manager at the Vermont State Employees Credit Union.

Favorite book you read recently: "Brick by Brick: A Woman's Journey," by Lynn Donahue.

Favorite movie you saw recently: "The Celestine Prophecy" (but can't wait for "Harry Potter: The Order of the Phoenix").

First job: Waitress.

If you were not a mortgage banker, what would you do: Artist and/or Musician.

What is your favorite NEMBC memory: Since I'm a first timer, I'll have to make some memories!

What would you change to improve the mortgage industry: Control predatory lending.

Disbursing the Benefits of

These pages focus on the details and benefits of reverse mortgages, a rising trend within the mortgage industry.

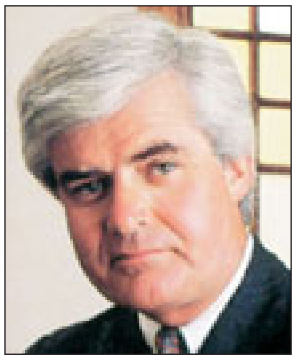
Reverse Loans Changing Policy

BY GEORGE A. DOWNEY

The good news is we are living longer. The bad news is that too many of us could, or will, outlive our savings. Americans age 65 and older total about 34 million. This number is expected to double in the next 20 years to 70 million by the year 2030, as the baby-boom generation enters retirement. The problem is twofold: the burden on the federal and state governments to continue funding currently-promised Social Security and Medicaid benefits is simply not feasible and retirement savings levels for aging Americans are too low. The Center for Retirement Research at Boston College announced last year that 43 percent of working households are in danger of having too little income to fund their retirement needs.

Federal Medicaid grants to states, which primarily pay for the long-term care needs of senior recipients, have skyrocketed and are now the fifth-largest federal budget item – weighing in only after Social Security, defense, federal debt and Medicare. The nation spent $123 billion on long-term care needs for seniors 65 and older in 2000. Approximately 50 percent of this was paid by the individuals and 3 percent paid by private insurance. The 47 percent balance ($58 billion) was paid by government health programs. This likely will double in the next 20 years.

On the plus side, almost 80 percent (27 million) of today's seniors own their own homes, and this number will continue to rise in the future. Additionally, seniors have the highest median home equity, averaging $80,000 versus $57,000 for all homeowners across the country. Seniors, on the other hand, have the lowest median income, averaging $23,311 annually versus $43,481 for all homeowners. This illustrates that conversion of home equity into income could significantly increase the low incomes of senior homeowners.



GEORGE A. DOWNEY *is president of Harbor Mortgage Solutions in Braintree. He can be contacted by e-mail at gdowney@harbormortgage.com.*

This is what reverse mortgages are designed to do.

Congress has demonstrated considerable interest and support for the continued development of reverse mortgages. On July 25, 2006, the House passed the Expanding American Homeownership Act, which made substantial improvements to the FHA Home Equity Conversion Mortgage, the nation's most popular reverse mortgage program.

President George W. Bush immediately issued a statement thanking the House for its overwhelming support for the bill and urged the Senate to pass its own version. Growing numbers of legislators and government officials are studying reverse mortgages as a viable option for some homeowners to pay for future long-term care and other retirement needs.

One significant challenge remains: Too few people really understand reverse mortgages. However, that is beginning to change as awareness and education is increasing. The total number of reverse mortgage transactions seven years ago was slightly over 6,000. As of May 2006, that number had increased to over 7,000 per month.

Clearly, the financial problems of aging Americans are serious and they are numerous. Unquestionably, though, home equity remains the most significant asset for most senior households. For many of them, and for our government, reverse mortgages may provide solutions that are sorely needed by both. ◆

This article is reprinted from the Aug. 28, 2006, issue of Banker & Tradesman.

Reverse Mortgages Changing Retirement Planning

BY GEORGE A. DOWNEY

Once viewed with considerable skepticism, reverse mortgages are now recognized as a valuable new resource for the financial and estate planning needs of senior homeowners. Traditional retirement planning strategies have focused, almost exclusively, on building retirement savings through investments in a variety of financial assets and insurance products. For most, it hasn't been enough.

Residential home equity, on the other hand, is unquestionably the largest asset most retirees have. However, it has rarely been considered to be a practical source of retirement liquidity.

The property must be the borrower's primary residence. Additionally, they are required to keep the real estate taxes and homeowners insurance current, and they must keep the property well maintained. That is the extent of the borrower's responsibilities. These unique terms make it possible, and practical, to convert home equity to needed cash without selling, being forced to leave the home at some point or taking on unwanted loan payments.

