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The Impact of Local Predatory Lending Laws

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Abstract: Local authorities in North Carolina, and subsequently in at least 23 other states, have enacted laws intending to reduce predatory and abusive lending. While there is substantial variation in the laws, they typically extend the coverage of the Federal Home Ownership and Equity Protection Act (HOEPA) by including home purchase and open-end mortgage credit, by lowering annual percentage rate (APR) and fees and points triggers, and by prohibiting or restricting the use of balloon payments and prepayment penalties.

This paper provides a detailed summary of various local predatory lending laws that are effective as of the end of 2004. We also create an index that captures differences in the strength of the local laws along the two important dimensions of coverage and restrictions. In addition, our univariate results show that there is substantial heterogeneity in the observed market responses to the local laws.

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Introduction

The current mortgage market consists primarily of two segments – the prime market and the subprime market. The prime market extends credit to the majority of households. The subprime market extends more expensive credit to households who are less financially secure. Subprime mortgage lending tends to occur in low-income areas and those with minority populations. The subprime market identifies a large menu of product and risk classifications. Each classification charges a different risk-based price (interest rate and fees) that are substantially higher than those charged in the prime market, typically varying from one to four percentage points above the prime mortgage interest rate. As a result, those households for whom homeownership is most difficult incur higher costs. This combination of higher costs and higher rates of failure has led to public policy concerns over fairness and accessibility of credit.

As reflected in regulations generated under the Home Ownership and Equity Protection Act (HOEPA), Congress has determined that it is socially preferable to restrict some types of high-cost and high risk lending. In addition, many states, cities, and counties have extended the restrictions on credit to an even broader class of mortgages. These restrictions include limits on allowable prepayment penalties and balloon payments, prohibitions of joint financing of various insurance products (credit, life, unemployment, etc), and requirements that borrowers participate in loan counseling.

By introducing geographically defined predatory lending laws policymakers have conducted a natural experiment with well defined control and treatment groups. Since state boundaries reflect political and not economic regions, we can compare mortgage market conditions in states with a law in effect¹ (the treatment group) to those in neighboring states currently without a predatory lending law (the control group). However, instead of examining whole states we focus on households that are geographically close to each other (border counties) and in similar labor markets (multi-state metropolitan and micropolitan areas). Specifically,

¹ Laws are first enacted by the local legislature and become effective typically at a later date. It is not until the law becomes in effect that lenders are required to follow the new rules and restrictions.

using the treatment and control group framework we examine how local predatory lending laws affect subprime applications, originations, and rejection rates.

In addition, we create an index to measure the strength of the local predatory lending laws. The index measures: (i) how broad or narrow coverage the mortgage market is covered and (ii) how much certain lending practices and mortgage types are restricted.

Since predatory lending has been associated primarily with subprime lending, the next section will discuss the growth of subprime lending and help to distinguish it from prime lending. In addition, a range of predatory lending laws will be described including HOEPA and local (state, county, and city) laws that were in effect at the end of 2004.

The Growth of Subprime Lending

Subprime lending represents an opportunity for the mortgage market to extend the possibility of home ownership beyond traditional barriers. These barriers exist because the prime segment of the mortgage market uses lending standards (credit scores and documented employment history, income, and wealth, among other factors) to evaluate applicants. Applicants that are rejected or expect to be rejected can look to the more expensive subprime market. In this fashion the subprime market completes the mortgage market and can be welfare enhancing (Chinloy and MacDonald, 2005) because it provides the opportunity of home ownership to a larger portion of the population.

Despite only anecdotal evidence, predatory lending has been predominantly associated with subprime lending and not prime lending². Therefore, the welfare benefit associated with increased access to credit is believed to have been reduced by some unscrupulous lending in the subprime mortgage market.

Table 1 shows the substantial growth of the subprime market that has set the stage for predatory lending laws. Inside Mortgage Finance (Inside Mortgage Finance, 2004) reports in the Mortgage Market Statistics Annual that subprime lending has grown from \$65 billion to

² See HUD-Treasury report and Federal Reserve HOEPA Final Rule (Federal Reserve, 2002)

\$332 billion from 1995 through 2003.³ In addition, during this period of rapid growth lenders in the subprime market have been consolidating. For example, from 1995 through 2003 the top 25 originators have grown from a market share of 39 percent to 93 percent of the subprime market. This rapid growth is at least part of the impetus behind the broadening of the HOEPA standards in 2002 and the introduction of local predatory lending laws.

Another facet of the subprime market, beyond its recent growth, is that these mortgages cost more than prime mortgages. Table 2 shows the average interest charged at origination for fixed-rate loans in the prime and subprime markets. The interest rate shown does not include any estimated fees and points paid or other upfront costs wrapped into the mortgage. However, the price differential is substantial. For example, the spread between prime and subprime was on average as high as 2.98 percentage points in 2000.

To justify such high interest rates for subprime borrowers, lenders must experience much larger rates of termination -- particularly foreclosures -- than in the prime market. Figure 1 provides evidence using data from the Mortgage Bankers Association of America (MBAA) that subprime loans do in fact experience substantially higher rates of foreclosures than both prime mortgages and loans endorsed by the Federal Housing Authority (FHA). The figure also provides at least indirect evidence that subprime loans did not perform very well during the recession beginning in March 2001. In contrast, FHA loans were only moderately affected and prime loans seemed almost completely unaffected by the recession. For example, at their peak less than one percent of prime loans were in foreclosure, compared to more than nine percent for subprime loans.

If these MBAA data are representative of the subprime market, then low income and high minority locations, where subprime lending is most dominant, could have almost one out of ten homes in foreclosure during a recession. This type of performance can help to justify the

³ These numbers are derived from type B&C loans. B&C loans are loans with less than A or prime quality loans. See the Mortgage Markets Statistics Annual published by Inside Mortgage Finance for more details on loan classification schemes.

higher rates on subprime loans.⁴ However, such a high level of failure also raises questions about what effect the foreclosures have on the other nine homes in locations heavily financed by subprime mortgages.

Table 1: Subprime Origination Growth

Year	Total B&C Originations (Billions)	Top 25 B&C Originations (Billions)
1995	\$65.0	\$25.5
1996	\$96.8	\$45.3
1997	\$124.5	\$75.1
1998	\$150.0	\$94.3
1999	\$160.0	\$105.6
2000	\$138.0	\$102.2
2001	\$173.3	\$126.8
2002	\$213.0	\$187.6
2003	\$332.0	\$310.1

Source: Inside Mortgage Finance 2004 Annual Data Book. B&C is defined as including loans with less than A quality non-agency paper secured by real estate. Individual firm data are from Inside B&C Lending, which is another publication of Inside Mortgage Finance, and are generally based on security issuance or previously reported data.

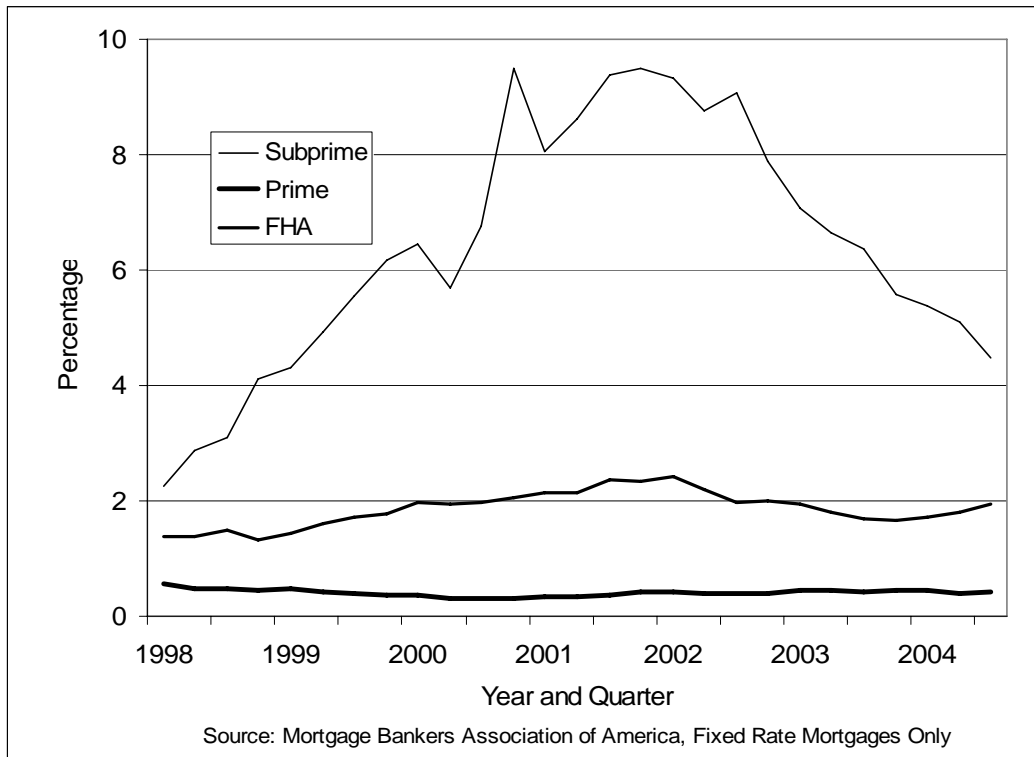
⁴ In addition, these loans may be unaffordable and subject to high rates of foreclosure because of predatory interest rates and fees and not borrower or property characteristics.

Table 2: The Cost of Credit – Fixed Rate Origination Interest rate

Year	Subprime	Prime
1995	9.77	7.65
1996	9.78	7.64
1997	9.73	7.38
1998	9.26	6.83
1999	10.05	7.31
2000	10.92	7.95
2001	9.50	6.84
2002	8.38	6.35
2003	7.25	5.69
2004	7.13	5.79

Source: Freddie Mac's Primary Mortgage Market Survey for Prime loans and author's calculations using LoanPerformance ABS data set for Subprime loans (fixed rate loans only).

Figure 1: Foreclosures In-Progress Rate



Understanding Predatory Lending

In any document discussing predatory lending one of the first statements is usually similar to that found in the HUD-Treasury report (2000, p.17): “Defining the practices that make a loan predatory, however, is problematic.” This difficulty arises because predatory lending depends on the inability of the borrower to understand the loan terms and the obligations associated with them. For example, some borrowers may be willing to accept a prepayment penalty in exchange for lower interest rates or fees because they do not expect to move in the near future. Or, the borrower may plan to diversify her portfolio away from a home and therefore would like an interest-only loan with a balloon payment in ten years. But interviews held by HUD, Treasury, and the Federal Reserve Board indicate that some, perhaps many, borrowers using high-cost loans may not have understood that the loan had a prepayment penalty or did not amortize through time, leading to a balloon payment.

The fact that some borrowers lack this information or knowledge for such a significant debt may be hard to comprehend at first blush. However, when a borrower buys a home or refinances a mortgage, a large and intimidating stack of documents is placed in front of her with little time to read, let alone digest, all of the text. If borrowers actually read all the documents required by law at the time of closing it would take all day. Moreover, many of the documents are written in a manner that is difficult for non-lawyers to understand. For all practical purposes, the seller, buyer, and/or refinancer rely on the representations and interpretations of closing agents.

Thus, it may be unreasonable to expect borrowers to actually read all the documents that define their rights and obligations. This makes it possible for unscrupulous agents to take advantage of that information gap. Such abuses are more likely when the borrower is perceived as vulnerable because of age, economic circumstances, education, or disability.

