## BANK TOWN

**Part of a Yearlong Series**

This year, Observer banking reporters Rick Rothacker and Binyamin Appelbaum are examining the Charlotte banking industry's influence on communities and the economy.

# Steps to improve the loan process

*The Observer interviewed dozens of consumer advocates, industry officials and government regulators. Here are their top recommendations:*

### MAKE LENDING TRANSPARENT

**Problem:** When lenders file annual reports with the federal government, they do not disclose applicants' proposed down payments or credit scores. Those are key factors in determining the interest rates for loans. Providing additional information would allow the public to judge the extent of the role played by race in loan pricing.

**Solution:** The Department of Housing and Urban Development and the Treasury Department proposed the disclosure of down payment information in 2000. Some consumer advocates want lenders to report credit scores, too. The Federal Reserve Board could require lenders to disclose both variables, but it has said it does not want to. Congress could require the Fed to do so.

### SIMPLIFY LOAN PRICING

**Problem:** It's not easy to compare offers from lenders.

**Solution:** Lenders support a simplified price tag as the most important guard against pricing abuse. "We want information available in a form that Joe Sixpack can understand," said John Dalton of the Financial Services Roundtable in Washington, an industry lobby. Congress must approve any change in the way prices are presented; so far, efforts have bogged down in the details.

### MAKE ESTIMATES STICK

**Problem:** Lenders can make large changes to their "good faith estimates" of closing costs.

**Solution:** In 2002, HUD proposed a requirement that costs remain within 10 percent of an estimate provided at least three days before closing, barring extraordinary circumstances. Congress failed to pass the change.

### FULL FEE DISCLOSURE

**Problem:** Mortgage brokers can increase a customer's interest rate above the rate approved by the lender. Brokers get a payment from the lender when they raise the interest rate. The customer pays more as a result, but the change is not disclosed as a cost to the customer.

**Solution:** The HUD also proposed requiring brokers to list that fee as a cost to the customer, because the customer repays it through the higher interest rate. Congress failed to pass the change.

### MORTGAGE AGENTS

**Problem:** Many borrowers do not realize that brokers are not required to offer the lowest rate.

**Solution:** The National Association of Mortgage Brokers says the key is educating customers. Some community groups prefer state laws requiring brokers to serve the customer's best interest. There is also a growing movement to offer directories of brokers who agree to serve as "mortgage agents."

### TEST FOR EARLY DISCRIMINATION

**Problem:** Mortgage brokers and lending officers may offer minorities less information, recommend more expensive loans, and offer less help preparing applications, studies show.

**Solution:** Advocates want Congress to fund more "paired testing," where black and white applicants with similar profiles visit loan officers to test for discrimination. The government already conducts such testing of real estate agents and landlords.

### SAME COMPANY, SAME LOANS

**Problem:** Lenders that operate market-rate and high-rate subsidiaries sometimes don't sell their market-rate loans in minority neighborhoods.

**Solution:** Lenders have two choices, critics say. Open offices that sell market-rate loans in minority communities, or offer qualified customers market-rate prices through both subsidiaries.

### SERVE ALL NEIGHBORHOODS

**Problem:** Lending is increasingly disconnected from traditional banking. The law requiring banks to distribute loans throughout the communities where they collect deposits is losing its force as a result.

**Solution:** Congress has considered basing the requirement on lending rather than collecting deposits. Lenders that made a certain share of loans in a community would be required to distribute loans throughout the community.

### EQUAL REGULATION FOR ALL

**Problem:** Federal regulators do not oversee many high-rate lenders to ensure their compliance with fair lending laws. Even some subsidiaries of bank holding companies are not regulated.

**Solution:** The Government Accounting Office wants the Federal Reserve Board to assume oversight of high-rate subsidiaries. Some advocates want banking regulators to oversee lending by independent high-rate companies.

### LEGISLATE ASSIGNEE LIABILITY

**Problem:** When lenders make a fraudulent loan, borrowers sometimes still must repay the debt. The loans are sold to investors, and the law protects investors from losing money.

**Solution:** The industry has said it would accept a national law that allows for the termination of bad loans, provided the problems were visible in the loan documents.

### CRACK DOWN ON HIGH FEES

**Problem:** High-rate loans can carry high fees and hidden costs.

**Solution:** A 1999 N.C. law places special disclosure requirements and limitations on loans with interest rates above 10 percent or fees exceeding 5 percent of the loan amount. Rep. Mel Watt, D-N.C., is cosponsoring similar legislation at the national level.

### TEACH FINANCE IN SCHOOLS

**Problem:** Many Americans have trouble with numbers.

**Solution:** Teach teenagers the basics of consumer finance as part of the public school curriculum. "We think financial literacy is a basic life skill and it should be taught as soon as possible," said Joe Belew, president of the Consumer Bankers Association in Washington.

"You have some of the least-regulated entities originating the loans with the most potential for abuse."

**KEITH ERNST**
DURHAM-BASED CENTER FOR RESPONSIBLE LENDING

# Mortgage laws are growing obsolete

DAVID T. FOSTER III – STAFF PHOTO

**Karena Brownlee (left), a recent "10 Weeks To Home Ownership" class graduate, is introduced by Robin Brown (center), a housing counselor for the Urban League of Central Carolinas, to the current class during a discussion on home-buying hints Aug. 15. The discussion involved former students and home ownership supporters who came to talk about successes and pitfalls during the process of purchasing a home.**

**Loans** *from 1A*

disproportionately, is not watched as carefully by federal regulators.

