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OUR OPINIONS: Lenders' overstated claims shouldn't doom new law

Staff

Like so many Chicken Littles, Georgia lenders are squawking to high heaven that credit has dried up, that mortgage companies have fled and that nobody can get a loan.

If that's true, the news hasn't reached the tens of thousands of Georgians refinancing their homes. Nor has anyone alerted the dozens of mortgage companies calling daily to pitch their services and sending out more e-mail solicitations than the folks hawking Viagra.

The cause of the lenders' hysteria is Georgia's Fair Lending Law, enacted last year after two years of debate and discussion. Lenders at the time had lobbied hard against the bill, which was designed to protect low-income elderly and minority homeowners from falling victim to predatory lending.

The law only went into effect in October, and already its opponents claim the most dire of consequences. But when asked to document their claim that countless Georgians are being denied mortgages, they cannot. The fact that many metro mortgage companies closed record numbers of loans in October seems not to matter a bit.

One national credit-rating agency, Standard & Poor's, has indeed announced that it won't rate the creditworthiness of bonds that are backed by mortgages covered by the Georgia Fair Lending Law. Critics seized upon that single announcement as a rallying charge to descend on the Capitol and gut the entire law, including provisions that have nothing at all to do with the alleged problem.

Standard & Poor's doesn't like a provision in the Georgia law that allows cheated borrowers to hold the current holder of their mortgage liable if the loan is found to be illegal. The term for this is "assignee liability." The law imposes that liability only on high-risk loans, but Standard & Poor's contends the liability could be applied to other loans.

Assignee liability for the high-risk loans is necessary because many mortgage loans are quickly sold by the initial lender to somebody else. If liability for an illegal loan is not transferred along with the loan itself, lenders would be able to launder an abusive loan simply by transferring the note to another lender.

The most abusive loans usually are made to elderly, low-income homeowners whose only wealth lies in their house. Targeted by lenders working with scam home-repair firms, these homeowners might agree to a roof repair, sign refinancing documents and suddenly find they owe monthly payments of \$800 on monthly incomes of \$860.

When they fail to make the payments, the lender takes the house and all the equity in it.

According to Standard & Poor's, however, the assignee-liability provision that protects those people also makes Georgia high-cost loans too risky. In other words, while investors may be willing to make enormous profits off tainted loans, they don't want any of the responsibility associated with them.

"What a bunch of whiny babies," says Howard **Rothbloom**, a Marietta attorney who has won substantial settlements on behalf of victims of predatory lending. "These companies act like they are totally shocked they have some sort of liability for buying bad loans. Well, don't buy them."

Most residential mortgages in Georgia are sold and bought by Fannie Mae and Freddie Mac, government-chartered companies. Both continue to do business in this state. Two other national credit-rating agencies, Fitch Investors and Moody's Investor Services, also continue to treat Georgia loans like any other loan.

The Standard & Poor's decision, if it stands, would affect about 15 percent of Georgia mortgages that are bundled and sold to investors. It is meant to intimidate the state into voiding important consumer protection, and Gov. Sonny Perdue should meet the company's threat with one of his own.

He and Attorney General Thurbert Baker should initiate legal action against the company for threatening to impair credit or

interfere with interstate commerce. After all, Perdue says he wants to help everyday, hardworking Georgians. To do so, though, he needs to look beyond the lenders and silk-suited lobbyists now crowding his office.

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