AN ANALYSIS OF DISCLOSURE LAWS AND REGULATIONS FOR FINANCIAL INSTITUTIONS

Calvin P. Bradford

Robert K. Brehm

Leonard S. Rubinowitz

Woodstock Institute Chicago, Illinois

AN ANALYSIS OF DISCLOSURE LAWS AND REGULATIONS FOR FINANCIAL INSTITUTIONS

Summary

This chapter review local and state laws and administrative regulations which require financial institutions to disclose their lending records, and in some instances their deposit records, by specified geographic areas to public agencies, public regulators or the general public.

The chapter indicates the various uses of disclosure data by public agencies and regulators. It also describes the range of institutions and areas covered by existing disclosure laws and regulations, the specific information which various disclosure provisions require of financial institutions, and the procedures for the collection, publication and analysis of disclosure data.

AN ANALYSIS OF DISCLOSURE LAWS AND REGULATIONS FOR FINANCIAL INSTITUTIONS

> Disclosure legislation should be the beginning, not the end, of cooperative efforts between governments at all levels and community groups to preserve and restore urban neighborhoods... In many ways, (it) is the best kind of reform legislation because it merely provides community groups and local officials with information, and leaves the precise remedy to the locality.
>
> -- Senator William Proxmire[1]

The term "disclosure" refers to the reporting, by the various types of institutions involved in mortgage lending, of data concerning the financial activity of those institutions. It has been suggested that the information made available through disclosure can be useful to state and local governments in a variety of ways to:

(1) Better select areas for concentrating Community Development Block Grant funds and other revitalization projects;

(2) Target and assist areas beginning to exhibit early signs of disinvestment;

(3) Assess the impact of current rehabilitation and neighborhood preservation projects in attracting new finance into the area;

(4) Determine which lending institutions are involved in specific geographic areas and the degree of their involvement, as background for determining which would be most appropriate to participate in public/private revitalization efforts, or as recipients of public deposits;

(5) Identify those institutions which are less involved in housing finance in disinvested neighborhoods and encourage their greater involvement through workshops, funding incentives, or regulatory sanctions;

(6) Be better prepared to evaluate the need for new branches (in states which allow branching), charters, relocations, or mergers, and to be better prepared to assess the performance of institutions seeking these, and other, forms of conversion, expansion or reduction in services; and

(7) Monitor lending patterns to discover discrimination or arbitrary biases in the granting of credit.[2]

and Ohio,[4] and has been proposed in several other states including California, Michigan, Minnesota, Pennsylvania, and Washington.[5] Disclosure imposed by state regulation

alone is in effect in Massachusetts, California and New York.[6] The cities of Rockford (Illinois), Minneapolis and Cleveland have disclosure ordinances, generally modeled after the first municipal disclosure ordinance passed in Chicago in 1974.[7]

The Appendix to this paper contains a comparison of the provisions of the local, state and federal disclosure requirements now in effect. The provisions of the proposed Missouri disclosure act are also included in this Appendix.

Disclosure laws and ordinances are usually tied to a set of implementing regulations. These regulations often add substantially to the requirements of disclosure legislation. The proposed Minnesota law, for example, simply instructs the state banking commissioner to devise all the requirements. The Connecticut and Ohio laws do not have implementing regulations in effect at this time. At this time it is not clear exactly what requirements will be included in those forthcoming regulations. (Accordingly, the Connecticut and Ohio requirements are not included as part of the discussions in this paper.)

The requirements of present and proposed laws and regulations represent a variety of viewpoints as to which types of information and forms of reporting are both reasonable and necessary in order to permit a thorough analysis which permits an accurate interpretation of the disclosure data. The following elements have been incorporated in one or more of the

existing disclosure requirements.

The Range of Institutions and Areas Covered

If one purpose of disclosure requirements is to obtain an accurate picture of the existing mortgage market, then these requirements ought to include all, or a representative portion, of the lenders doing business in an area. Disclosure which includes only a small number of institutions which might be lending in an area may not give an accurate picture of the total mortgage market for that area. On the other hand, if the few lenders included in a particular disclosure requirement represent the vast majority of the lending activity in an area, then little may be gained by including other lenders who may represent only a very small portion of the market.

To the extent that disclosure data is used as one indicator of the demand for loans in an area, there may be similar concerns over how well the disclosure data reflect the total activity in an area. One should keep in mind, however, that decisions to seek loans are conditioned on the availability of credit. That is, when there is more mortgage money available in the market, at reasonable terms, more people are likely to take advantage of this supply. Aggressive marketing is designed to stimulate a demand that would not exist in the absence of such efforts. Therefore, since demand is partly a response to the supply and marketing activities of lenders, data on actual loan activity, without data on supply and

marketing, cannot fully measure the need or potential for lending in an area.