HUD-Treasury Report

HUD and Treasury published an influential report in 2000 entitled “Curbing Predatory Home Mortgage Lending”. The joint report provides policy suggestions for Congress, the Board of

Governors of the Federal Reserve System, and the Federal Housing Authority on how to curb predatory lending.

HUD and Treasury created a task force to solicit information from industry and community representatives in five locations (Atlanta, Los Angeles, New York, Baltimore, and Chicago). The task force itself included representatives from consumer groups, industry trade associations representing lenders, brokers, and appraisers, local officials, and academics. The outreach effort provided substantial evidence through individual testimony that predatory lending does exist in the mortgage market and tends to be concentrated in the subprime market segment. The Board of Governors of the Federal Reserve System (Board) also found anecdotal evidence of predatory lending when holding a series of open meetings to hear individual testimony. The Board of Governors found that the testimony was widespread enough to indicate the need for increasing the coverage of HOEPA. Many of the changes made to HOEPA and the concepts discussed in the Final Rule⁵ were articulated in the HUD-Treasury report.

The HUD-Treasury report defines predatory lending as that involving deception or fraud and aggressive sales tactics, which takes advantage of the borrower's lack of understanding of basic rights and the terms of the mortgage. The report also concluded that predatory lending tends to occur more frequently in the refinancing of existing mortgages than in home purchase loans and more frequently in locations with low income and minority households.

Categories of Predatory Lending

Lending abuses or predatory practices can be categorized into four groups: loan flipping, imposition of excessive fees and “packing”, lending without regard for ability to repay, and fraud.

Loan flipping is characterized by borrowers repeatedly refinancing a loan in a short period of time. With each refinance, high fees are wrapped into the new loan amount, reducing the

⁵ Federal Reserve System, 12 CFR Part 226, Regulation Z; Docket No. R-1090, Truth in Lending.

equity left in the home. In some instances, the report found evidence that fees exceeded \$5,000 or as much as ten percent of the loan amount.

Fees were found to be very large at times. Typically fees were added to the financed amount (wrapped) instead of being paid upfront. Perhaps most importantly, the consumers often were not aware of the fees, which could be charged by many different sources, including the mortgage broker, home improvement contractor, lender, or other third parties. In addition to normal closing fees⁶, some of the borrowers were sold single-premium credit life insurance, which was included in the loan amount and not used in the calculation of the APR.

The task force found evidence that some loans were originated under terms that the borrower would never be able to meet. This problem was exacerbated when the lender did not try to verify income, which may have been falsified by a broker. Examples were found of elderly households on fixed incomes where the new mortgage payment exceeded their income. Once the borrower failed to make payments, the lender foreclosed on the property. Clearly, this practice is profitable only when the amount of equity in the home exceeds the cost of foreclosure and the borrower does not exercise the option to sell the home and prepay the mortgage before foreclosure.

Other examples of predatory behavior included fraudulent inflation of property values through doctored loan applications and settlement documents as well as appraisers and brokers conspiring to inflate prices above market rates.

Based on these findings, the report recommended improved consumer literacy and disclosures, as well as prohibitions on loan flipping, lending without regard to ability to repay, and the sale of life credit insurance and other similar products. The task force also recommended that potentially abusive terms and conditions such as balloon payments, prepayment penalties, excessive fees and points be restricted.

⁶ Typical closing fees include items that all real estate transactions must pay such as transfer taxes, appraisal fees, recording fees, title search fees, and other processing fees.

National Restrictions – Home Ownership and Equity Protection Act

Congress enacted HOEPA (Pub. L. 103-325, 108 Stat. 21600) by amending the Truth in Lending Act (TILA, 15 U.S.C 1601). In 1994, the Board of Governors implemented HOEPA through 12 CFR part 226 (Regulation Z), which articulates specific rules governing lending practices.

HOEPA and the regulations promulgated under it define a class of loans that are given special consideration because they are more likely to have predatory features and require additional disclosures. HOEPA-covered loans (loans where HOEPA applies) include only closed-end home equity loans that meet APR and finance fee triggers. Home purchase loans and other types of lending backed by a home, such as lines of credit, are not covered by HOEPA.

TILA requires the lender or creditor to disclose information about the terms and cost of consumer credit. For example, TILA requires that the cost of credit in dollar amounts (finance charge) and the Annual Percentage Rate (APR) be disclosed to the consumer. TILA provides uniformity in disclosures intended to make it easier for consumers to compare alternative credit sources. For loans secured by a home, the creditor is also required to provide some additional disclosures and the consumer has the right to rescind some transactions.

There are two versions of HOEPA. The original version, in 1994, set out the framework and defined the triggers and restrictions. The second version, in 2002, adjusted some of the triggers and restricted some additional practices.

Original Triggers, Disclosures, and Restrictions

In the 1994 version of Regulation Z, trigger APR and finance charges were used to identify a class of high-cost loans subject to HOEPA protections that went beyond TILA disclosures. HOEPA protections were triggered in one of two ways: (i) if the loan's APR exceeded the rate for Treasury securities of comparable maturity by ten percentage points or more or (ii) if finance charges, including points and fees, were greater than eight percent of the loan amount

or 400 dollars, whichever was smaller. The dollar amount was indexed to the consumer price index and rose to 480 dollars by 2002.

A creditor offering a HOEPA-covered loan was required to provide the consumer a shortened disclosure statement at least three days before the closing date. The creditor was also required to inform the consumer that they were not obligated to complete the transaction and that they could lose the home if they failed to make the mortgage payments.

For HOEPA-covered loans, creditors were not allowed to provide short-term balloon notes, impose prepayment penalties greater than five years, use non-amortizing schedules, refinance loans into another HOEPA loan in the first 12 months, and impose higher interest rate upon default. These restrictions implied that regulators considered these loan types and practices to be abusive lending practices when combined with high-cost loans. In addition, creditors were not allowed to habitually engage in lending that did not take into account the ability of the consumer to repay the loan. Again, this restriction implied that regulators believed such a pattern of lending, based strictly on the value of the property (or asset-based lending) is not conducive to homeownership and inconsistent with public policy promoting homeownership.

2002 Changes in Triggers, Disclosures, and Restrictions

Since 1994, subprime lending has grown very rapidly and has led to concerns that predatory lending was occurring even while complying with the requirements set forth in Regulation Z. Various initiatives were undertaken in the early 2000s to further define and regulate potentially predatory lending. During 2000 and 2001, hearings were held by the Senate Banking Committee, the House Banking Committee, and HUD-Treasury. Also in 2000 the Board of Governors held hearings on predatory lending to discuss potential changes to Regulation Z, which was amended effective October 1, 2002.

The 2002 amendments, which are still in effect today, adjusted the triggers, restricted some additional lending practices, adjusted the ability to pay requirements, and increased disclosure requirements. The APR trigger for first-lien loans was reduced to eight percentage points, while the trigger for second lien loans (subordinate loans) was left at ten percentage points.

The fee trigger was expanded to include dollars paid at closing for optional insurance programs, such as credit life, accident, health, loss of income, and other debt protection programs. Regulations prohibited loans with call provisions and loans where the creditor had not verified or documented the consumer's ability to pay the mortgage. Therefore, no-documentation loans that met these triggers were expressly prohibited. However, HOEPA still covers only refinance and second mortgages, not for-purchase mortgages, lines of credit, or other open-end credit.

There is little information available to calculate what fraction of the mortgage market includes loans covered by HOEPA in the 1994 and 2002 regulations. In Regulation Z (Federal Reserve, 2002) or the Final Rule some information is provided using data from other institutions about the prevalence of HOEPA loans. For example, data analyzed by the Office of Thrift and Supervision showed that lowering the APR trigger from ten to eight percentage points may expand HOEPA-coverage by one to five percentage points for first lien mortgages. The data used to do the analysis was obtained from the Mortgage Information Corporation, which is current called LoanPerformance. Following the methodology and using the same data source we test to see what percentage of subprime loans the 2002 regulations would have covered from 1996 through 2001. We found that by applying the interest rate at origination as if it were the APR 1.94 percent of the subprime loans would be covered by 2002 HOEPA.⁷ This number should be biased down because it does not include any estimation of fees and points. This data set does provide extensive information about loan types, but does not provide any information about the APR or fees paid by borrowers. This makes any analysis of HOEPA-coverage difficult and only a proxy for the true coverage. A trade association representing nine nondepository subprime lenders also provided detailed data, indicating that the 1994 APR trigger had covered approximately nine percent of first liens and the 2002 APR trigger would cover, if in effect, approximately 26 percent of first liens.

⁷ The estimated 1.94 percent coverage rate was calculated for all loans in the LoanPerformance ABS database without local (state, county, or city) predatory lending laws in effect. To help account for any reactions leading up to the date of the law's enactment, the analysis does not include loans made in the six-month period before the 2002 regulations went into effect. In addition, using the same methodology we calculated the percent of loans covered by HOEPA after the regulation were in effect until the end of 2004. These results indicate that after the law went into effect only 0.01 percent of loans were covered.

Regional Restrictions – State and Local Predatory Lending Laws

A number of states and local municipalities have sought to impose restrictions on predatory lending that reach further than HOEPA and Regulation Z. Appendix A summarizes the characteristic for a sample of state and local laws that were in effect as of the end of 2004.⁸

As shown in Appendix B, which indicates the status of county and city predatory lending bills, local efforts to enact restrictions have met with little success. Rather, local laws have been subject to ongoing and frequently successful legal challenges, vetoes, and preemption by state and local laws. As of the end of 2004, our sample includes very few local municipalities – including Chicago, Cleveland, Cook County, and the District of Columbia – with an ordinance in effect.

Statewide efforts have been far more successful. Beginning with North Carolina in 1999, at least 24 states have passed predatory lending laws that are currently in effect: including Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Kentucky, Maine, Maryland, Massachusetts, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Utah, and Wisconsin.

Both the original and the 2002 versions of HOEPA defined a class of high-cost refinance mortgages that were subject to special restrictions. The state laws tend to follow this lead and expand the definition of covered loans. For example, North Carolina – the first state to enact predatory lending restrictions -- includes both closed-end and open-end mortgages but not reverse mortgages and limits loan size to the conventional conforming limit (loans small enough to be purchased by Fannie Mae and Freddie Mac and therefore not considered part of the jumbo market). HOEPA covers only those closed-end loans that are not for home purchase (typically refinance and second mortgages). North Carolina did leave the APR triggers the same as the HOEPA triggers, although the points and fees triggers were reduced

⁸ Every attempt was made to include all laws in effect by the end of 2004 that, similar to HOEPA, use triggers to define a class of loans eligible for restrictions and disclosures. Because other laws are likely to exist those discussed here should be viewed as a sample of the all state and local predatory lending laws. Appendix C provides a summary of lending laws that are not focused on high-cost or subprime lending and do not have any triggers.

from the HOEPA eight percent of total loan amount to five percent for loans under \$20,000. For loans \$20,000 or larger, the same eight percent trigger is used or \$1,000, whichever is smaller. The North Carolina law also prohibits prepayment penalties and balloon payments for most covered loans. But the law also prohibits the financing of credit life, disability, unemployment, or other life and insurance premiums, while HOEPA included them only as part of the trigger calculation.