Professional advisors, including elder law attorneys, financial planners and estate planners, are now recognizing that the potential liquidity from reverse mortgages could hold significant value for their clients' overall planning and should be a basic consideration in the planning process. There are no restrictions on how the money can be used. Common uses have been to pay off existing debt, provide more income, home repair and improvements, create reserves for future needs and emergencies, gifts to children and grandchildren, travel and much more. Consider just the following two planning examples:

Income planning: One consideration could be to replace or reduce the receipt of taxable income distributions from IRA, 401(k) or other tax-deferred accounts with tax-free distributions from a reverse mortgage. The effect would be to eliminate or reduce the income tax liability for the current year and to enable the investment account to continue the tax-deferred accumulation for future needs. Moreover, the reverse mortgage would reduce the value of the estate for estate tax planning purposes.

Long-term care planning: In January 2005, the National Council on Aging released the results of a major study it had commissioned on the funding of long-term care needs of seniors. The report identified reverse mortgages as the primary resource available to seniors to pay for long-term care insurance premiums, nursing home costs or in-home care services. The report further indicated that 40 percent of all seniors age 65 and older will eventually need long-term health care services.

Although reverse mortgages may offer a number of attractive and innovative features, they are not appropriate for everyone. Suitability is determined on a case-by-case basis with education and objective input from competent advisors. Additionally, individual counseling with a counselor approved by the U.S. Department of Housing and Urban Development is a mandatory requirement for all applicants. ◆

This article is reprinted from the May 23, 2005, issue of Banker & Tradesman.

Reverse Mortgages Provide Solutions for America's Senior Population

BY ROBERT SCOTT AND SHERRY B. APANAY

Once upon a time, low interest rates made it easy for homeowners to slash their mortgage payments through refinancing. But when rates went up, a growing senior population, faced with the limitations of their retirement income, didn't necessarily live happily ever after. The great news is that the mortgage industry offers a solution for senior homeowners: the reverse mortgage.

A Booming Business

Reverse mortgages are one of the most frequent subjects of inquiry made through organizations such as AARP. As the industry has educated consumers about these unique loans, their popularity has grown at a staggering rate, with loan volume climbing from fewer than 6,000 loans annually prior to fiscal year 2000 to more than 43,000 in 2005, according to the U.S. Department of Housing and Urban Development (HUD). With recent announcements by HUD lifting the cap on the number of federally insured reverse mortgages and allowing new, higher loan limits, the potential for reverse mortgages will continue its upward trend. Now is the time to add this tool to your client offerings.

Meeting Needs

Financial Freedom Senior Funding Corp. of Irvine, Calif., the nation's reverse mortgage industry leader, offers a complete line of reverse mortgage products and loan origination services, from application through closing and funding. Among the products carried by Financial Freedom is the Home Equity Conversion Mortgage, the most popular reverse mortgage, which is insured by the Federal Housing Administration. Another option is the Fannie Mae HomeKeeper loan. Three jumbo reverse mortgage products developed by Financial Freedom are specifically designed for higher-valued homes and have virtually no lending limit. These exclusive Cash Account products include the no-fee option Zero Point Cash Account and the new Simply Zero Option, which eliminates up-front fees.

Partnering for Success

Mortgage professionals can partner with Financial Freedom through two turnkey programs – as either a broker/advisor or wholesale correspondent. To help assure success, the company provides specialized training, customizable marketing tools and operational support. Reverse mortgages are Financial Freedom's only business – they don't sell or promote any other products. The company was instrumental in the development of the reverse mortgage concept and they continue to lead the industry. In fact, more seniors have chosen Financial Freedom for their reverse mortgage than any other lender.

Reverse Mortgages

A reverse mortgage enables senior homeowners aged 62 or older to convert their home equity into income without having to sell the home, give up the title or take on a new monthly mortgage payment. They can choose to receive their funds as a lump sum, monthly income, line of credit or any combination. This tax-free cash can be used for virtually any purpose. They make no monthly payments during the life of the loan, which becomes repayable when the borrower sells the home, permanently moves out or passes away. Reverse mortgages have numerous, built-in consumer protection features so lenders can be confident about recommending them. The National Reverse Mortgage Lenders Association has developed a code of conduct and best practices to establish the highest standards for customer service and consumer protection for the industry (find out more at www.reversemortgage.org). Borrowers are advised to consult their tax advisor and appropriate government agencies. ◆

Robert Scott and Sherry B. Apanay are first vice presidents of national wholesale sales at Financial Freedom, The Reverse Mortgage Specialist.

