



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING  
HARRISBURG

THE SECRETARY

September 23, 2002

To: All Pennsylvania State-Chartered Banks, Bank and Trust Companies, Savings Banks, Savings Associations, and Credit Unions; Mortgage Lenders and Mortgage Brokers Licensed Under or Otherwise Subject to the Mortgage Bankers and Brokers and Consumer Equity Protection Act and/or the Secondary Mortgage Loan Act; Consumer Discount Companies Licensed Under the Consumer Discount Company Act; National Banks, Federal Savings Associations, and Federal Credit Unions Headquartered or With One or More Branch Offices in Pennsylvania.

**This letter is to notify you of two matters pertaining to the new predatory lending law at Chapter 5 of Act 55 of 2001 ("Chapter 5"), which is the predatory lending part of the Mortgage Bankers and Brokers and Consumer Equity Protection Act ("MBBCEPA"), 63 P.S. § 456.501 et seq. The two matters are as follows:**

**1. The Present Definition of "Covered Loan" Changes Effective October 1, 2002.**

The change will affect only first-lien mortgage loans.

Present Definition: More specifically, **from the June 25, 2002 effective date of Chapter 5 through and including September 30, 2002**, a "covered loan" which is subject to the restrictions of Chapter 5 is defined as a closed-end home equity mortgage loan involving property located in Pennsylvania, of any lien position, in principal amounts of less than \$100,000 made at a high cost, generally meaning the rate and point triggers in the federal Home Ownership Equity Protection Act ("HOEPA"), which for 2002 are:

- (a) an annual percentage rate ("APR") exceeding 10 percentage points above comparable term U.S. Treasury securities on first-lien loans and subordinate-lien loans, and/or
- (b) total points and fees payable by the consumer at or before closing that exceed the greater of 8 percent of the total loan amount or \$480 for the year 2002 and that dollar amount will be adjusted annually based on the Federal Reserve adjustments.

New Definition: **Effective October 1, 2002, part (a) of the above definition of "covered loan" changes only in that** separate standards for the APR of a first-lien versus subordinate-lien mortgage are created and will be as follows: an APR exceeding 8 percentage points for first-lien loans, or an APR exceeding 10 percentage points for subordinate-lien loans, above comparable term U.S. Treasury securities. In other words, **the APR on first-lien mortgage loans is lowered from the present 10% down to 8% above comparable U.S. Treasury securities** when determining whether the loan is a "covered loan" that is subject to the restrictions of Chapter 5. (The change in definition occurs because the Pennsylvania definition of "covered loan" is tied to a change in the Federal Reserve's HOEPA regulation at 12 CFR 226.32 that correspondingly becomes effective on October 1, 2002.) The part (b) above of the present definition of "covered loan" pertaining to total points and fees remains intact on and after October 1, 2002.

2. **“Median Family Income” Statistical Estimates Necessary for Lenders to Calculate (a) Repayment Ability of Potential Obligor under Section 512(b), and (b) Whether Negative Amortization Terms May Be Imposed on a Potential Obligor under Section 511(c) Are Now Stated in a Convenient Chart Enclosed Below.**

For the convenience of the regulated community, the Department is publishing in the Pennsylvania Bulletin, placing on the Department’s website, and mailing to you the enclosed “median family income” chart. The Department makes this chart available to you consistent with the Section 503 of the MBBCEPA definition of “median family income” and as a reminder of the necessity of these statistics when lenders seek to comply with Sections 512(b) and 511(c) of the MBBCEPA.

The “median family income” statistics are self-explanatory on the attached chart and the notes at the end of the document. Please note that although the Department intends to update the chart, it is the lender’s responsibility to check U.S. Department of Housing and Urban Development figures for updates of the statistical information that the lender may then rely upon.

**Items Related to the Above Two Matters**

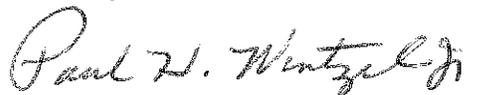
The Department has issued this letter in order to make you aware of the upcoming change in definition of “covered loan” under Chapter 5 of the MBBCEPA. The Department strongly recommends that you consider how the change in definition of “covered loan” in Chapter 5 of the MBBCEPA impacts your financial institution’s subprime lending business, to the extent that your institution engages in originating or brokering subprime loans.