Appendix A shows that while most states followed the North Carolina example there is some variation in laws. For example, Georgia passed a law that became effective in October 2002 (amended in March 2003) that also includes open-end credit but sets slightly different APR trigger levels to define high-cost loans and covered loans. The points and fees triggers then differ depending on whether the loan is categorized as high-cost or simply covered. Prepayment penalties are also prohibited during the first 12 months of the loan if they exceed two percent of the value of the loan or during the second 12 months they exceed one percent. In this case, Georgia prepayment safeguards are weaker than North Carolina's.

In an attempt to quantify the differences in the local laws an index is created. The higher the index the stronger the law is. In addition, the index can be broken down into two components. The first is the extent that the law has extended coverage of the law beyond the HOEPA. The second is the extent that the law restricts or requires specific practices. Table 3 summarizes how the law index is created. The full index reflects all the assigned points as defined in Table 3, while the coverage and restrictions indexes reflect the sum of all points assigned in each subcategory.

The coverage category includes measures of loan purpose, APR 1st lien, APR higher liens, and points and fees. In general, if the law does not increase the coverage it is assigned zero points. Higher points are assigned if the coverage is more general. The highest point total for extending the loan purpose coverage is when the law covers all loans. The points assigned for extending the APR triggers is defined as the difference between the HOEPA trigger and the laws trigger. In addition, laws with no APR triggers are assigned the maximum observed difference plus one. The point and fees trigger points also follow a similar approach. Laws

that extend HOEPA in any way are assigned one point, other laws are assigned the difference between the HOEPA percent points and fees trigger and the minimum trigger used in the law minus one. Laws with no points and fees triggers are assigned four points.

The restrictions index includes measures of prepayment penalty restrictions, balloon restrictions, counseling requirements, and restrictions on mandatory arbitration. If the law does not require any restriction or requirement then zero points are assigned. Higher points indicate more restrictions. For example, laws that do not restrict prepayment penalties are assigned zero points, while laws that prohibit all prepayment penalties are assigned four points. Laws that prohibit or restrict the points more quickly are assigned higher points. For balloon restriction, the points vary from zero for no restrictions to four when the law prohibits all balloons.⁹ The last two restrictions measure whether the law requires counseling before the loan is originated or restricts fully or partially mandatory arbitration clauses.

Table 4 reports the calculated full or law index, the coverage index, and the restrictions index for each law included in the appendix. The average law index is 10.16 varying from 4 in Florida, Maine, and Nevada to 17 in New Mexico and Cleveland. The coverage index and the restrictions index have a mean just over 5. The coverage and restrictions indexes are only modestly correlated at 0.19. This indicates that while laws that increase coverage more also tend to increase the restrictions more the relationship is very noisy. Therefore, there are laws that increase coverage without increasing restrictions (Nevada) and other states that extend restrictions more than coverage (Florida and Georgia, for example).

In summary, the state and local laws tend to expand the coverage of HOEPA by either expanding the triggers and/or including home purchase and open-end credit. Prepayment penalties can also be prohibited early in a loan's life and can be limited in size. Balloon payments can also be limited in size or prohibited early in the life of a loan. The packing of credit life or other insurance premiums into the mortgage is also typically restricted or prohibited.

⁹ The law in Cleveland was determined to be restrictive and was assigned four points despite not neatly falling into any of the categories.

Table 3: Law Index Definition

Category	Description of Law Index
Coverage:	
Loan Purpose	HOEPA equivalent=0, all loans except no government loans=1, all loans except no reverse-open loans=2, all loans except no reverse, business, or construction loans =3,and all loans with no exceptions=4
APR Trigger 1st Lien	HOEPA equivalent =0, (HOEPA Trigger) –Trigger, and no trigger=max+1=3
APR Trigger Higher Liens	HOEPA equivalent =0, (HOEPA Trigger) –Trigger, and no trigger=max+1=4
Points and Fees Trigger	HOEPA equivalent =0, any extension=1, HOEPA%-min%-1, and no trigger=4
Restrictions:	
Prepayment Penalty Prohibitions	No restriction=0, prohibition or percent limits after 60 months=1, prohibition or percent limits after 36 months=2, prohibition or percent limits after 24 months=3, and no penalties allowed=4
Balloon Prohibitions	No restriction =0, no balloon if term<7 years (all term restrictions) =1, no balloon in first 10 years of mortgage =2, no balloon in first 10 years of mortgage and Cleveland=3, and no balloons allowed=4
Counseling Requirements	Not required=0, and Required=1
Mandatory Arbitration Limiting Judicial Relief	Allowed=0, partially restricted=1, and prohibited =2

The law index is calculated by summing all categories. The coverage and restrictions indexes are created by summing the subcategories.

Table 4: The Law Index

State	Full Index	Coverage Index	Restrictions Index
Arkansas	8	5	3
California	11	7	4
Chicago, IL	15	10	5
Cleveland, OH	17	7	10
Colorado	13	8	5
Connecticut	10	5	5
Cook County, IL	15	10	5
Florida	4	0	4
Georgia	16	6	10
Illinois	13	6	7
Indiana	11	4	7
Kentucky	9	2	7
Maine	4	4	0
Maryland	8	7	1
Massachusetts	14	6	8
Nevada	4	4	0
New Jersey	10.5	5.5	5
New Mexico	17	7	10
New York	10	6	4
North Carolina	11	3	8
Ohio	6	4	2
Oklahoma	8	2	6
Pennsylvania	7	4	3
South Carolina	9	4	5
Texas	8	2	6
Utah	6	4	2
Washington,DC	15	8	7
Wisconsin	5	3	2
Average	10.16	5.13	5.04
Standard Deviation	4.03	2.39	2.82

The Coverage and Restrictions Indexes are modestly correlated (0.19).

Some Potential Impacts of the Restrictions

HOEPA and the state and local laws are designed to eliminate certain classes of loans from being originated. These prohibitions implicitly assume that the terms of these loans are inherently abusive or that the fraction of loans that are abusive is so high that the social benefit of avoiding the abusive loans outweighs the social cost of restricting access to credit by high-risk applicants. This section discusses some of the laws' potential impacts. Some examples include: (i) whether the laws influence the supply of credit in general, (ii) whether the laws impact the prevalence of specific types of loans targeted by the laws, (iii) whether a reaction occurs in the market by substituting different uncovered loans for covered loans as opposed to reducing the supply of credit, (iv) whether the secondary market reacts by reducing liquidity, and (v) whether regulatory costs (the cost of complying with the local predatory lending laws) are passed on to consumers through higher interest rates. The following section reviews the to-date evidence on the impact of predatory lending laws.

Supply of Credit

Unfortunately, no research to date (to our knowledge) has measured the costs and benefits to society of HOEPA and the state and local predatory lending laws. Instead, researchers are able to measure how the volume of loans has reacted to the introduction of the law. This analysis helps to answer the first question: Do predatory lending laws reduce the supply of credit? There is substantial evidence that the North Carolina predatory lending law is binding (Ernst, Farris, and Stein 2002; Quercia, Stegman, and Davis 2003; Harvey and Nigro 2004; and Elliehausen and Staten 2004) and some initial evidence that the laws passed in Chicago and Philadelphia also had an impact (Harvey and Nigro 2003).

The primary finding of the research to date is that the volume of subprime loans did decrease in North Carolina. The impact seems to be larger for low-income borrowers and minority borrowers. There is also some evidence that the decline in volume came from reduced applications -- not increases in rejection rates. Given that predatory lending laws have spread to many other localities it remains to be seen whether this result continues to hold.

Targeted Loan Types

A second question is to determine whether there is evidence that the types of loans targeted by these laws, or loan-related characteristics such as balloon payments and prepayment penalties, are affected when the law becomes effective. Quercia, Stegman, and Davis (2003) show that balloon payment loans and prepayment penalties tended to become a smaller portion of the market after the law in North Carolina was introduced.

Substitution

The finding that the predatory lending law in North Carolina resulted in fewer subprime loans and fewer of the targeted loan types suggests that lenders are not able to find perfect substitutes for the prohibited loan types. For example, if the prohibited loans were predatory because they charged excessive fees and interest rates, one response of predatory lenders to the laws would be to simply charge lower fees and interest rates. In essence, the lenders would become less predatory. On the other hand, if the market is perfectly competitive then the laws should simply restrict the flow of credit.¹⁰

In perfect risk-based pricing, each borrower is charged a unique price associated with their estimated risk profile. In a perfectly competitive market, each loan is priced at the break-even rate. Therefore, lenders cannot reduce the price charged to the high-risk borrowers because the loan would lose money. As a result, loans with risk characteristics that require a break-even price above the legal limit will no longer be originated. This outcome is consistent with the findings in North Carolina that the volume of loans decreased when the law became effective.

By contrast, if lenders operate in an environment where perfect competition is *not* achieved – such as a case in which the borrower does not understand the terms of the loan -- the price charged to the consumer for these loans could be higher than the cost. In these circumstances, it is possible for lenders to charge above the break-even price and impose abusive or

¹⁰ Another option is that the reduced flow of credit in the subprime market is matched by an increased flow of credit in the prime market; that is, prime loans are being substituted for subprime loans. Research in North Carolina has found no evidence of this type of substitution (Ernst, Farris, and Stein 2002, Quercia, Stegman, and Davis 2003, Harvey and Nigro 2004, and Elliehausen and Staten 2004).

predatory lending rates. As a result, lenders will be able to reduce the price and still break even on at least some of the prohibited loans. This would be the simplest form of substitution available to lenders in response to legal restrictions and would be consistent with the notion that abusive and predatory lending has been occurring.

Other forms of substitution are also possible. Lenders may also try to move potential borrowers away from covered loans and toward other types of loans with similar payment characteristics that are not covered by the law. For example, the laws do not distinguish between adjustable rate and fixed rate loans. Adjustable rate loans typically have lower interest rates at origination than fixed rate loans, but over time the interest rate will adjust to a fixed spread above predetermined interest rate instruments such as LIBOR or Treasury bill rates. Therefore, lenders could be expected to shift some borrowers away from fixed rate loans and into adjustable rate loans to avoid violating the predatory laws or having the loan covered by the law. Such substitution from one product type to another does not necessarily mean abusive loans are being made, because it can also be consistent with break-even pricing.

Liquidity

The regulations may make it more difficult to sell loans in the secondary market. Firms such as Standard & Poor's and Fitch, which rate private label securities, have refused to rate securities covered by some of the local lending laws. For example, Standard & Poor's required that loans covered by the original Georgia law (October 2002) not be included in any securities because they interpreted the law as imposing potentially uncapped and unlimited liability on holders of securities that contain predatory loans. Georgia later amended the law so that the exposure was limited to all remaining indebtedness of the borrower plus attorney fees and costs. Standard and Poor's also reports an indicator of loss severity associated with the securities. This number is reported in Appendix A for each law for which it is available. For example, the loss severity number for Georgia is 110 percent: This is the estimate of the total possible damages required to extinguish the liability under the loan, assuming a nine

percent coupon rate on a 30-year loan of 100,000 dollars, including attorney fees and costs, which are assumed to be ten percent of the unpaid balance.¹¹

Predatory Lending Laws and the Flow of Credit

This section examines potential impacts of the laws on the volume of lending. If volume is unaffected, then the flow of and the supply of credit to potential consumers has not been affected in the aggregate. This method generally follows Harvey and Nigro (2004) research on the North Carolina predatory lending law. In particular, we extend prior research by examining the impacts in a variety of locations and seeing if the North Carolina experience is representative or typical for other states.