"This is not a priority of this administration, and it's not a priority of Congress," said U.S. Rep. Mel Watt, D-N.C., a member of the House Committee on Financial Services. "There's a minority of people who are working on it."

The Community Reinvestment Act (CRA) of 1977 required S&Ls and banks to distribute loans throughout the communities where they collected deposits – particularly in low- and moderate-income neighborhoods.

But a growing number of lenders are not banks. And the largest banks increasingly sell loans in communities where they have no branches, the result of an increasingly nationalized mortgage industry that makes its profits by lending in volume.

Take Wells Fargo & Co., a giant California bank that makes the most loans of any bank in America. Wells was the second-largest lender in the Charlotte area last year – even though its nearest branches are in Ohio.

The third-largest home purchase lender in the Charlotte area, Countrywide Financial Corp., and the fourth-largest home purchase lender, HSBC Group plc, also are not required to distribute their loans throughout the community.

Bank of America Corp., the largest lender in the Charlotte area, received an "outstanding" rating on its last evaluation under CRA in 2001. Wachovia Corp., the fifth-largest lender last year, also received an outstanding on its last evaluation, released in July.

The National Community Reinvestment Coalition favors applying the law to all lending companies in every community where they make at least 0.5 percent of all loans. A bill to that effect was proposed in the House of Representatives in 2001 but died in committee.

The banks say they are meeting their obligation to serve the communities where they collect deposits. They opposed additional requirements, noting that lending already is heavily regulated, and that they are motivated to make loans wherever they can find customers.

"We look at urban core markets as opportunities rather than places to stay away from," said Douglas Woodruff, community development executive at Bank of America. "If we crack the code, we gain more customers."

Said Paul Leonard of the Financial Services Roundtable in Washington, which represents the largest financial services companies: "Our members have really embraced their CRA responsibilities. I think companies look at that as an opportunity to expand their business."

Community advocates also are concerned about regulation of the new high-rate industry. Federal studies show that practices such as charging excessive fees, while relatively uncommon, almost always are associated with high-rate loans.

Banks are reviewed regularly by the federal government to ensure compliance with fair lending laws. Many high-rate lenders are not reviewed at all, although the Federal Trade Commission can investigate complaints about their lending practices.

"You have some of the least-regulated entities originating the loans with the most potential for abuse," said Keith Ernst of the Durham-based Center for Responsible Lending.

Over the last two decades, federal legislation has trended in the opposite direction. Congress has passed laws increasing consumers' responsibility to protect themselves in financial transactions.

Lenders argue the existing laws protect borrowers sufficiently, and increased regulation would burden the industry.

Lenders who prey on customers "are the exceptions, not the rule," said Randy Lively, president of the American Financial Services Association, which represents high-rate lenders. "You get into the problem of how to figure out how to write a rule book for the exceptions."

North Carolina has been a leader among a growing number of states writing their own laws to govern the mortgage industry. In 1999, the state passed a law restricting extremes of misconduct in lending – such as loans with excessive fees. In 2001, the state passed a second statute that implemented a licensing procedure for mortgage brokers.

But the state has limited authority over the employees of the national companies that dominate the lending industry. Community advocates say changing federal law to cover all lenders is long overdue.

"This is the most important transaction most people are going to make," said Josh Silver of the National Community Reinvestment Coalition, a group that pushes for increased lending in minority areas. "There ought to be a special obligation to treat everyone fairly." — STAFF WRITER RICK ROTHACKER CONTRIBUTED

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### Borrowers Are Covered by 3 Sets of Laws

- The Fair Housing Act of 1968 and the Equal Credit Opportunity Act (ECOA) of 1974 make discrimination in lending illegal.
- The Community Reinvestment Act (CRA) of 1977 requires banks and other depository institutions to distribute loans throughout the communities where they collect deposits.
- The Truth In Lending Act of 1968 and the Real Estate Settlement Procedures Act of 1974 require lenders and brokers to disclose information about loan pricing.

### Series Summary

**SUNDAY:** An Observer study found blacks are four times more likely than whites to receive high interest rates on home purchase loans. Even blacks with incomes above $100,000 a year received high rates more often than whites with incomes below $40,000.

Experts, studies and analysis point to three reasons blacks get fewer market-rate loans:

Discrimination can occur throughout the lending process.

Blacks on average have less wealth and more credit problems.

And blacks on average are less knowledgeable about the home-buying process.

Lenders say they don't consider race.

**MONDAY:** Over the last decade, several million people bought homes with loans from a new mortgage lending industry. These companies offer loans that carry higher interest rates and cost on average tens of thousands of dollars in extra interest.

Community advocates and federal agencies say the success of these lenders stems in part from traditional lenders' failure to serve all Americans – particularly the black borrowers who take high-rate loans most frequently.

The banks say they are spending millions to find those borrowers. But the nation's 10 largest banking companies made only 5 percent of their home purchase loans to blacks last year, according to an Observer analysis.

**TODAY:** Federal laws governing lending, written in the 1970s, increasingly fail to push market-rate lenders to do more lending in minority neighborhoods. The laws also regulate market-rate lenders much more tightly than high-rate lenders. Critics say all lenders should be subject to the same oversight. The industry says additional regulation is an unnecessary expense.

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