For more information, call (877) 210-2599 or visit www.financialfreedom.com for details on any products and partnering opportunities.

Reverse mortgages are unique home equity loans designed exclusively for the needs of senior homeowners, age 62 and older, that enable them to convert part of their equity into tax-free cash or income without having to sell the home, give up their title ownership or take on any new monthly payments to a lender.

Key features include:

- No payments to the lender for the life of the loan;
- No maturity date – the loan is due only when the last borrower permanently leaves the property;
- Payments are received tax-free and do not affect Social Security benefits;
- Flexibility – there are no restrictions on the use of the funds, which can be accessed by a credit line, lump sum payments, periodic payments or any combination; and
- Non-recourse notes provide that if, or when, the property is sold, the loan payoff balance can never be greater than the net proceeds from the sale of the property. This assures that no personal debt would ever revert to the borrower, their estate or to their heirs.

LEGISLATIVE

The Beacon Hill Report

BY STEPHEN A. BOKSANSKI

The legislative session officially opened on Jan. 3, but very little has been accomplished or even attempted at this point. Legislative rules have been adopted and committees have been established, but the process has been unusually slow and public hearings take place several weeks after the session begins. It suggests that perhaps leadership has decided to take a step back and let the new governor enjoy the spotlight. Being new to government, it's not atypical for a few missteps to be made and the Legislature is probably quite content to let them play out without their interference. While a honeymoon period exists for a new governor, the strategy to gain power never sleeps in politics.

As with any legislative effort, a grassroots component is crucial and can make or break any organization's success.

For good or bad, Gov. Deval Patrick has been the center of attention for the past few months, which culminated on Feb. 28, when his Fiscal Year 2008 budget was due for submission to the Legislature. He has already drawn praise and scorn for his reorganization plan, his municipal partnership act and his business tax reform, which as of press time had yet to be filed. He has also come under fire for spending state funds to decorate his office and upgrade his car, although he has pledged to personally repay the state for much of these costs. He's learning on the job that just a few months can be a very long time as governor.

Gov. Patrick filed Article 87 papers with the Legislature on Friday, Feb. 9. The major shifts in these plans are an expansion of the Executive Office of Environmental Affairs to include Energy and the merging of former Secretary-level positions for Housing and Economic Development into one. The former Department of Telecommunications and Energy was split between these two new Cabinet positions, with the Division of Energy Resources and the re-emergence of the Department of Public Utilities falling under Energy and Environmental Affairs. A new Division of Telecommunications and Cable will be housed in the Office of Consumer Affairs and Business Regulation. The Legislature is required to refer the legislation to committee within five days and the committee must hold a hearing within 30 days of receiving the bill. A recommendation must be made by the committee within 10 days of the public hearing and the bill and each branch must take an up-or-down vote on the plans within 60 days of the date it was filed. If the Legislature fails to take action within the 60-day period, the plans automatically take effect.

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On Feb. 15, the governor filed comprehensive legislation that contains a series of initiatives aimed at improving the health of the commonwealth's 351 cities and towns and strengthening the partnership between local governments and state government. The centerpieces of this proposal include allowing cities and towns, by local option, to participate in the Group Insurance Commission; requiring underperforming municipal, county and authority pension funds to be taken over by the state retirement board; allowing cities and towns to impose a meals tax that would help generate revenue to provide tax relief to senior citizens; closing loopholes in property tax laws that enable telecommunications companies to avoid local taxes; and extending the soon-to-expire property tax classification rules that keep commercial rates inflated. The bill has since been broken up and parceled out to five legislative committees: Education, Municipalities and Regional Government, Public Service, Revenue, and State Administration and Regulatory Oversight. This apparent divide-and-conquer strategy isn't an encouraging sign for the new administration. While municipal officials are wild over the prospect of gaining the power to impose new taxes, the Legislature has been down this road before and hasn't shown any signs of a change in position to cede their statutory authority.