In each state we examine the change in originations for subprime loans under the prescribed loan limits in the year before the predatory lending law is introduced and the year after the law is introduced using the publicly available Home Mortgage Disclosure Act (HMDA) data.¹² Growth rates are calculated for loans associated with a list of subprime lenders as identified by the HUD subprime lender list.¹³ In an attempt to create as similar comparison groups as possible, only counties that border other states without a local predatory lending law are used for the treatment group. The control group only includes counties in neighboring states that border the treatment state and do not have a predatory lending law in effect during the observed time period (the year before and after the introduction of the predatory lending law). This contrasts with other studies (Harvey and Nigro 2004; Elliehausen and Staten 2004) that have used whole neighboring states or regions to define both control and treatment groups. Our approach should help to increase the comparability of the treatment group and the control group because they are geographically closer and, as a result, likely to be more economically similar than full state and region comparisons.

¹¹ See the Standard and Poor's web site and the May 14, 2004, presentation by Frank Raiter, entitled "Evaluating Anti-Predatory Lending Laws: S&P's Approach". The MBAA also reprints the S&P reports on each local lending law for its association members, available at www.mbaa.org.

¹² The results are very similar if the loan limits are not applied to reduce the sample.

¹³ <http://www.huduser.org/datasets/manu.html>, accessed on 2/1/05. HUD generates a list of subprime lenders from industry trade publications, HMDA data analysis, and phone calls to the lender confirm the extent of subprime lending. Since this list is defined at the lender level loans made by the subprime lender may include both prime and subprime loans. In addition, subprime loans made by predominately prime lenders will also be incorrectly identified as prime lending. Therefore, an alternative interpretation of the loans identified using the HUD subprime lender list is that it identifies the extent of specialized subprime lending not full-service lending.

This approach and HMDA availability reduces the sample to ten state local predatory lending laws (California, Connecticut, Florida, Georgia, Maryland, Massachusetts, North Carolina, Ohio, Pennsylvania, and Texas).

Table 5 reports the percent change in originated loans. Using North Carolina as an example, the results show that subprime originations decreased by 35.8 percent in the treatment counties from 1999 through 2001 while subprime originations decreased by 18.9 percent in the control counties. In other words, consistent with prior research on the North Carolina predatory lending law subprime originations decreased substantially more than would be expected given the performance of the control counties. This finding is also found in four other states – Florida, Georgia, Massachusetts, and Ohio. However, in five states – California, Connecticut, Maryland, Pennsylvania, and Texas – the results indicate that subprime originations increased more in the treatment locations.¹⁴ These results indicate that the experience in North Carolina may not extend to all other predatory lending laws and that there may be sufficient variation in the laws that some may increase or decrease the flow of credit.

The second and third columns examine the relative growth rates in originations for minority and low income applicants.¹⁵ Again, the results are mixed as some locations experienced a relative increase and others a relative decrease in subprime originations.

Table 6 examines the relative growth in applications for subprime credit and Table 7 examines the relative change in subprime rejection rates. Again the application results are mixed and very similar to the origination results. For example, four state laws experienced a relative increase in applications and six state laws experienced a relative decrease in

¹⁴ The Texas sample consists of counties on the Texas-Louisiana border. Since all sampled Texan counties (Harrison, Marion, Newton, Orange, Panola, Sabine, Shelby) are rural, few subprime lenders were identified in the data and hence the number of subprime loans might be deceptively small, especially in 2000. This might explain the unusually large percentage increases in application and origination for Texas.

¹⁵ Low-income is defined to include household income less than or equal to 80 percent of the county median household income as reported in the 2000 Census. Minority category includes black and Hispanic applicants as reported in HMDA.

applications. However the rejection rates tell a much more consistent story. In most states, rejection rates declined more in the treatment locations than in the control locations indicating that the introduction of predatory lending laws was associated with a disproportionate reduction in the rate that subprime application were rejected.

These results do not provide any indication that predatory lending laws systematically reduce the flow of subprime credit. However, the results do show that predatory lending laws tend to be associated with lower rejection rates of subprime mortgage applications. It can be expensive just to apply for a mortgage: the non-refundable application fee usually runs from \$200 to \$300, not to mention other hidden or non-pecuniary costs. Thus, while reducing rejection rates may not have been the primary purpose of the laws, a reduction in rejections can be a substantial savings to consumers.

Correlation of Impact and Law Indexes

The previous section followed prior literature and estimated the impact of a local lending law one law at a time. While the findings for North Carolina law sample were largely replicated the results showed that other laws did not always have the same impact. In fact, some laws were associated with relative increases in the flow of credit. This section tests to see if the heterogeneity in market responses is related to the nature or strength of the local law.

Table 8 presents the correlation between the impact of a local law, measured as the difference in the percent change in the probability of the outcome (applying, originating, or being rejected), and the law indexes described previously. Stronger laws are correlated with relative reductions in application, origination, and rejection rates. However, law coverage is positively correlated with application, origination, and rejection rates and law restrictions are negatively associated with application, origination, and rejection rates and law restrictions. This provides preliminary evidence that the design of a local predatory lending law can lead to different outcomes in terms of the flow of credit (origination rates), the demand for credit (application rates), and the rejections of subprime applications (rejection rates).

Table 5: Pre/Post Law Percent Change in Originations

	All Loans	Minority	Low-income
California 2001-2003			
California	177.3	344.7	148.7
Control group	53.1	71.1	17.8
Difference	124.2	273.6	130.9
Connecticut 2000-2002			
Connecticut	87.8	127.7	67.9
Control group	80.6	107.3	28.2
Difference	7.2	20.3	39.7
Florida 2001-2003			
Florida	55.5	101.0	8.8
Control group	59.9	125.2	2.3
Difference	-4.3	-24.3	6.5
Georgia 2001-2003			
Georgia	18.9	87.5	-14.0
Control group	46.2	108.1	29.6
Difference	-27.3	-20.6	-43.6
Maryland 2001-2003			
Maryland	129.4	256.5	140.6
Control group	57.6	165.4	84.6
Difference	71.8	91.0	55.9
Massachusetts 2000-2002			
Massachusetts	56.4	134.8	17.1
Control group	69.6	107.4	8.2
Difference	-13.2	27.4	8.9
North Carolina 1999-2001			
North Carolina	-35.8	-35.7	-50.2
Control group	-18.9	-30.1	-31.6
Difference	-16.9	-5.6	-18.5
Ohio 2001-2003			
Ohio	3.2	4.2	-23.3
Control group	8.4	47.0	4.0
Difference	-5.3	-42.8	-27.3
Pennsylvania 2000-2002			
Pennsylvania	-5.8	-48.4	-38.0
Control group	-30.7	-59.1	-45.9
Difference	24.9	10.7	7.9
Texas 2000-2002			
Texas	3069.2	---	---
Control group	-12.6	-53.0	-46.3
Difference	3,081.8	---	---

Table 6: Pre/Post Law Percent Change in Applications

	All Loans	Minority	Low-income
California 2001-2003			
California	110.0	268.1	81.3
Control group	43.3	123.4	31.5
Difference	66.7	144.6	49.8
Connecticut 2000-2002			
Connecticut	43.4	51.9	29.1
Control group	59.8	34.7	35.4
Difference	-16.4	17.2	-6.3
Florida 2001-2003			
Florida	21.0	137.4	3.3
Control group	76.0	156.3	23.4
Difference	-55.0	-18.9	-20.1
Georgia 2001-2003			
Georgia	-16.2	72.1	-29.8
Control group	27.7	116.4	7.4
Difference	-43.9	-44.3	-37.2
Maryland 2001-2003			
Maryland	77.2	258.7	71.0
Control group	33.3	238.5	32.7
Difference	44.0	20.1	38.4
Massachusetts 2000-2002			
Massachusetts	45.4	84.1	24.1
Control group	60.2	42.7	36.2
Difference	-14.8	41.4	-12.1
North Carolina 1999-2001			
North Carolina	-25.9	-37.9	-35.7
Control group	16.1	-28.3	3.3
Difference	-42.0	-9.6	-39.0
Ohio 2001-2003			
Ohio	-9.5	7.0	-27.5
Control group	-2.8	52.8	-15.1
Difference	-6.6	-45.7	-12.5
Pennsylvania 2000-2002			
Pennsylvania	11.0	-42.8	-1.2
Control group	-12.5	-57.3	-11.3
Difference	23.5	14.5	10.1
Texas 2000-2002			
Texas	5480.0	---	6014.3
Control group	-12.2	-53.6	-31.8
Difference	5,492.2	---	6,046.1

Table 7: Pre/Post Law Percent Change in Rejection Rates

	All Loans	Minority	Low-income
California 2001-2003			
California	-33.4	-26.1	-25.0
Control group	-13.3	10.9	-2.3
Difference	-20.0	-37.0	-22.7
Connecticut 2000-2002			
Connecticut	-19.5	-17.0	-13.6
Control group	-19.7	-23.7	2.2
Difference	0.2	6.7	-15.9
Florida 2001-2003			
Florida	-12.2	2.3	-3.5
Control group	2.8	1.9	-1.0
Difference	-15.0	0.4	-2.6
Georgia 2001-2003			
Georgia	-23.2	-13.0	-15.1
Control group	-8.3	1.1	-10.8
Difference	-14.9	-14.0	-4.3
Maryland 2001-2003			
Maryland	-25.7	-6.9	-21.9
Control group	-15.7	24.6	-20.5
Difference	-9.9	-31.5	-1.3
Massachusetts 2000-2002			
Massachusetts	-19.4	-25.5	-8.0
Control group	-13.6	-18.8	9.7
Difference	-5.7	-6.6	-17.7
North Carolina 1999-2001			
North Carolina	20.0	9.7	24.4
Control group	37.0	6.2	28.0
Difference	-17.0	3.5	-3.6
Ohio 2001-2003			
Ohio	-6.6	-1.2	-4.3
Control group	-2.0	-4.5	-5.8
Difference	-4.6	3.3	1.5
Pennsylvania 2000-2002			
Pennsylvania	2.4	7.0	18.6
Control group	3.4	1.6	16.8
Difference	-1.1	5.4	1.8
Texas 2000-2002			
Texas	72.7	---	4.8
Control group	-9.8	-7.9	-2.2
Difference	82.5	---	7.0

Table 8: Correlation of Impact and Law Indexes

		Percent Deviation:		
		Originations	Applications	Rejections
Law Index Type:	Full	-0.15	-0.09	-0.21
	Coverage	0.50	0.66	0.04
	Restrictions	-0.55	-0.59	-0.29

Percent deviation values from “differences” reported in tables 5-7 and law index values from table 4.

Conclusion

Starting with North Carolina in 1999, states and other localities across the U.S. have introduced legislation intended to curb predatory and abusive lending in the subprime mortgage market. These laws usually extend the reach of the Home Ownership and Equity Protection Act (HOEPA) by including home purchase and open-end mortgage credit, lowering annual percentage rate (APR) and fees and points triggers, and prohibiting and/or restricting the use of balloon payments and prepayment penalties on covered loans.

This paper provides a summary of 28 state and local predatory lending laws that were passed and in effect by the end of 2004. Beyond this summary, we extend the current literature in several ways: (i) the impact of predatory lending laws in many other states in addition to North Carolina is examined, (ii) the data design compares loans, and loan applications, that are geographically close instead of whole states and regions, and (iii) indexes are created in an attempt to quantify differences in the strength of the local laws.