The Department also has issued this letter to facilitate your compliance with the repayment ability and negative amortization restrictions in Chapter 5 of the MBBCEPA.

This letter is not intended as and does not constitute legal advice. This letter contains generalizations regarding the definition of “covered loan” and matters pertaining to “median family income” statistical estimates regarding compliance with Chapter 5 of the MBBCEPA. This letter is not inclusive of all of the provisions, conditions, exceptions, and details related to the matters discussed herein.

Finally, the Department remains committed to enforcing Chapter 5 of the MBBCEPA for purposes of consumer protection against unsavory practices that may be committed by a relatively few depository or nondepository mortgage lenders and brokers operating in the subprime lending market in Pennsylvania. If you have any compliance questions, please do not hesitate to contact Richard S. DeMartino, Director of the Bureau of Supervision and Enforcement regarding depository institutions, at 717-783-8240, or Victor H. Seesholtz, Chief of Compliance in the Bureau of Licensing, Compliance, and Consumer Services regarding nondepository licensees, at 717-772-3889, or contact the Department via the Department’s website at [www.banking.state.pa.us](http://www.banking.state.pa.us).

Sincerely,



Paul H. Wentzel, Jr.  
Acting Secretary of Banking

Enclosure: Chart of Estimates of “Median Family Income” in Pennsylvania

**ESTIMATES OF MEDIAN FAMILY INCOME  
IN PENNSYLVANIA**  
(By Primary Metropolitan Statistical Area (PMSA), Metropolitan Statistical Area (MSA),  
and Non-Metropolitan Statistical Area (Non-MSA))

<u>PMSA/MSA Metropolitan Statistical Area</u>		<u>FY 2002</u> <sup>(1)</sup>	<u>FY 2001</u> <sup>(2)</sup>
MSA	Allentown-Bethlehem-Easton <i>Carbon, Lehigh, Northampton Counties</i>	55,700	52,000
MSA	Altoona <i>Blair County</i>	41,800	39,500
MSA	Erie <i>Erie County</i>	43,700	42,200
MSA	Harrisburg-Lebanon-Carlisle <i>Cumberland, Dauphin, Lebanon, Perry Counties</i>	55,400	52,400
MSA	Johnstown <i>Cambria, Somerset Counties</i>	35,000	33,000
MSA	Lancaster <i>Lancaster County</i>	53,900	51,200
PMSA	Newburgh <i>Pike County</i>	58,700	55,800
PMSA	Philadelphia <i>Bucks, Chester, Delaware, Montgomery, Phila. Counties</i>	63,300	60,100
PMSA	Pittsburgh <i>Allegheny, Beaver, Butler, Fayette, Washington, Westmoreland Counties</i>	48,900	45,500
MSA	Reading <i>Berks County</i>	53,300	51,400
MSA	Scranton-Wilkes-Barre-Hazleton <i>Columbia, Lackawanna, Luzerne, Wyoming Counties</i>	45,100	43,300
MSA	Sharon <i>Mercer County</i>	39,500	37,900
MSA	State College <i>Centre County</i>	47,800	45,100
MSA	Williamsport <i>Lycoming County</i>	41,900	39,600
MSA	York <i>York County</i>	53,600	51,300

<u>Non-Metropolitan Counties (Non-MSAs)</u>		<u>FY 2002</u> <sup>(1)</sup>	<u>FY 2001</u> <sup>(2)</sup>
COUNTY	Adams	52,000	49,600
COUNTY	Armstrong	36,300	34,300
COUNTY	Bedford	37,400	36,700
COUNTY	Bradford	39,200	37,700
COUNTY	Cameron	34,800	33,000
COUNTY	Clarion	36,500	34,800
COUNTY	Clearfield	35,800	34,500
COUNTY	Clinton	37,700	36,200
COUNTY	Crawford	38,400	37,300
COUNTY	Elk	42,500	40,600
COUNTY	Forest	36,700	33,400