The governor has proposed to file legislation that makes changes to the corporate tax laws of the commonwealth. The legislation reportedly includes seven new provisions to raise revenues, most of which have been before the Legislature before while Gov. Mitt Romney was in office and were rejected. The administration is counting on these changes to create an influx of $500 million. Businesspeople hate the word loophole, while liberal tax spenders find it ever so delightful. It can be argued indefinitely whether a certain portion of the code is fair or unfair but the effect on the business climate is the same – when CEOs and investors see instability, they don't like it very much. This bill is likely to be referred to the Joint Committee on Revenue for a public hearing and greater scrutiny. While its success is crucial to the governor's budget plans, there's no guarantee it will advance on a similar or parallel track.

Gov. Patrick was allowed eight weeks to submit his spending plan to the Legislature in the first year of his four-year term. A budget will be due by the fourth Wednesday in January in each of the subsequent years he is in office. The budget, like the reorganization plan, will seek to fulfill some campaign promises and highlight his priorities. The budget process will move immediately to the House Ways and Means Committee, which will analyze and then rewrite the budget to reflect their priorities. The House budget is typically released in early April. The Senate mimics the House process during the month of May, and June is preserved for conference committee deliberations. The Legislature should have a final version to the governor before the beginning of the next fiscal year on July 1. With revenue growth projected at 3 percent and not keeping up with spending, the governor and Legislature will need to find budget cuts or new revenues to bridge the gap.

The Massachusetts State House.

While these events unfold, the Massachusetts Mortgage Bankers Association (MMBA) will begin its perennial educational and introductory campaign among key decision makers on Beacon Hill. The MMBA was invited to an informational briefing being held by the Joint Committee on Financial Services on Tuesday, Feb. 28. This is customary for the committee and it provided a chance for new members and stakeholders to introduce themselves to each other and share their general perspective on issues relevant to the committee.

The MMBA faces challenges and opportunities in 2007-2008, just it does every session. However, given the extraordinarily large number of foreclosures taking place and the inevitable media horror stories, there is clearly a sense that legislators are anxious to address these issues in some way. The MMBA has been working closely with other stakeholders and state regulators in developing solutions that can ultimately be brought to the Financial Services Committee for consideration. The MMBA will pursue these recommendations as an alternative to some of the more unacceptable proposals that are out there, including the imposition of Community Reinvestment Act-like requirements on mortgage lenders. Legislation relative to loan officer registration and licensing has been filed and will also be a hot topic for discussion and will likely become a part of the greater debate.

The MMBA will follow up the informational hearing with individual meetings to continue its engagement and participation with committee decision-makers. As with any legislative effort, a grassroots component is crucial and can make or break any organization's success. As members of the MMBA, your voice is needed as we move forward and these are decisions that should not be made without the benefit of hearing from constituents who make their living within the industry. If you're not engaged, you're leaving your fate in someone else's hands.

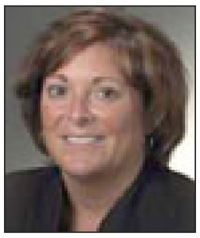
Public hearings are still several weeks away and the budget process, along with the other Patrick proposals that are pending, will continue to receive the lion's share of the public and media attention. ◆

LEGAL

No Rescission Remedy for Class Actions

BY PATRICIA ANTONELLI

The lending community welcomed a recent decision of the First Circuit Court of Appeals on Jan. 29. In finding that class actions for rescission are unavailable under the federal Truth in Lending Act (TILA) and the Massachusetts Credit Cost Disclosure Act (MCCCDA), Judge Bruce M. Selya wrote "we ground this holding primarily on our conclusion that Congress did not intend rescission suits to receive class-action treatment." Thus, the First Circuit reversed the U.S. District Court for the District of Massachusetts' certification of a broad class of plaintiffs made up of residential mortgage loan borrowers who might potentially be eligible for rescission relief. In the case of *Ralph McKenna et al. v. First Horizon Home Loan Corp.*, the plaintiffs sought relief under TILA and MCCCDA, alleging that First Horizon Home Loan Corp. (the lender) failed to accurately disclose the plaintiffs' statutory right of rescission by issuing confusing and legally defective notices of rescission.



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The regulations implementing TILA and MCCCDA do not require that creditors use the model forms for notice of the right to rescind, which are prepared by the Federal Reserve Board, as long as the creditor provides notice of the right to rescind that is "substantially similar" to the board's forms. The lender in *McKenna* did not use the model forms prepared by the board, but instead provided the plaintiffs with its own form of notice. The board's forms for rescission notice include Form H-8, which is meant for consumers who are entering into mortgage loan refinance transactions with a different lender than the one who financed the previous mortgage loan, and Form H-9, which is intended for consumers who are entering into mortgage loan refinance transactions with the same lender who financed the consumer's prior mortgage. The *McKenna* plaintiffs challenged the lender's form as it applies to both types of transactions where the lender is refinancing a prior loan from a different lender, as well as to transactions where the lender is refinancing a prior mortgage loan that the lender made to the consumer.