Preliminary univariate results provide some evidence that each local predatory lending law impacts the flow of credit in a different way, and that the experience in North Carolina found in literature (reduced application and origination) is not typical. Future research should incorporate some measure of the strength of the laws, such as the indexes created in this paper, into empirical tests to understand the mechanism by which local predatory lending laws affect the subprime market.

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Appendix A: Predatory Lending Laws – Provision Chart

	Arkansas	California	Chicago, IL	Cleveland, OH
Bill's title	HB 2598	AB 489	Predatory Lending Ordinance	Ordinance No. 737-02
Effective date	7/16/2003	7/1/2002	8/30/2000	7/29/2002
Coverage	A high-cost home loan includes an open-end credit plan but not a reverse mortgage, bridge or construction loan, where the total loan amount does not exceed \$150,000.	A covered loan includes a consumer credit transaction in which the principal balance does not exceed \$250,000 (to be adjusted every five years).	Apply to loans secured by residential real property. Does not include loans with total loan amount over \$250,000.	Apply to loans secured by residential real property in Cleveland. Predatory loans shall not include loan made primarily for business purpose.
APR trigger (HOEPA: APR>T-bill + 8% for first lien; + 10% for second lien) *	Like HOEPA	APR > T-bill + 8%	APR > T-bill + 6% (first lien) or 8% (second lien)	APR>T-bill + 4.5% up to 8% for first lien, or + 6.5% up to 10% for junior lien.
Points and fees trigger (HOEPA: P&F> greater of 8% of total loan amount or \$499 (for 2004) - the set dollar amount is adjusted annually according to CPI)	P&F > 5% of the total loan amount for loans => \$75,000; or 6% of the total loan amount for loans < \$75,000 but > \$20,000; or 8% of the total loan amount for loans =< \$20,000	P&F >6% of the total loan amount	P&F > (1) 5% of the total loan amount if amount >=\$16,000, or (2) \$800 if loan amount < \$16,000.	None defined
Points and fees definition	It includes, among others, all compensation paid directly or indirectly to a mortgage broker and the maximum prepayment penalties which may be charged or collected under the terms of the loan document but only if the prepayment penalties exceed 3% of the principal loan amount remaining on the date of prepayment, if the prepayment is made within the first 12 months, 2% if the prepayment is made within the second 12 months, or 1% if the prepayment is made within the third 12 months. Excludable: 2 BFDs if the loan rate is within 1% of 90-day Fannie/Freddie rate; 1BFD if within 2%.	All upfront lender and broker compensation	Include, among others, all compensation paid directly or indirectly to a mortgage broker, the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance. Shall not include taxes, filing fees, charges paid to public officials or government agency, bona fide and reasonable fees paid to third party.	Include, among others, all compensation paid directly or indirectly to mortgage broker. Any fees for preparing loan-related documents, eg. Deeds, mortgages, and reconveyances or settlement documents shall be included in points and fees.

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Arkansas	California	Chicago, IL	Cleveland, OH
Prepayment penalties	Fees incorporated in the loan balance prohibited	No prepayment penalty after the first 36 months; penalty allowed within the first 36 months only if: the consumer has been offered a choice of another product without prepayment penalty; the terms of penalty, rates, points, and fees are disclosed at least 3 days before consummation; prepayment penalty is limited to 6 months' advance interest on the amount prepaid in any 12 month period in excess of 20% of original principal balance; no penalty if the covered loan is accelerated due to default; no financing of penalty through a new loan originated by the same person.	Prohibits prepayment penalties (1) that apply to a prepayment made after the expiration of 36-month period following the date the loan was made, or (2) that are more than 3% total loan amount (first 12 months) or 2% (second 12 months) or 1% (third 12 month period).	Prohibited
Loan counseling	Required	Availability of counseling must be disclosed.	No provision	Required
Ability to repay	No lending without due regard to ability to pay	Total monthly debt payments do not exceed 55% of monthly gross income.	Monthly debts should not exceed 50% gross income. Applies to borrowers whose income is no greater than 120% of the Chicago MSA median family income.	Presumed to be able to repay if total monthly debts do not exceed 50% monthly gross income and borrower has sufficient residual income to pay essential monthly expenses.
Balloon payments	No provision	No balloons for loans with a term of 5 years or less.	No balloons payable less than 180 months after consummation.	Predatory loans will contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. Does not apply to loan less than one year.
Assignee liability	S&P indicative loss severity 196%	No liability for an assignee that is a holder in due course, but violations of major protections render those terms unenforceable	Not available	S&P indicative loss severity 37%
Financing of fees	Prohibited	Prohibits financing of points and fees in excess of 6% of the original principal balance less points and fees or \$1,000, whichever is greater.	Prohibits financing of points and fees in excess of 6% of the loan amount.	Prohibits the financing of points and fees in excess of 4% of the total loan amount if the loan is >=\$16,000, or \$800 if the loan is <\$16,000.
Mandatory arbitration limiting judicial relief	Prohibited	No provision	No provision	Prohibited
Financing of credit life, disability, unemployment, or other life or health insurance premiums (except monthly premium)	Prohibits financing of single premium credit insurance and cancellation agreements.	Prohibits financing of single premium credit insurance.	Prohibits the financing of single premium credit life, credit disability, credit unemployment, or any other life or health insurance.	Prohibits the financing of single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly into one or more loans.

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Colorado	Connecticut	Cook County, IL	Florida
Bill's title	HB 1259	HB 6131	Cook County Predatory Lending Ordinance	SB 2262
Effective date	1/1/2003	10/1/2001	6/17/2001	10/2/2002
Coverage	Like HOEPA	"High-cost home loan" means any loan or extension of credit, including an open-end line of credit but excluding a reverse mortgage transaction. Its threshold is reached by the APR trigger.	Apply to loans secured by residential real property. Does not include loans with total loan amount over \$250,000.	Like HOEPA
APR trigger (HOEPA: APR>T-bill + 8% for first lien; + 10% for second lien) *	Like HOEPA	Like HOEPA	APR > T-bill + 6% (first lien) or 8% (second lien)	Like HOEPA
Points and fees trigger (HOEPA: P&F> greater of 8% of total loan amount or \$499 (for 2004) - the set dollar amount is adjusted annually according to CPI)	P&F > 6% of the total loan amount	Prepaid finance charges cannot exceed the greater of 5% of the principal amount or \$2,000.	P&F > (1) 5% of the total loan amount if amount >=\$16,000, or (2) \$800 if loan amount < \$16,000.	Like HOEPA
Points and fees definition	Not mentioned	"Prepaid finance charge" includes loan fees, points, commissions, broker's fees or commissions, transaction fees or similar finance charges, any fees or commissions payable to the lender or broker in connection with the sale of credit life, accident, health, disability or unemployment insurance products or unrelated goods or services.	Include, among others, all compensation paid directly or indirectly to a mortgage broker, the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance. Shall not include taxes, filing fees, charges paid to public officials or government agency, bona fide and reasonable fees paid to third party.	Not mentioned

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Colorado	Connecticut	Cook County, IL	Florida
Prepayment penalties	Prepayment fees are permitted only during the first 36 months after consummation. Prepayment fees and penalties should not exceed 6 months' interest for prepayment within the first 3 years. No prepayment fees or penalties can be charged for prepayment: (1) after the 3rd year of the loan; (2) pursuant to a refinance by the same lender; or (3) that is partial. Prepayment fees may not be included in a covered loan UNLESS the lender offers the obligor the option of choosing a loan product without a prepayment fee.	Penalty cannot > 3% of prepaid balance within one year; 2% between one and two years, and 1% between two and three years. Prepayment penalty not allowed if debts \geq 50% of monthly gross income. The payment of the prepayment penalty cannot be through a refinancing by the lender or its affiliate (no wrapping of fees into the new loan amount).	Prohibits prepayment penalties (1) that apply to a prepayment made after the expiration of 36-month period following the date the loan was made, or (2) that are more than 3% total loan amount (first 12 months) or 2% (second 12 months) or 1% (third 12 month period).	Prepayment penalties are permitted only during the first 36 months after consummation, if (1) the borrower has been offered a choice of another product without a prepayment penalty, and (2) the borrower has been given at least 3 business days prior to consummation a written disclosure with terms and the benefit of accepting a loan with prepayment penalty.
Loan counseling	No lending without cautionary notice.	No lending without cautionary notice.	No provision	No provision
Ability to repay	No lending without due regard to ability to pay. Violation is presumed if the creditor engages in a pattern or practice of making loans without verifying and documenting consumers' repayment ability. The lender may consider stated income.	No lending without due regard to ability to pay.	Monthly debts should not exceed 50% gross income. Applies to borrowers whose income is no greater than 120% of the Chicago MSA median family income.	No lending without due regard to ability to pay
Balloon payments	No balloons payable less than 120 months or 10 years after consummation.	No balloons for a loan with a term of less than 7 years (does not apply to bridge loans with maturities of less than 1 year, and a loan connected with the acquisition or construction of a dwelling).	No balloons payable less than 180 months after consummation.	Balloon payments for a loan with a term of less than 10 years prohibited.
Assignee liability	S&P indicative loss severity 119%	Not Available at this time	Not available	S&P indicative loss severity 119% (HCL)
Financing of fees	No provision	No provision	Prohibits financing of points and fees in excess of 6% of the loan amount.	No provision
Mandatory arbitration limiting judicial relief	No mandatory arbitration, unless the clause complies with rules set forth by AAA.	No mandatory arbitration or a waiver of participation in a class action.	No provision	No provision
Financing of credit life, disability, unemployment, or other life or health insurance premiums (except monthly premium)	No financing of credit insurance.	No offering single premium credit insurance without also offering it on a monthly basis, and the right to cancel.	Prohibits the financing of single premium credit life, credit disability, credit unemployment, or any other life or health insurance.	No provision

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Georgia	Illinois	Indiana	Kentucky
Bill's title	HB 1361 as amended by SB 53	SB 1784	HB 1229 (Public law 73)	HB 287
Effective date	Pre-amendment: 10/1/2002; Post-amendment: 3/7/2003	1/1/2004	3/24/2004	6/24/2003
Coverage	A high-cost home loan includes an open-end credit plan but not a reverse mortgage.	A high risk home loan is a home equity loan (i.e. not a purchase money loan) other than an open-end loan. "Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.	A high-cost home loan is a home loan excluding an open-end credit plan and a reverse mortgage.	A high-cost home loan includes a loan other than an open-end credit plan or a reverse mortgage, where the principal amount of the loan is greater than \$15,000 and does not exceed \$200,000.
APR trigger (HOEPA: APR>T-bill + 8% for first lien; + 10% for second lien) *	Covered loan: APR> higher of 4% (5.5% for second lien) above prime rate or 2% (3% for second lien) above 90-day standard delivery commitment with comparable term. HCL: Like HOEPA. 'net benefit to borrower' protection kicks in on first liens at higher of Fannie/Freddie plus 2% or prime plus 4%, on second liens at higher of Fannie/Freddie plus 3% or prime plus 5.5%	APR > T-bill + 6% for first lien; + 8% for junior lien	Like HOEPA	Like HOEPA
Points and fees trigger (HOEPA: P&F> greater of 8% of total loan amount or \$499 (for 2004) - the set dollar amount is adjusted annually according to CPI)	Covered loan: P&F>3% of total loan amount. HCL: P&F > 5% of the total loan amount for loans => \$20,000, or the lesser of 8% of the total loan amount or \$1,000 for loans <\$20,000) (up to two bona fide discount points may be excluded).	P&F > the greater of 5% of the total loan amount or \$800 (to be adjusted annually)	P&F>5% of the loan principal for loans >=\$40,000; or 6% of the loan principal for loans <=\$40,000	Like HOEPA
Points and fees definition	It includes, among others, all compensation paid directly or indirectly to a mortgage broker (includes YSPs); premiums for credit life, credit accident, credit health, loss of income, debt cancellation etc.; the maximum prepayment penalties which may be charged or collected under the terms of the loan document; all prepayment fees or penalties that are charged if the loan refinances a previous loan made or currently held by the same creditor of its affiliate. Excludable: 2 BFDs if loan rate is within 1% of 90-day Fannie/Freddie rate.	It includes, among others, all compensation paid directly or indirectly to a mortgage broker; premiums for credit life, credit disability, credit unemployment, or any other live or health insurance that is financed directly or indirectly into the loan.	It includes, among others, all compensation paid directly or indirectly to a mortgage broker. Excludable: BFDs; up to 1.5 points in indirect broker compensation, if the terms of the loan do not include PP>2% of the home loan principal; reasonable fees paid to an affiliate of the creditor.	Not mentioned or found in the bill

