



## **Mission Statement**

This Coalition shall seek to create solutions to the current national building industry crisis and to raise awareness of the ongoing irresponsible banking behavior that continues to stifle recovery of our industry and the economy as a whole.

## **The Current Situation**

Clearly, the U.S. banks have pulled out of the residential construction lending business. There exist inconsistencies between different banks in how they work with builders. The majority of the banks are opting out of a workout solution with the borrower under the notion that their hands are tied due to the regulatory agency policies. If the issue is regulatory in nature, then how are a limited number of "good" banks consistently working things out with their builders across most all markets? Banks are selling foreclosed properties at 30 to 40 cents on the dollar at a time where if they could capture 70 to 80 cents if they just continued to work with the builder. The draw down effect on existing markets of these "deals" just adds fuel to the foreclosure crisis. Builders have been asked not just to guarantee the success of their projects, but it seems the well being of the economy in general.

Instead of a mutually beneficial workout situation with the builder (least loss alternative), most banks appear to be forcing the builders into a "contrived default" situation. In many cases, the banks encourage the builder to continue with the hope of potential loan renewal. The banks seek to be made whole while the builder exhausts its cash. When the cash is depleted, the bank informs the builder they will not continue funding. At that point, the builder may be forced into bankruptcy while the bank bundles the assets and sells them for pennies on the dollar. Across the nation, sites exist with incomplete infrastructure and the impact of lost fees and taxes to Cities.

Opportunities are being missed to pay our industry's subcontractors and consultants, forcing most of them into having substantial layoffs due to this withdrawal of liquidity. Worse yet, several will have to close their doors, thus adding to the negative spiral effect on the economy.

## **Building Industry Coalition for Economic Recovery Goals**

1. Raise the consciousness of lenders & all businesses associated with the building industry to show how this vital driver to our nation's economy is being threatened.
2. Continue to educate our members on how best to address current lender challenges.
3. Enlist the help of media to create public awareness.
4. Contact State & Federal Agencies to share solutions and elicit action.
5. Work with our industry associations to insure their continued involvement in coalition solutions.
6. Create a rating system for lender behavior within our industry.

## **Immediate Action**

Work on removing the caps on revenues for net operating loss carry back (NOL) through our lobbyists extensive network on Capitol Hill. Recapitalization for the majority of homebuilders would likely bolster stronger economic conditions nationwide, thus improving the chances for a stronger housing recovery.

Initiate legislation to force lenders to release foreclosed assets back on to the market. Banks are currently holding these assets tightly to avoid recognition of the loss (for fear it will trigger solvency issues). These recycled assets will be critical to the revival of our industry to provide the new land basis that our industry needs to commence profitable construction.

Continue to conduct seminars and help hotline conference calls to provide a forum where Coalition members can receive up to date legal and financial advice to help optimize their difficult situations and to help survive lender action.

Continue to raise funds from Coalition Members and our industry associations for our lobbying efforts in Member States and Capitol Hill.

Meet with Senators and Congressman in select districts with select builders from those jurisdictions. Goal will be to get as many House and Senate Members onboard for a "Dear Colleague" letter to be sent to the Treasury Secretary and Federal Office of Comptroller outlining our goals and concerns asking them to design standards and guidelines to advance our cause.

Continue to demand that banks receiving Troubled Asset Relief Program (TARP) funds be forced to use them for lending and not shoring up their books or acquiring other financial institutions. Lobby aggressively to make sure lenders receiving funds have guidelines imposed to ensure Federal subsidies are directed into the market place as well as mandate an extended timeframe for workout solutions.



Examine regulation in regards to long term workout solutions to achieve least loss results.

Help state industry associations push for reform in their respective states to adopt changes in personal guarantee law. Also, have state organizations help revise state contractor's license law to allow builder's to be able to retain or have their license reinstated in cases where current law would not allow due to lender action against the builder.

Help local industry associations push for reform in their respective counties and cities to adopt fee reduction and elimination, fee deferral, planning and permit process streamlining and expedited bond release. Also push for purchase of REO property by local housing agencies to place people faster in to decent public housing, lowering unsold inventories and helping to stem foreclosures.

Help guide the formation of a "Builder's Bank"

### **Proposed Improvement in Lender/Borrower Business Structuring**

Lobby for the following Construction Lending issues to be addressed:

- Lenders to be prevented from selling loans without Borrowers written permission.
- Borrowers shall have the right to approve any participation by outside banks.
- Borrowers shall have a right of first refusal to buy their own note at a discount.
- Revamp the appraisal process to take into account forecasted market intelligence.
- Full borrower access to lender ordered appraisals.
- Establish standard guidelines for reasonable appraisal intervals.
- Consider a 3-appraisal rule to deter lenders from pressuring values on projects they want out of.
- Suspension of Mark to Market accounting rules.
- Make it standard for the lender to underwrite for life of the project.
- Push for standardization of loan and commercial guarantee documents for development projects.
- Push for State and Federal legislation to limit personal guarantees to cases of fraud or gross negligence.