In addition to their individual claims for rescission and statutory damages, the plaintiffs asked for similar relief for a class of Massachusetts consumers who had received mortgage loans from the lender and similar rescission notices. The District Court adopted the recommendation of a magistrate judge certifying a class of consumers who obtained non-purchase money loans from the lender on or after April 1, 2003; who received the allegedly defective notice of the right to cancel; where the loan is secured by the borrower's Massachusetts residence; where the loan was for purposes other than the initial construction or acquisition; and where all or part of the loan proceeds were used to refinance a loan made by another lender. The class definition also provided that no person shall be excluded from the class simply because that person has refinanced or paid off the loan.

The issue of whether class action relief is available in rescission cases is an issue of first impression in the First Circuit, resolved by the Fifth Circuit in the 1980 case *James v. Home Constr. Co. of Mobile Inc.* The Fifth Circuit held that rescission class actions are not maintainable under TILA, basing its holding primarily on a conclusion that Congress intended rescission to be a purely personal remedy and purely personal remedies are inconsistent with class action remedies. The Fifth Circuit also noted the absence of any necessity for the class action type of remedy, as there are considerable monetary recoveries and attorneys' fees available for plaintiffs in individual rescission cases.

Continued on Page 14

INSURANCE / SURETY AND FIDELITY BONDS

Operational Insurance Requirements

BY TOM DELANEY

Driven by favorable interest rates and a robust real estate market, the previous three years saw many speculators rush into the mortgage lending profession. Most were honest individuals harboring good intentions of generating a profit by assisting borrowers in securing the necessary funds to achieve the American Dream of home ownership. Others, however, sought to get rich quick by counseling borrowers into mortgage products that would maximize lender profits, without regard for the borrowers' ability to shoulder the debt.

In response to this rush of speculators into the mortgage lending profession, many states are re-examining their licensing requirements with an eye on weeding out these less reputable players. Licensing requirements that may be strengthened include education, minimum net worth and bonding.

Most states already have bonding requirements. Many times, lenders purchase these bonds without understanding what they are or how they respond. Below is a description of two frequently required bonds.

Surety Bonds

Most states now have surety bond requirements in place for mortgage bankers and mortgage brokers. The requirements of each state often differ between mortgage bankers/lenders on the one hand and mortgage brokers on the other hand.

A surety bond is a written instrument in which two parties, one of which is the surety, become obligated to a third party for the payment of a sum of money, not to exceed the bond amount if the obligation set forth in the bond is not fulfilled. For mortgage bankers and brokers, the requirements are set by the various states and mandated in the state statutes. The bond form itself most often references the section of the state statutes containing the bonding requirement. Violation of the state statutes can trigger financial obligations to third parties via the state.

There are three parties to a typical surety bond:

- The mortgage banker or broker is the principal, who is primarily responsible for the fulfillment of the obligation set forth in the bond. It is the principal who must perform his obligation under the law or respond in damages;
- The obligee is the beneficiary under the terms of the bond. For mortgage banker/broker license bonds, the state is the obligee; and
- The surety is the party who joins the principal for the purpose of guaranteeing the fulfillment of the principal's obligation. Surety bonds are most often written by insurance companies.

Although insurance companies are the accepted providers of surety bonds, a surety bond is not an insurance policy. In an insurance policy, the insurer takes the entire risk and the insured pays a premium for the privilege of transferring certain of his potential exposures to loss to the insurer. In a surety bond, no responsibility passes from the principal to the surety. The principal, by paying a premium, gets the surety to accompany him as a guarantor of the fulfillment of his obligation. The principal still retains all of his responsibilities to the obligee. In a surety bond, the premium is actually more of a service fee charged for the privilege of using the surety's prestige and financial responsibility as backing for the obligation. When the surety has to step in and fulfill the obligation for the principal, the law provides that the surety may seek recovery for its loss from the principal.