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Georgia	Illinois	Indiana	Kentucky
Prepayment penalties	No prepayment penalties after the last day of the 24th month following the loan closing or at any time if prepayment penalties exceed in the aggregate: (1) during the first 12 months, more than 2% of the loan amount prepaid, or (2) during the second 12 months, more than 1% of the loan amount prepaid.	No prepayment penalties after the first 36 months. Prepayment penalty cannot exceed 3% of the total loan amount if the prepayment is made within the first 12 months; 2% within the second 12 months; and 1% within the third 12 months.	Prohibits prepayment penalty exceeding 2% of the HCL amount prepaid during the first 24 months after closing. No prepayment penalty after the 2nd year. No prepayment penalty without an option of choosing a loan product without a prepayment penalty (must include "loan product choice" disclosure)	Prepayment penalty prohibited if charged more than 36 months after the loan closing or which exceeds 3% of the amount prepaid during the first year, 2% during the second year, and 1% during the third year.
Loan counseling	Required. Lender must receive a certification that borrower received counseling, and special disclosure notice must be provided to borrower.	Prohibits lending without a counseling notice and disclosure.	Required	Prohibits lending without making available to the borrower an educational video approved by the Department of Financial Institutions.
Ability to repay	Total monthly debt payments do not exceed 50% of monthly gross income.	Prohibits lending without regard to repayment ability.	Prohibits lending without due regard to repayment ability.	Prohibits lending without regard to repayment ability.
Balloon payments	Prohibited	No balloon payments for loans under 15 years.	No balloon payment within 10 years	Prohibited
Assignee liability	Assignee is liable for all claims and defenses related to a home loan S&P indicative loss severity 110% (post amendment March 2003)	S&P indicative loss severity 110%	Not available	S&P indicative loss severity 275%
Financing of fees	No provision	No financing of points and fees in excess of 6% of the total loan amount.	Prohibits financing of points and fees.	No financing of any prepayment fees or penalties and points and fees (some are excluded) in excess of 4% of the total amount financed, if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan held by the same lender.
Mandatory arbitration limiting judicial relief	Prohibited	Prohibits "mandatory arbitration provision that is oppressive, unfair, or substantially in derogation of the rights of the borrower."	Prohibits mandatory arbitration	Prohibited unless the clause complies with rules set forth by AAA.
Financing of credit life, disability, unemployment, or other life or health insurance premiums (except monthly premium)	Applies to any home loan: No financing of various insurance payments and payments for debt cancellation agreements that provide for cancellation of borrower's liability.	Prohibits financing of single premium credit insurance.	Prohibits financing of any life or health insurance	Prohibits financing of single premium credit insurance.

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Maine	Maryland	Massachusetts	Nevada
Bill's title	LD 494 (Public law 49)	HB 649	Chapter 268 of 2004 and Regulation 209 CMR 53.00	AB 284 (chapter 465 of 2003)
Effective date	4/17/2003	5/16/2002	3/22/2001	10/1/2003
Coverage	A high rate, high fee mortgage's threshold is reached by either the APR trigger or the P&F trigger	A covered loan's threshold is reached by either the APR trigger or the points & fees trigger.	A high-cost home mortgage loan is consumer credit transaction secured by the borrower's principal dwelling, excluding a reverse mortgage. Its threshold is reached by either the APR trigger or the P&F trigger.	A home loan's threshold is reached by either the APR trigger or the P&F trigger.
APR trigger (HOEPA: APR>T-bill + 8% for first lien; + 10% for second lien) *	Like HOEPA	APR > T-bill + 7% (first lien) or 9% (junior lien)	APR>T-bill+8% (1st lien); +9% (2nd lien)	Like HOEPA
Points and fees trigger (HOEPA: P&F> greater of 8% of total loan amount or \$499 (for 2004) - the set dollar amount is adjusted annually according to CPI)	Like HOEPA	P&F > 7% of the total loan amount or \$499 (for 2004)	P&F>max(5% total loan amount; \$400(adjusted annually))	Like HOEPA
Points and fees definition	Not mentioned	Not mentioned	Includes, among others, all prepayment penalties incurred in a refi by the same lender, all compensation paid directly or indirectly to a mortgage broker, the cost of all premiums financed directly or indirectly by the creditor for SPCI. Excludable: either a conventional (prime) prepayment penalty.	Not mentioned/found.

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Maine	Maryland	Massachusetts	Nevada
Prepayment penalties	No provision	No provision	Prohinited after 36 months from the date of the note. Otherwise, the penalty shall be the balance of the first year's interest or 3 months interest (whichever is less). If prepayment is due to refinancing of a loan in another financial institution, an additional payment up to 3 months interest may be required.	Prohibits financing of a prepayment fee or penalty in connection with a refinancing.
Loan counseling	No provision	Prohibits lending without providing the borrower with a written recommendation that the borrower seek home buyer education or housing counseling	Prohibits lending without home ownership counseling.	No provision
Ability to repay	No provision	Prohibits lending without due regard to repayment ability (does not apply if the borrower's gross monthly income exceeds 120% of the median family income)	Prohibits lending without due regard to repayment ability.	Prohibits lending without due regard to repayment ability.
Balloon payments	No provision	No provision	Prohibited	No provision
Assignee liability	Not available	Not available	S&P indicative loss severity 116%	S&P indicative loss severity 268%
Financing of fees	No points and fees may be charged during refinancing of an existing high rate, high fee mortgage owned by the same creditor and the last financing was within 18 months of the current refinancing.	No provision	Prohibits financing of points and fees in excess of the greater of 5% of the total loan amount of \$800.	No provision
Mandatory arbitration limiting judicial relief	No provision	No provision	Prohibited	No provision
Financing of credit life, disability, unemployment, or other life or health insurance premiums (except monthly premium)	Prohibits selling of single premium credit insurance without also offering its sale on a monthly basis.	Prohibits the financing of single premium credit insurance. Also, the lender cannot require a borrower to purchase property insurance coverage against risk to any improvement in an amount exceeding the replacement value of improvements.	Prohibits financing of single premium credit insurance (applies to a home mortgage loan).	Prohibits financing of credit insurance

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	New Jersey	New Mexico	New York	North Carolina
Bill's title	AB 75	SB 449	AB 11856	HB 1149 as amended by HB 1182 (Oct 1, 2003)
Effective date	11/27/2003	1/1/2004	4/1/2003	7/21/2000 (HCL); 10/1/1999 (consumer home loans)
Coverage	A high-cost home loan includes an open-end credit plan but not a reverse mortgage, in which the principal amount of the loan does not exceed \$350,000 (adjusted annually).	A high-cost home loan includes an open-end credit plan but not a reverse mortgage or a bridge loan.	A high-cost home loan includes an open-end credit plan but not a reverse mortgage, in which the principal amount does not exceed the lesser of: (1) conforming loan size limit for a comparable dwelling as established by Fannie Mae, or (2) \$300,000.	HIGH-COST HOME LOANS, including open-end lines of credit transactions but excluding reverse mortgages, where principal amount (or the borrower's initial maximum credit limit - in case of open-end lines of credit) does not exceed lesser of: (1) conforming loan size limit for single-family dwelling as established by Fannie Mae, or (2) \$300,000. Note: HB1149 excluded open-end lines of credit (as well as reverse mortgage) from the definition of HCL.
APR trigger (HOEPA: APR>T-bill + 8% for first lien; + 10% for second lien) *	Like HOEPA	INTEREST RATE > T-bill + 7% for first lien; T-bill + 9% for subordinate lien	APR > T-bill +8% for a first lien and +9% for a second lien	Like HOEPA
Points and fees trigger (HOEPA: P&F> greater of 8% of total loan amount or \$499 (for 2004) - the set dollar amount is adjusted annually according to CPI)	P&F > 4.5% of the total loan amount for loans => \$40,000, the lesser of 6% of the total loan amount or \$1,000 for loans <\$20,000, and 6% of the total loan amount for loans =>\$20,000 but <\$40,000	P&F > 5% of the principal loan amount for loans => \$20,000; the lesser of \$1,000 or 8% of the principal loan amount for loans < \$20,000	P&F > 5% of total loan amount for loans in the amount of \$50,000 or more; 6% of total loan amount for loans in the amount of \$50,000 that are purchase-money loans guaranteed by FHA or VA; or the greater of 6% of total loan amount or \$1,500 for loans up to \$50,000.	P&F> 5% of total loan amount if loan => \$20,000; or lesser of 8% of total loan amount of \$1,000 if loan < \$20,000. Certain items may be excluded from the calculation of P&F.
Points and fees definition	It includes, all compensation paid directly or indirectly to a mortgage broker; premiums financed directly or indirectly for credit or other insurance or suspension agreement (except paid on a monthly basis); max. prepayment fees and penalties that may be charged; all prepayment fees or penalties that are incurred by the borrower if the loan refinances a previous loan made or currently held by the same creditor or its affiliate (does not apply to a loan refinancing a previous loan made by the same broker and funded by another creditor). Excludable: either a conventional prepayment penalty or up to 2 BFDs in fact reducing IR by more than 2% for a first lien or 3.5% for a junior lien.	It includes, all compensation paid directly or indirectly to a mortgage broker; premiums financed directly or indirectly for credit or other insurance or suspension agreement (except paid on a monthly basis); max. prepay fees and penalties that may be charged; all prepayment fees or penalties that are incurred by the borrower if the loan refinances a previous loan made or currently held by the same creditor or its affiliate. Excludable: the sum of the conventional prepayment penalties and BFDs in fact reducing APR from APR that does not exceed the conventional mortgage rate by more than 1.5% for a first lien or 3% for a junior lien. If the sum exceeds 2 points, only the amount representing 2 points is excluded.	It includes, among others, all compensation paid directly or indirectly to a mortgage broker (e.g. YSPs); premiums financed directly or indirectly for credit or other insurance or suspension agreement (except premiums paid on a monthly basis). Excludable: 2 BFDs reducing the interest rate by 25 basis points or ¼ point, but only if within 1% of the T-bill rate.	Compensation paid directly by borrower to mortgage broker, cost of all premiums for credit and other insurance financed by lender, maximum prepayment penalties allowed under loan document, finance charges except interest or the time-price differential, certain real estate related fees. Excludable: 2 BFDs if the loan rate is within 1% of 90-day Fannie/Freddie rate; 1 BFD if within 2%.

