The Next Chapter: The SFT Bankruptcy Newsletter

Bankruptcy Article of the Week

Federal Reserve Notices Mortgage Problem

At a Holiday Inn in Virginia earlier this week, President Bush allowed for the fact that there were some "storm clouds" on the economic front. You know, little things like hundreds of thousands of American families losing their homes, mortgage lenders closing their doors and laying off thousands of employees and financial industry loss reserves climbing at an unprecedented rate. Just a little hint of a possible storm on the horizon.

On the heels of that revelation, the Federal Reserve also appears to have noticed that there's a mortgage foreclosure crisis going on, and that that crisis was in large part created by deceptive practices on the part of mortgage lenders. On Tuesday, the Federal Reserve proposed restrictions on exotic mortgages and other non-traditional, high-cost loans. This line from a *New York Times* article on the proposal really says it all: "The new rules would force mortgage companies to show that customers can realistically afford their mortgages."

Pretty revolutionary, hmm?

The irony, of course, is that these rules didn't emerge in time to help the hundreds of thousands of home buyers who have already been trapped into loans they can't afford and didn't understand. They didn't come in time to help those homeowners when they were trying to refinance their way out of one bad loan with another, stripping what little equity they had in the property. They didn't even come along in time to prevent dozens of mortgage lenders from lending their way into insolvency.

Now, however, when the mortgage lenders themselves have learned the hard way that the system isn't working and begun to tailor their own standards and processes; when the investors who made the slicing and dicing and repackaging of exotic mortgage loans possible have dried up and disappeared, the Federal Reserve is here to say, in essence, "Don't do what you've been doing for years but have largely already stopped doing anyway. And we mean it!" And even after all the fallout, the Federal Reserve's proposal falls far short of what consumer advocates have been looking for. The Center for Responsible Lending responded immediately with a press release entitled "Federal Reserve Would Allow Reckless Lending to Continue." One major point of contention is that the new rules would not prohibit the large pre-payment penalties that have made it so difficult for families trapped by adjustable rate mortgages to refinance.

At a glance, it seems like the proposal is too little too late to have any impact at all, but that's probably not true. The new guidelines may succeed in cutting off the last ditch opportunity for some borrowers already compromised by deceptive lending practices, loan-flipping and payment shock to refinance and attempt to save their homes.

Mr. NACBA Goes to Washington

The National Association of Consumer Bankruptcy Attorneys (NACBA) will be holding its annual members-only Capitol Hill Meeting January 29-30, 2008 in Washington, D.C.

The timing of this meeting coincides with when Congress returns to session following the President's State of the Union Address and is most often readily available for meetings.

With that said, the two-day event will feature a half-day of training and a full day of meetings with members of Congress and their staff. These meetings will allow NACBA leadership to voice suggestions and concerns before the upcoming Congressional votes on the mortgage modification bills.

If you are already a member of NACBA and interested in attending this event, register online. If you are not a member, learn how you can join NACBA and then attend this event, which will be a great opportunity for NACBA's voice to be heard.

Legislative Updates

Last week, the Senate passed a home loan reform bill that would allow families swamped by adjustable rate mortgages with subprime terms to refinance into new loans backed by the Federal Housing Administration (FHA).

By a whopping 93-1 vote, the Senate approved this legislation sponsored by Chris Dodd (D-CT), who has aggressively proposed legislation to fight predatory lending practices and reform bankruptcy rules.

Under the approved legislation, down payments for FHA-backed loans would be lowered from 3 percent to 1.5 percent while the limits on FHA mortgages would be raised from $362,000 to $417,000.

The Senate still needs to resolve its bill with a similar version in the House that offers even higher loan limits for FHA-backed mortgages and more flexible payments for borrowers. The Bush administration is in opposition to the higher-loan limits set forth in the House bill.

As always, we'll keep you updated on this and all other legislation detailing with foreclosure and bankruptcy.

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Kevin's Corner

Practice Management Tip of the Week:

"During the holiday season, we're surrounded with (and sometimes bombarded by) opportunities to give back to our communities in dozens of ways, from bell ringers on the street to food and clothing drives to toy collections and more.

"Most of us are inclined to contribute something, whether it's providing pro bono representation, writing a check to the local food pantry or volunteering to play Santa Claus for the community center Christmas party. We know you have that altruistic spirit because so many of you joined us in supporting the Clark County Pro Bono Project in October.

"When we as professionals get involved in our communities, it often means getting back more than we put in. Often, our contributions can be as small as encouraging employees to donate to a drive of some sort, providing a location for collection or co-sponsoring an event or fundraiser. But in return—in addition to the good we've set out to do—we get something that's all-important to a professional providing services to the public: we become a 'familiar face,' perceived as an active part of the community by the very people we serve.

"In this one area, all of our interests truly are in synch: we can give back to the community, build employee morale, and improve our own word-of-mouth marketing and local recognition all at once. Often, that requires a much smaller commitment than you might have anticipated, so take advantage of the opportunity this holiday season to benefit your practice and your neighborhood at the same time."

- Kevin Chern
President, Start Fresh Today

Did You Know...

that foreclosures reached record levels for the third quarter?

The Mortgage Bankers Association recently detailed that there were 994,000 households in foreclosure during the third quarter of 2007.

According to MBA Chief Economist Doug Duncan, the third quarter marked the first period in which the credit crisis, economic weakness, slumping home prices and the resetting of adjustable mortgages all came together to adversely affect the foreclosure totals.

The Numbers Game

While representing just **6.8 percent** of the loans examined by the MBA, subprime adjustable-rate mortgages accounted for **43 percent** of the loans entering foreclosure in the third quarter.

For Your Information

In an effort to keep *The Next Chapter* as fresh and meaningful as possible, the Start Fresh Today Newsletter will now be sent out every two weeks.

This means that the next issue of this newsletter will be sent your way the first week of 2008. Thanks to all who've read the newsletter thus far in 2007, and please continue to shoot any suggestions that you may have for improving the newsletter to newsletters@startfreshtoday.com.

As always, we welcome and appreciate your feedback and tips for improvement. Thanks again, and have a safe and happy New Year.

Speaking of the New Year

Here are some predictions for the BCS bowl games.

The Rose Bowl (January 1, 2008)
USC 44, Illinois 21

The Sugar Bowl (Jan. 1st)
Georgia 31, Hawaii 28

The Fiesta Bowl (Jan. 2nd)
Oklahoma 34, West Virginia 17

The Orange Bowl (Jan. 3rd)
Virginia Tech 16, Kansas 13

BCS National Championship (Jan. 7th)
Ohio State 21, LSU 20