TOM DELANEY *is managing director of Bankers Insurance Service (BIS), a provider of fidelity bond and errors and omissions insurance tailored to meet the needs of mortgage bankers and brokers. The company develops niche products and a range of insurance programs and risk management services for the mortgage banking industry. BIS is endorsed by the Mortgage Bankers Association of America and the Massachusetts Mortgage Bankers Association. Delaney serves on the MMBA Corporate Advisory Committee. He can be reached at (312) 381-3722 or Tom_Delaney@bankersinsuranceservice.com.*

Fidelity Bonds

Mortgage bankers and mortgage brokers are often required to carry a fidelity bond as well as a surety bond. Fidelity bonds are usually required by secondary market institutions (Fannie Mae, Freddie Mac), wholesale lenders, investors and warehouse lenders. There are also a few states that require minimum fidelity bonds. Even without the requirement that they carry fidelity coverage, many employers choose this insurance to protect their company from the serious impact of internal fraud. Also, in many documented cases of loan fraud, it has been frequently found that external fraud rings often have an insider at the mortgage company engaged in the dishonest activities.

A fidelity bond is a bond in which the surety (insurer) agrees to pay the obligee (employer) the amount of any loss sustained by the employer during the term of the bond for loss resulting from an employee's dishonest or fraudulent acts. It is much more like an insurance policy in that the employer (mortgage banker/broker) pays a premium to the insurer for the privilege of transferring his risk of loss resulting from a dishonest employee(s) to the insurance company. The insurance company can then attempt to recover its loss from the dishonest employee.

There was a time when fidelity bonds were written on individual employees. Today, the typical fidelity bond is written on a blanket basis to cover all of the employees of the firm. The fidelity bond is often included as part of a crime package insurance policy that also includes check forgery, forged documents, burglary and robbery – both on premises and in transit – and may also include certain types of errors and omissions coverage as well.

In summary, a surety bond does not respond unless the mortgage banker/broker is not able to fulfill its obligation to the state for violation of certain state statutes. This usually means the mortgage banker/broker is having financial difficulty or is out of business. Again, this does not relieve the principal (and/or its owners who have agreed to indemnify the surety company) of their obligation to indemnify the surety for paid losses. These funds are still due to the surety.

Fidelity bonds provide insurance protection to lenders for their exposure to employee dishonesty and certain loan fraud scenarios. Claims are paid by the insurance company with no requirement that the insured reimburse the insurer for these losses. ◆

MORTGAGE INSURANCE

Mortgage Insurance Tax Deductibility

BY PETE PANNES

In late December 2006, the U.S. Congress voted to make mortgage insurance premiums tax deductible for the first time in 2007. Here's what you need to know:

Who: Borrowers closing loans to purchase homes or refinance in 2007 who have annual household incomes of $100,000 or less will be able to deduct the full cost of their mortgage insurance premiums on their federal tax returns. Borrowers with incomes up to $109,000 can take advantage of a partial deduction. (This is based on transactions closed in 2007, and mortgage insurance premiums paid between Jan. 1 and Dec. 31 and allocable to 2007. Deductions are phased out in 10 percent increments for borrowers with adjusted gross incomes between $100,000 and $109,000.)

When: Effective for mortgage insurance certificates issued between Jan. 1 and Dec. 31, 2007.

Why: The legislation helps low- and moderate-income Americans overcome barriers to homeownership. By making mortgage insurance tax deductible, Congress is addressing the key issue of housing affordability for many homebuyers.

So What:

• Affordability is a continuing challenge in the U.S.: The median home price today is about $221,000, which means a down payment of more than $40,000, assuming you put down the traditional 20 percent. In high cost areas such as Massachusetts, where the median home price is $340,000, saving a 20 percent down payment is even more of a challenge;

• Low down payment loans are the wave of the future: Because traditional 20 percent down payments are so high, borrowers today are increasingly looking for ways to buy homes with a lower downpayment. One recent study by the National Association of Realtors found that in 2005, a typical first-time homebuyer made a downpayment of 2 percent;

• If borrowers don't put down 20 percent, their choices are a piggyback loan – which is a first loan for 80 percent of the home's value and a second, or piggyback mortgage: For the difference between the first mortgage and the down payment (if any) – or a loan with mortgage insurance. Interest rates on seconds are typically adjustable and float with the prime rate, so they are more expensive than they were a year ago and can also jump significantly if interest rates increase;

• Mortgage insurance makes sense: In today's climate of slowing home price appreciation and higher interest rates, an insured loan is a simple, safe, and smart way for people to get into a home and start building equity. It's often financially a better deal than a piggyback loan and premiums are fixed so borrowers don't have to worry about their payments going up. Being able to deduct the cost of the premiums means more savings for consumers; and