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	New Jersey	New Mexico	New York	North Carolina
Prepayment penalties	<i>There used to be a "prepayment penalty trigger" (after 30 months or >2% amount prepaid) in the old bill but was either removed or not passed. "Conventional prepayment penalty" may be charged under some conditions, but not clear what "conventional" means.</i>	Prohibited	Prohibits financing of points and fees (and prepayment fees or penalties) when the current HCL is refinanced by the same creditor or its affiliate's HCL.	Prohibited on all loans below \$150,000 (not only high-cost loans).
Loan counseling	Required. Certification received; special cautionary notice .	Required	Required	Required
Ability to repay	Presumption borrower can repay if his total monthly debts do not exceed 50% of his monthly gross income.	No provision	Presumption borrower can repay if his total monthly debts do not exceed 50% of his monthly gross income, and lender followed residual income guidelines.	Total monthly debt payments do not exceed 50% of monthly gross income.
Balloon payments	Prohibited	Prohibited	Prohibits balloon payments during the first 15 years after origination.	Prohibited
Assignee liability	S&P indicative loss severity 196% (home loan, covered home loan), 110% (refinancings only)	S&P indicative loss severity 110% (HCL)	S&P indicative loss severity 163%	S&P indicative loss severity 275%.
Financing of fees	Financing of points and fees in amount > 2% of the total loan amount is prohibited.	Prohibits financing of points and fees in excess of 2% of the principal loan amount.	No financing of points and fees in amount > 3% of the principal amount of the loan (or, for refinancings, 3% of the additional proceeds received by the borrower in connection with the refinancing). No financing of points and fees (and prepayment fees or penalties) when the current HCL is refinanced by the same creditor or its affiliate's HCL.	No financing of points and fees or any charges payable to 3rd parties. Also, no financing of prepayment fees or penalties in a refinancing by the same creditor or its affiliate.
Mandatory arbitration limiting judicial relief	Any provision that allows a party to require a borrower to assert any claim or defense in a forum that is less convenient, more costly, or more dilatory for the resolution of a dispute than a juridical forum established in this State is unconscionable and void.	Prohibited	Prohibits mandatory arbitration, unless the clause complies with rules set forth by AAA.	No provision
Financing of credit life, disability, unemployment, or other life or health insurance premiums (except monthly premium)	Prohibits financing of single premium credit insurance. No financing of payments for debt cancellation or suspension agreements.	Prohibits financing of single premium credit insurance.	No financing of single premium credit insurance, debt cancellation, or suspension agreement payments. Also, no packing (selling credit life, accident and health, disability, or unemployment insurance products or unrelated goods in conjunction with HCL without a borrower's informed consent).	Prohibits financing of single premium credit insurance. (applies to consumer home loans)

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Ohio	Oklahoma	Pennsylvania	South Carolina
Bill's title	HB 386	SB 1481 as amended by HB 1574	SB 377	SB 438 (Act No. 42 of 2003)
Effective date	2/22/2002	1/1/2004	6/21/2001	1/1/2004
Coverage	A covered loan's threshold is reached by either the APR trigger or the points & fees trigger.	A "subsection 10 mortgage" excludes an open-end credit plan and a reverse mortgage.	A covered loan's original principal balance must be less than \$100,000.	High-cost home loans exclude an open-end credit plan or a reverse mortgage, in which the principal amount does not exceed the conforming loan size limit for a comparable dwelling as established by Fannie Mae.
APR trigger (HOEPA: APR>T-bill + 8% for first lien; + 10% for second lien) *	Like HOEPA	Like HOEPA	Like HOEPA	Like HOEPA
Points and fees trigger (HOEPA: P&F> greater of 8% of total loan amount or \$499 (for 2004) - the set dollar amount is adjusted annually according to CPI)	Like HOEPA	Like HOEPA	Like HOEPA	P&F>5% of total loan amount for loans >= \$20,000; min(8% total loan amount; \$1000) for loans <\$20,000, or 3% of total loan amount for nonreal estate secured manufactured housing transaction if the total loan amount is >= \$20,000.
Points and fees definition	Like HOEPA	It includes, among others, all compensation paid to a mortgage broker, premium for credit life, accident, health or other insurance or debt cancellation coverage.	Not mentioned	Includes, among others, all compensation paid directly or indirectly to a mortgage broker, the maximum prepayment penalties which may be charged or collected under the terms of loan documents; premium or other charges for credit life, accident and other insurance and debt-cancellation coverage (does not apply to premiums paid on a monthly basis). Excludable: 2 BFDs if loan rate is within 1% of 90-day Fannie/Freddie rate; 1BFD if within 2%; conventional prepayment penalty.

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Ohio	Oklahoma	Pennsylvania	South Carolina
Prepayment penalties	Prohibited, unless imposed in accordance with HOEPA.	Prepayment penalty allowed if: (1) at the time of consummation, a consumer is not liable for monthly indebtedness > 50% of the consumer's monthly gross income; (2) the penalty applies to only a prepayment made with funds obtained by means other than a refinancing; (3) the penalty does not exceed in the aggregate 2% of the loan amount prepaid in the first 12 months after consummation; or 1% of the loan amount prepaid in the second 12 months after consummation; (4) the penalty does not apply after the end of the 2-year period following consummation; and (5) the penalty is not prohibited under other applicable law.	PP allowed within the first 60 months, no PP unless the loan product is also available without PP; no PP on refinancing of covered loans owned by the refinancing lender.	Prohibited if the aggregate sums advanced or contemplated <= \$150,000 (applies to consumer home loans) Prohibits financing of prepayment fees or penalties in a refinancing by the same creditor or its affiliate.
Loan counseling	No provision	No provision	No provision.	Prohibits lending without home ownership counseling.
Ability to repay	Prohibits lending without due regard to repayment ability.	Prohibits lending without due regard to repayment ability.	Prohibits lending without due regard to repayment ability.	Prohibits lending without due regard to repayment ability.
Balloon payments	Prohibits balloon payments for loans with a term of less than 5 years (does not apply to bridge loans with a maturity of less than 1 year)	No balloon payments for loans with a term less than 5 years	No balloon payments unless such balloon payment becomes payable not less than 120 months after the date of the loan	Prohibited
Assignee liability	Not available	Not available	Not available	S&P indicative loss severity 196%
Financing of fees	No provision	No provision	Prohibits charging of points and fees in connection with refinancing of covered loans.	Financing of points and fees exceeding 2.5% of total loan amount is prohibited.
Mandatory arbitration limiting judicial relief	No provision	Prohibited, unless the clause complies with rules set forth under AAA.	No provision.	No provision
Financing of credit life, disability, unemployment, or other life or health insurance premiums (except monthly premium)	Prohibits financing of single premium credit insurance within 30 days.	Prohibits selling of single premium credit insurance, unless insurance on a monthly basis is also offered and the borrower is provided a special notice.	Prohibits selling of single premium credit insurance, unless insurance on a monthly basis is also offered and the borrower is provided a special notice.	Prohibits financing of single premium credit insurance (applies to consumer home loans)

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Texas	Utah	Washington D.C.	Wisconsin
Bill's title	SB (Chapter 622 of 2001)	HB 160	DC Bill B14-0515	AB 792
Effective date	9/1/2001	1/30/2004	01/28/03	4/15/2004
Coverage	A high-cost home loan is a loan, excluding an open-end account or a reverse mortgage, but including residential mortgage transactions if the total loan amount is \geq \$20,000, in which the principal amount does not exceed 1/2 of maximum conventional loan limit established by Fannie Mae.	A high-cost mortgage is reached by either the APR trigger or the P&F trigger	"Covered loan" means a mortgage loan, secured by property located in the District (including an open-end line of credit, but not including a mortgage loan insured or guaranteed by a state or local authority, the District of Columbia Housing Finance Agency, the Federal Housing Administration, or the Department of Veteran Affairs, or a reverse mortgage transaction)	A covered loan is a consumer transaction excluding an open-end credit plan and a reverse mortgage.
APR trigger (HOEPA: APR>T-bill + 8% for first lien; + 10% for second lien) *	Like HOEPA	Like HOEPA	APR > T-bill + 6% (first lien) or 7% (second lien)	Like HOEPA
Points and fees trigger (HOEPA: P&F> greater of 8% of total loan amount or \$499 (for 2004) - the set dollar amount is adjusted annually according to CPI)	Like HOEPA	Like HOEPA	P&F > 5% of the total loan amount	P&F > 6% of total loan amount
Points and fees definition	Like HOEPA	Like HOEPA	Like HOEPA	Does not include reasonable fees paid to affiliates and nonaffiliates of the lender for bona fide services listed in 12 CFR 226.4c(7)
Prepayment penalties	Prohibited	Prohibits PP more than 36 months after origination. No PP exceeding the total amount of interest paid at 80% of the immediately preceding 6 scheduled payments; no PP if the loan is paid with the proceeds of a new loan by the same lender or affiliate. If a prepayment does not pay the full amount owed, PP must be reduced by % equal to % of the balance owed before the prepayment that remains unpaid.	Prohibited	No PP after 36 months and without the option of choosing a loan product without a PP. PP may not exceed 60 days' interest at the contract rate on the amount prepaid on fixed rate CLs over \$25,000 if the borrower prepays more than 20% of the original loan amount within 36 months. No PP on CLs of \$25,000 or less and on adjustable loans.

Continued --Appendix A: Predatory Lending Laws – Provision Chart

	Texas	Utah	Washington D.C.	Wisconsin
Loan counseling	No provision	No provision	A lender shall inform a borrower of his or her right to obtain counseling in connection with a covered loan.	No provision
Ability to repay	Prohibits lending without due regard to repayment ability.	No provision	Prohibits lending without due regard to repayment ability. Applies to borrowers whose income is no greater than 120% of median family income, where median family income is the most recent estimate by HUD.	Prohibits lending without due regard to repayment ability.
Balloon payments	Prohibited after the first 60 months.	No provision	A lender shall not make a covered loan that provides for a scheduled payment that is more than twice as large as the average of earlier scheduled monthly payments unless the balloon payment becomes due and payable not less than 7 years after the date of the loan closing.	Prohibited
Assignee liability	Not available	Not available	S&P indicative loss severity 137%	Not available
Financing of fees	No provision	Prohibits financing of points and fees in an amount exceeding 8% of the total loan amount unless the specific disclosures are made no later than 3 business days prior to consummation.	If a lender refinances a loan secured by the same residential real property to the same borrower which was made 18 months or less before the covered loan is made, the same lender shall not finance, directly or indirectly, any portion of the covered loan's origination/discount points and fees or other fees payable to the lender or any third party in excess of the greatest of 3% of the new covered loan principal amount actually funded, \$400, or such amount as the Mayor may establish by regulation.	No provision
Mandatory arbitration limiting judicial relief	No provision	Prohibited unless they comply with the Utah Uniform Arbitration Act or the Federal AA.	No oppressive mandatory arbitration clause.	No provision
Financing of credit life, disability, unemployment, or other life or health insurance premiums (except monthly premium)	Prohibits offering single premium credit insurance without a special notice (applies to home loans)	Prohibits single premium credit insurance, debt cancellations and suspension agreements.	A lender shall not sell any individual or group credit life, accident, health, or unemployment insurance product on a prepaid single premium basis in conjunction with a covered loan.	Prohibits direct or indirect financing of single premium credit insurance products

*Notes: APR is compared to the yield on Treasury securities with comparable periods of maturity to the loan term. For comparison purposes, the lender must reference yields from the Federal Reserve's H.15 release as of the 15th day of the month immediately preceding the month in which the application is received. Kansas also has a law (SB 301, Chapter 107 of 1999), which became effective on 4/14/1999. Due to difficulties including the law in the current framework It is not included in the chart. *Sources: <http://www.butera-andrews.com/state-local/b-index.htm>; <http://www.mbaa.org/resources/predlend/>; Standard & Poor's Anti-predatory lending update (20 Sept, 2004). *Italics indicate that the provisions were difficult to ascertain.

