

# News Release

## **New Jersey Department of Banking and Insurance Commissioner Holly C. Bakke**

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### **Fannie Mae supports new predatory lending law**

TRENTON - The Department of Banking and Insurance is pleased to learn that Fannie Mae, a federally sponsored source of mortgage financing, will continue to rate all loans except those "high-cost" loans as defined in the Home Ownership Security Act. Their announcement was made today.

"This is a further indication that this important consumer protection law will limit the work of unscrupulous lenders without diminishing access to competitive sources of credit," Commissioner Holly C. Bakke said. "We have said all along that our lenders and brokers can comply with the law."

Commissioner Bakke also said that while Fannie Mae says it will not take delivery of high-cost home loans, it is important to note that Fannie Mae has never accepted these loans in the past as a matter of their general business practice, so it isn't really an issue for them now.

The new law, which becomes effective Nov. 27, is fair to lenders while providing adequate protection to consumers. It prohibits only a few practices for all "home loans" and all "covered loans," such as financing credit insurance, encouraging default, charging late payment fees in excess of 5 percent, accelerating debt at the creditor's sole discretion, and charging for payoff information.

For high-cost loans, the law prohibits a long list of additional practices, including most balloon payments, negative amortization, increasing rates after default, inconvenient arbitration standards, charging modification fees, and financing points/fees in excess of 2 percent.

Unfortunately, certain large lenders are trying to stop the new law by refusing to offer loans, refusing to fund smaller lenders, and arguing that the law will dry up available credit. Some brokers are worried that lenders will refuse to let homeowners "cash out," or refinance their home with the purpose of taking equity out to pay for their children's college education or to make needed home improvements.

"This just isn't true," Commissioner Bakke said. "It is not the law that is drying up credit, it is these steps lenders are taking as part of their overall strategy to change the law."

The law operates based on whether the rates or costs of a loan are above or below certain triggers. If the law is properly followed, the law will not significantly affect most lenders at all. In fact, the Department expects it will impact only about 5 percent of the licensed lending industry.

To help lenders comply with the law, the Department discussed critical elements of the law with industry leaders and held six workshops for licensed lenders. H. Robert Tillman, Director of the

Division of Banking, also spent hours talking with the credit rating agencies, resulting in Moody's and Fitch agreeing to rate most New Jersey loans, and Standard & Poor's agreeing to rate "covered" purchase money loans. According to Moody's, "the law provides clear and objective standards that define the thresholds between home loans, covered home loans and high-cost loans that should permit lenders to establish effective compliance procedures."

If the law is properly followed, we are confident that most lending will not be adversely affected for a number of reasons:

- New Jersey is one of the hottest real estate markets in the country;
- evidence from North Carolina, which has a similar law, shows that it is having its intended effect, substantially reducing loans with predatory terms while increasing loans to borrowers with impaired credit by 31 percent;
- the portion of loans on which the Act will have the greatest impact is about 5 percent;
- lenders are becoming more knowledgeable of the Act and understand how to navigate the rules by being more competitive, and
- lenders who pull out of New Jersey will leave great business opportunity to lenders who have already indicated plans to expand in New Jersey.

New Jersey residents deserve to have lenders that offer the most competitive loans possible, not lenders who run away from competition. Our lenders and brokers who want to compete in this vibrant market deserve the support of their funding sources and the loan industry.

"Our lenders and brokers can comply with the new law if the loan industry gives them a fair chance," Commissioner Bakke said.