• When you're buying a house every cent counts: According to an analysis by Bankrate.com, a leading source of consumer financial information, with the new tax deduction a homeowner with a $180,000 mortgage would save about $351 a year in taxes. ◆

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Note: PMI cannot provide tax advice. Taxpayers should consult their own tax advisors concerning applicability of this new deduction to their particular circumstances under the Internal Revenue Code and the laws of any other taxing jurisdiction. This information is not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

Official publication of the Massachusetts Mortgage Bankers Association

TECHNOLOGY

New Mortgage Licensing System

The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) recently announced that 29 state agencies have indicated their intent to participate in the Residential Mortgage Licensing System by the end of 2009.

The Statement of Intent signed by these state agencies clearly asserts the reasons for state participation:

- To improve the efficiency and effectiveness of state supervision of the U.S. mortgage market;
- To fight mortgage fraud and predatory lending that costs consumers and the mortgage industry hundreds of millions of dollars in losses each year;
- To increase accountability among mortgage industry professionals; and
- To unify and streamline state license processes for mortgage lenders and mortgage brokers.

"We are proud to announce this initial phase of participating states who are taking a leadership role in creating a unified and modern system of state mortgage supervision," stated Neil Milner, CEO of CSBS. "By announcing their intent to participate, these state agencies will be heavily involved in the initial phase of development of the Residential Mortgage Licensing System."

"The importance of this initiative is underscored by the number of state agencies indicating their intent to come on the system during the initial phase of development," commented George Kinsel, president of AARMR. "These states are creating the critical mass necessary for state supervision of the mortgage industry to become more uniform, more efficient and more effective."

The system, scheduled to go operational in January 2008, will be used by state residential mortgage regulators to accept and process national, uniform license applications and renewal forms that have been created by state regulators over the past two years. Licensees will be able to electronically manage a single record in the system to apply for, amend, renew and surrender licenses in one or more regulators. The system will manage state licenses for mortgage companies, branches and individuals.

State agencies announcing their commitment to transition onto the system over the 2008-2009 time period (as full functionality for the release is completed), include Alabama, Arizona, Arkansas, Connecticut, the District of Columbia, Georgia, Idaho, the Indiana Department of Financial Institutions, the Indiana Secretary of State, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Washington and Wyoming.

Additional state agencies have expressed interest in participating, but are still determining a timeframe for their participation.

The Statement of Intent and more information about the CSBS/AARMR Residential Mortgage Licensing System may be found on the Web at www.csbs.org. ◆

The Conference of State Bank Supervisors is the nationwide organization for state banking. It is responsible for defending state authority to determine banking structure and the products and services state-chartered institutions can offer, as well as for improving the quality of state bank supervision by providing department performance evaluation, accreditation programs and supervisory education/training programs for state banking department personnel.

For more information on CSBS, contact Bill Matthews, president of the State Regulatory Registry, at bmatthews@csbs.org or (202) 728-5711.

The American Association of Residential Mortgage Regulators is the national organization representing state residential mortgage regulators. Its mission is to promote the exchange of information between and among the executives and employees of the various states who are charged with the responsibility for the administration and regulation of residential mortgage lending, servicing and brokering.

For more information on AARMR, contact George Kinsel, president of AARMR, at ghkinsel@dllr.state.md.us or (410) 230-6086.

Class Action Relief

Continued from Page 11

In following the Fifth Circuit, the First Circuit noted that many District Courts have certified TILA rescission class actions on the theory that nothing in TILA expressly prohibits class actions. Class actions, however, are specifically addressed in the TILA section that relates to damages with no mention of such relief in the rescission section. The class action section of TILA for damages provides a cap for damages ($500,000 or 1 percent of the creditor's net worth) and to that end, the plaintiffs argued that Congress may have intended to allow rescission class actions to have no limitations in terms of the costs to be borne by the offending creditor.

In *McKenna*, the First Circuit pointed out that if plaintiffs are allowed to maintain unrestricted class actions for rescission claims, there is likely substantial recovery for plaintiffs as the lender estimates its exposure at approximately $200 million. In addressing such a recovery, the First Circuit wrote that "the notion that Congress would limit liability to $500,000 with respect to one remedy, while allowing the sky to be the limit with respect to another remedy for the same violation, strains credibility." The Court also wrote that the plaintiffs tried to downplay the overall financial impact of the class action on the lender in *McKenna*, but that "deeds speak louder than words" – in order to recruit additional class claimants, the plaintiffs' attorneys placed advertisements holding out prospective recoveries of $50,000 per person.