Appendix B: City and County Predatory Lending Bills

City	Bill title	Status
Atlanta, GA	Predatory Lending Ordinance	Approved September 2001 Enjoined from enforcing November 2001
Baltimore, MD		Known to have once proposed predatory lending ordinance. Current status unknown.
Chicago, IL	Predatory Lending Ordinance	Passed Aug 30, 2000
Cleveland Heights, OH	Ordinance 72-2003	Passed June 2, 2003
Cleveland, OH	Ordinance 737-02	Passed April 23, 2002 Effective July 29, 2002 Note: ordinance passed after state already passed preemption law, and upheld by court. Revised ordinance 45-03 effective Jan 15, 2003
Cook County, IL	Cook County Predatory Lending Ordinance	Passed April 17, 2001 Effective 60 days after
Dayton, OH	Ordinance 29990-01	Passed July 11, 2001 Challenged by law suit. Seems to have been rule to be preempted.
Dekalb County, GA	Predatory Lending Ordinance	Passed June 2001 Ruled unconstitutional November 2001.
Denver, CO		Known to have once proposed predatory lending ordinance. Current status unknown.
Detroit, MI		Passed December 2002 Vetoed January 2003
Los Angeles, CA	Ordinance 01-1476	Passed Nov 22, 2002 Final approval Dec 2002 Pending due to unspecified legal dispute.
NYC, NY	IN67-A	Passed Sept 25, 2002 Vetoed by mayor. Veto overridden Nov 20, 2002. Preempted by state and federal law Jan 2004.
Oakland, CA	Ordinance 12361	Passed Oct 2, 2001 Challenge by American Financial Services Association (AFSA) law suit Oct 15, 2001 Upheld by court June 2002. Appealed by AFSA, pending Supreme Court decision.
Philadelphia, PA	Bill 715	Passed April 2001 Preempted by state law June 2001.
Pittsburgh, PA	Ordinance 1676	Current status unknown
Sacramento, CA		Proposed August 2001 Current status unknown, some sources say the controversial ordinance was altered into an education program against predatory lending.
Toledo, OH	Ordinance 271-03	Originally, ordinance 291-02 was passed November 5, 2002, then held up by court stays. Ord 271-03 (revision of 291-02) was passed July 22, 2003. Stayed due to pending law suit by AFSA.
Washington DC	Predatory Lending bill	First passed in April 2001 and were to go into effect in June 2001. Then underwent 4-month suspension. Seems to have eventually passed in 2002

Appendix C: Laws that Apply to the Prime and Subprime Mortgage Market

	Idaho	Michigan	Minnesota	Mississippi
Bill's title	S.B. 1389	H.B. 6121	S.F. 2988	H.B. 1522 as amended by H.B. 788
Effective date	July 1, 2004.	December 23, 2002.	January 1, 2003.	H.B. 1522 on July 1, 2002 and amended on April 20, 2004.
Triggers	No provision.	No provision.	No provision.	No provision.
Prohibited Practices -- General	Applicable to mortgage brokers, mortgage lenders, and loan originators: Accepting fees at closing which were not previously disclosed. Obtaining any agreement in which blanks are left to be filled in after signing by a borrower. Engaging in any misrepresentation in connection with a residential mortgage loan. Making any payment to influence the independent judgment of the appraiser.	Charging a fee for a product or service not actually provided. Misrepresenting the amount charged by or paid to a 3rd party for a product or service. Making false, deceptive, or misleading statements or representations. Changing or inserting information on a loan application that is false and misleading and intended to deceive a 3rd party that the borrower is qualified for the loan. Conditioning the payment of an appraisal upon a predetermined value or the closing of the loan. Compensating, coercing, or intimidating an appraiser for the purpose of influencing the appraiser's independent judgment. Executing a mortgage loan note which contains blanks to be filled in after the note is signed by the borrower.	No provision.	Misrepresenting material facts, concealing material facts, and making false promises. Failure to disburse funds in accordance with a contract. Refusal to issue a satisfaction of a mortgage loan. Failure to account for or deliver any personal property (e.g. deposits, mortgages, etc.) that is not the property of the mortgage company. Engaging in any transaction that is not in good faith. Engaging in any fraudulent residential mortgage underwriting practices. Inducing, requiring, or permitting the applicant for a mortgage loan to sign documents with blank spaces to be filled in afterwards. Making any residential mortgage loan with the intent to foreclose on the borrower's property. Paying any person not licensed (or not exempt) any commission or bonus in connection with arranging for or originating a mortgage loan. Refusing to provide the loan payoff within 3 business days.
Prohibited Practices --Prepay Penalties	No provision.	No provision.	No pp for any partial prepayment; no pp for any prepayment of the residential mortgage loan upon the sale of any residential real property or interest thereof; no pp for prepayment more than 42 months after the date of the note; no pp which exceeds the lesser of 2% of the unpaid principal balance or an amount equal to 60 days' interest (otherwise disclosure is required – must be read twice and the borrower must be provided a copy).	No provision.

	Idaho	Michigan	Minnesota	Mississippi
Prohibited Practices -- Points and Fees	No provision.	No provision.	No financing of interests, points, finance charges, fees and other charges in excess of 5% of the loan amount. Prepayment penalty.	Charging or collecting any fee from a borrower unless a loan is actually found, obtained, and closed, and in no event in excess of 7.95% of the original principal amount (must be also included in the APR calculations).
Prohibited Practices -- Balloon Payments	No provision.	Balloon payments for loans with a term of less than 5 years (does not apply to bridge loans with maturities of less than 1 year).	No provision.	No provision.
Prohibited Practices -- Insurance	No provision.	Financing of single premium credit insurance.	No provision.	No provision.
Prohibited Practices -- Counseling and Education	No provision.	Lending without providing the borrower with "Borrowers Bill of Rights." Lending without providing the borrower with "Consumer Caution and Home Ownership Counseling Notice."	No provision.	No provision.

	New Hampshire	Tennessee	Washington	West Virginia
Bill's title	S.B. 99	S.B. 3455	H.B. 1205 as amended by H.B. 6338 and H.B. 1150	S.B. 418 as amended by H.B. 4379
Effective date	January 1, 2005	January 1, 2005	2001 and last amended on April 15, 2003.	S.B. 418 on July, 2001 and amended in February 4, 2002.
Triggers	No provision.	No provision.	No provision.	no provision
Prohibited Practices -- General	Requires all licensees to comply with HOEPA	Making false written promises intended to and likely to influence, persuade, or induce a person to enter in a mortgage loan. Substantially misrepresenting, circumventing, or concealing any of the material particulars or the nature thereof, regarding a mortgage transaction to which such person is a party. Failure to disburse funds in accordance with a written agreement. Failure to account for or deliver any personal property (e.g. deposits, mortgages, etc.) that is not the property of the licensee. Obtaining any agreement or instrument with blank spaces to be filled in afterwards. Attempting to intimidate a real estate appraiser or influence an appraiser's report relating to market conditions or determination of value.	Schemes to defraud or mislead a lender or any person. Unfair and deceptive practices. Obtaining property by fraud or misrepresentation. Advertisement of specific interest rates unless they are actually available. Making any payment, directly or indirectly, to any appraiser for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property. Noncompliance with TILA, Regulation Z, RESPA, Regulation X, the EqualCredit Opportunity Act, or Regulation B in any advertising of residential mortgage loans or any other consumer loan company activity.	Any provision whereby the borrower waives any rights under this article. Requirement that more than one installment be payable in any one installment period (i.e. advance payments), or that the amount of any installment be greater or less than any other installment (i.e. balloon payments), except: the final installment may be in a lesser amount. Assignment of wages. Compulsory arbitration which does not comply with federal law. Blanks to be filled in after the consummation of the loan. Coercing or intimidating an appraiser for the purpose of influencing his independent judgment. Acceleration because of a decrease in the market value of the residential dwelling securing the loan. Requiring terms of repayment which do not result in continuous monthly reduction of the original principal amount (i.e. negative amortization). Making a loan that, when added to the aggregate total of all outstanding loans secured by the same property, exceed the fair market value of the property. Recommendation of default. Lending without a specific disclosure. Collecting a fee that (1) is undisclosed to the borrower; (2) is for services not actually provided; (3) misrepresents the amount paid to a 3rd party; or (4) is a duplicate fee for acting a both broker and lender for the same loan.
Prohibited Practices --Prepay Penalties	No provision.	No provision.	No provision.	Rebate computed by a method other than the actuarial method.

	New Hampshire	Tennessee	Washington	West Virginia
Prohibited Practices -- Points and Fees	No provision.	Accepting any fees at closing which were not disclosed. Engaging in a pattern of consistently and materially underestimating the closing costs. Delaying closing any mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower.	Making of false or deceptive statements with regard to the rates, points, or other financing terms or conditions.	Points and fees in excess of 6% of the loan amount financed (including YSP but excluding reasonable closing costs). If no YSP is charged, points and fees cannot exceed 5% of the loan amount financed. YSP for any loan with APR > 18% of the unpaid balance of the amount financed. The maximum rate of finance charges on or in connection with any subordinate mortgage loan exceeding 18% on the unpaid balance of the amount financed. Additional charges unless the loan is made. Imposing additional origination fees, investigation fees, or points and fees in any refinancing within 24 months, unless the new loan has a reasonable, tangible net benefit to the borrower (must be documented in the loan file). Late charges made less than 10 days after the regularly scheduled due date. Charging an application fee unless the mortgage is consummated (reimbursement for actual expenses may be required in a purchase money transaction if: (1) the borrower willfully fails to close the loan; or (2) the borrower falsely or fraudulently represents a material fact which prevents closing of the loan as proposed). Charging for services before their completion.
Prohibited Practices -- Balloon Payments	No provision.	No provision.	No provision.	No provision.
Prohibited Practices -- Insurance	No provision.	No provision.	Issuing or selling of a single premium credit insurance (does not apply to loans with the loan amount <= \$10,000, with the repayment term of less than 5 year, or if the term of insurance does not exceed the repayment term of the loan), unless (1) its term is the same as the term of the loan; (2) the debtor is given the option of buying credit insurance with monthly premiums; and (3) the policy provides for a full refund of premiums if the credit insurance is cancelled within 60 days of the date of the loan.	Hazard insurance exceeding the standard rate approved by the insurance commissioner.
Prohibited Practices -- Other Disclosures and Requirements	No provision.	No provision.	Lending without an itemized estimation and explanation of all fees and costs, APR, and whether the loan contains a prepayment penalty provided within 3 business days following receipt of a loan application.	No provision.

Source: <http://www.butera-andrews.com/state-local/b-index.htm>. Oregon (in effect January 1, 2006) and Nebraska (in effect March 1, 2004) also have laws in effect, but details on those laws are not yet available.