



AMEND HB 1222 -- NCAMP Position Paper

HOMEOWNERSHIP IS THE BEDROCK OF NORTH CAROLINA'S RECOVERY!

HB 1222 is legislation intended to bring North Carolina mortgage law into conformity with new Federal standards which are effective as of October of 2009. Under the new Federal law (and proposed HB 1222) residential mortgage loans with interest rates above certain stated thresholds are subject to several prohibitions, including:

- Prohibition from making a such a loan without regard to borrowers' ability to repay
- Prohibition from relying on income or assets that a lender does not verify to determine repayment ability.
- Prohibition on certain prepayment penalties
- Prohibition on making such loans without establishing an escrow account for the payment of property taxes and homeowners' insurance

The North Carolina Association of Mortgage Professionals does not object to the provisions of North Carolina law that effect these changes.

HB 1222, however, has other consequences that are not consistent with Federal law. Under current North Carolina law, compensation to a mortgage broker is limited on "rate spread home loans", and the payment of a yield spread premium on such loans is prohibited. The new definition of "rate spread home loans" under HB1222 encompasses more loans subject to the limitation of the MLA than under current law. We believe that this prohibition will affect approximately 15% more loans than current law, and will affect 15-25% of loans under \$150,000. This differs significantly from Federal law and NCAMP objects to HB 1222 to the extent of this difference.

In this regard, we note the following:

- Yield spread premiums are an important source of compensation to brokers and lenders. Often a substantial portion of a broker's fee comes from yield spread premiums. In adopting the Federal standards described above, the Federal Reserve Board rejected limitations on yield spread premiums, saying "During the intervening period, the Board engaged in consumer testing that cast significant doubt on the effectiveness of the proposed rule [restricting yield spread premiums]."
- Yield spread premiums received by brokers are disclosed to borrowers, and mortgage brokers in North Carolina will have, under the new Mortgage Lending Act to be passed shortly, a fiduciary duty to borrowers which is unique to a few states (2 others).
- Mortgage brokers are an important conduit through which moderate-income borrowers with less than stellar credit access mortgage financing. Large and community banks located in North Carolina do not regularly make loans to these types of borrowers. Limiting the compensation that mortgage brokers can receive on certain loans will make these loans less available in the marketplace. This restriction seems particularly unreasonable given the number and scope of safeguards currently in place.
- An argument can be made that easy mortgage credit is undesirable for a variety of reasons. This argument, however, does not extend to taking actions that would limit North Carolina citizens' access to mortgage financing at lifetime low rates to refinance existing mortgages.
- A simple change to HB1222 that raises the index to 2.0% instead of 1.5% would accomplish the desired results. Note in this regard that the federal law would continue to apply to loans above the federal threshold (1.5%)

The proposed index will lag current mortgage rates by as much as 2 weeks. In an environment of rising rates this will create an acute problem by capturing a much larger number of loans as rate spread loans. This will negatively impact the marketplace to an even greater degree as a majority of these loans will be government insured loans. These loans were never meant to be defined as "rate spread loans".



How to Find the Name of your North Carolina State Senator

- Find your Zip + 4 -- <http://zip4.usps.com/zip4/welcome.jsp>
- Go to <http://www.ncga.state.nc.us/GIS/RandR07/Representation.html#byZIP> and enter your Zip+4 in the appropriate box.
- Hit “Go” -- The results should show your representatives, including your state Senator.
- If no results are returned, go to <http://www.sboe.state.nc.us/VoterLookup.aspx?Feature=voterinfo> and enter your
 - First Name
 - Last Name
 - Birthdate
 - County in which you live
- Click “My Districts”
- Under “State”, note the NC Senate District
- Search in Google or your other internet search engine “North Carolina Senate District #”
- Go to http://www.ncga.state.nc.us/GIS/RandR07/Representation/Not_In_Database.html and select your NC Senator’s name from the Member lookup. There will be phone number(s) and an email address for your state senator.