So the issue is now resolved in the First Circuit; class action relief is unavailable for rescission claims under the TILA and arguably under the MCCDA. In *McKenna*, the class certification order has been vacated, and the case remanded to the District Court for further proceedings consistent with the First Circuit decision. First Circuit plaintiffs still have the protection found in the statutes, which include substantial enforcement authority for federal and state agencies with jurisdiction over lending institutions, and individual rescission claims may be maintained privately by plaintiffs where sizable monetary rewards are still available. ◆

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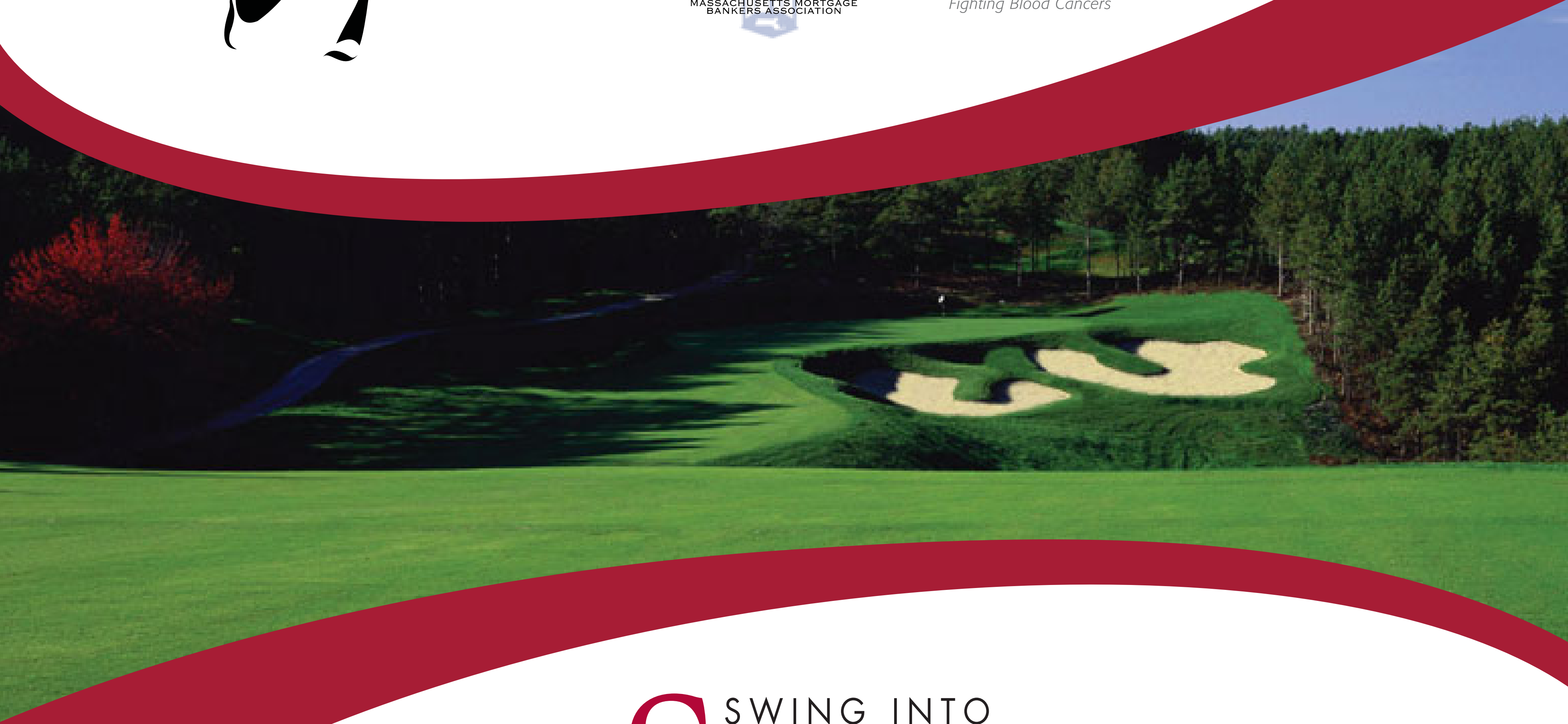

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