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Spitzer to Present a Plan to Reduce Foreclosures

By PATRICK McGEEHAN

The Spitzer administration plans to propose a legislative package on Tuesday intended to help stem the rising tide of home foreclosures by requiring lenders to try to work out repayments with borrowers before suing them.

A bill drafted by Gov. Eliot Spitzer's staff would require lenders to warn borrowers in writing 60 days before starting foreclosure proceedings and to meet with them to negotiate a settlement. The bill also aims to prohibit some of the riskier types of high-interest home loans that had spread during the recent housing boom and to tighten regulations for mortgage brokers and companies that service mortgages.

"We are looking to provide assistance to homeowners who are currently in trouble, while at the same time developing protections to prevent a similar crisis for future borrowers," said Richard H. Neiman, the state superintendent of banks.

Lenders began more than 57,000 foreclosure proceedings in the state last year, an increase of more than 70 percent from 2005, state officials said.

The introduction of the bill comes as some lawmakers are calling for a moratorium of up to a year on foreclosures. Community advocates said they saw the governor's proposals as complementing the idea of a moratorium, not competing with it. Mr. Neiman and other state officials emphasized that they were not calling for a moratorium.

Mr. Neiman said the governor's proposal was based on the belief that lenders would be better served by renegotiating loan terms than by resorting to litigation. He said it would institute a "cooling-off period" after a homeowner falls behind on mortgage payments, during which the lender would encourage the borrower to seek counseling about how to modify the terms of the loan.

"Foreclosure does not serve anybody's higher purpose," said Lora K. Lefebvre, the state's deputy secretary for public finance and local governments.

Ms. Lefebvre said the proposal might "add a few weeks" to the foreclosure process but that it should pay off by prompting more conversations that could lead to resolutions outside of court.

She said the governor's bill would require that lenders determine in advance whether borrowers have the ability to repay their mortgages, a seemingly basic requirement that was often skipped in the rush to make loans. The proposals would also establish that mortgage brokers owe a duty of care to their customers and require registration of the companies that service mortgages.

“Requiring mortgage-loan servicers to register within the state would give us jurisdiction over entities that play an important role” in the lending industry, Ms. Lefebvre said.

And, to make it easier to prosecute home-lending abuses, the bill would criminalize mortgage fraud, making it a felony in some cases, Mr. Neiman said. Mortgage fraud cases currently must be brought using statutes that were not specifically intended to deal with home-lending abuses, he said.

Some of the governor’s proposals are sure to stir opposition from lenders and mortgage brokers, said Vicki Been, director of the Furman Center for Real Estate and Urban Policy at New York University. They are likely to argue that increased regulation will dampen their willingness to provide credit to people who have atypical needs, such as those whose incomes are irregular or seasonal.

“There are people who might have gotten credit in this Wild West atmosphere, who might not be able to get credit after this,” Ms. Been said. Then again, she added, “Maybe a lot of the people who got credit under this Wild West atmosphere shouldn’t have gotten credit.”

Ms. Been said some states had already moved to restrict home-lending practices, and Congress is considering some changes in federal lending laws. “Some will say it’s overregulation,” she said, but added that, “I haven’t heard a lot of strong opposition.”

Sarah Ludwig, co-director of the Neighborhood Economic Development Advocacy Project, said the proposals could spur New Yorkers to take action to hold onto their homes.

“What the governor is proposing is a good thing because it gives the borrower more incentive to reach out to the servicer” of his or her mortgage, Ms. Ludwig said. “It gives both sides more leverage to work something out.”

But Bertha Lewis, executive director of the community organizing group New York Acorn, said that an immediate moratorium on foreclosures would still be needed, even if the governor’s proposals were passed.

The subprime lending mess that led to so many foreclosures “is a really nasty little beast, so you need a lot of arrows to attack this,” Ms. Lewis said. “If we’d had this stuff before, we wouldn’t be in this crisis in New York State. The scam artists would have been stopped in their tracks.”