State and local provisions vary in the kinds of financial institutions to which they apply disclosure requirements. Some apply to state-chartered institutions only, since these are generally regulated at the state level. Other legislation and regulations seek to impose requirements on federally chartered institutions as well. The legal question remains unsettled as to whether states can impose these requirements on institutions which are chartered and regulated by the federal government.[8] Some states secure this data indirectly, e.g., through making public deposits available to institutions which provide the desired data. Municipal disclosure ordinances in particular have used this approach.

1. Institutions

Most commonly, mortgage lending is done by depository institutions - savings and loan associations and banks are the major ones. Almost all of the present focus on disclosure has been on these institutions. Aside from these institutions, credit unions are included specifically in the Federal Act, the New Jersey and Illinois laws and the Massachusetts regulations.

Mortgage lending is not limited to depository institutions.

Most notable among the non-depository institutions in the home lending market are mortgage bankers.[9] Mortgage bankers specialize in federally insured and guaranteed loans and generally make these kinds of mortgages available in areas where there may be an inadequate supply of conventional mortgage credit on terms and conditions acceptable to prospective purchasers. Nationally, mortgage bankers originate about seventy-five percent of all FHA-insured single-family mortgages. This includes a part, or even the majority, of lending activity in some areas. Only the Illinois statute presently covers mortgage bankers.

Other significant sources of capital and credit include life insurance companies and pension funds. Both of these institutional investors have long term sources of income (employee payments or premiums) which are well suited to long term investments such as mortgages. Both types of institutions currently purchase single-family mortgages and originate or make mortgages on large multi-family, industrial and commercial developments. The Illinois disclosure law applies to insurance companies, as does the bill proposed in Missouri. None of the statutes or administrative requirements initiated to date cover pension funds.

Federal Disclosure Act - is that such small institutions have little impact and few resources in themselves. On the other hand, in some areas where these institutions may have little individual impact, collectively they may comprise a significant portion of the market. Thus, their elimination from disclosure records may reduce the usefulness of data relevant to credit needs in such areas.

Deposit Base or Source of Capital

The service areas for financial institutions have traditionally been defined partly by the location of their deposit base. Agencies which regulate depository institutions consider the need for services and the potential for deposit base when deciding upon chartering applications (or branching applications in other states which allow branching).[10] Disclosure data can be used to help determine the commercial and consumer deposit base in an area and to indicate whether a need for additional facilities exists. Disclosure of deposit base data has been included in some disclosure requirements as one means of assisting in making chartering (or branching) decisions and in estimating the performance of existing institutions.

Both the Massachusetts and New York regulations require some form of deposit disclosure. The federal disclosure bill originally included deposit disclosure, though it was later deleted. Deposit data was also deleted from the Illinois law as a special provision in order to make it conform to the

2. Geographic Reporting Areas

Both the size of the areas defined for disclosure and the range of areas included are important concerns for disclosure. Most disclosure requirements provide for disclosure by census tract. A census tract is generally small enough to allow some approximation to neighborhood boundaries, either individually or by aggregating several together. Disclosure at the postal ZIP code level is often easier for coding purposes, though ZIP codes may be so large that they include a variety of different neighborhoods. Reporting on the basis of an area smaller than census tracts would be difficult to code, although some census tracts are large enough to exhibit the same problems as ZIP codes. All present disclosure requirements use census tracts as the reporting areas for the primary areas they cover.

Municipal ordinances generally require detailed disclosure by census tracts within their city limits (the primary area) with a single category for loans in suburban or other areas. The Federal Act and most state requirements apply to selected cities or metropolitan areas. Rural areas are included in the California and New York regulations and in the New Jersey law.

3. Asset Size Requirements

Limitation on instituions included in disclosure measures often includes asset size. The argument for eliminating smaller institutions, such as those under $ 10 million - as in the

Federal Act. Most of the municipal disclosure ordinances include some disclosure of the deposit base of the reporting institutions.

There are several categories of deposits which may be included. Some present requirements include time deposits (such as savings accounts) and demand deposits (such as checking accounts). The Minneapolis ordinance breaks down time and demand accounts by individual and commercial deposits, but collects the data only for single categories of in-city, out-of-city but in the state, the rest of the state, and out-of-state. The Massachusetts regulations collect time and demand deposits, but release them by reporting areas with a single combined figure for all institutions. The Chicago ordinance is the only disclosure requirement which both collects and releases deposit data for each reporting area for each individual institution.

As a practical matter, coding deposits by geographic areas is more time consuming than coding loans since depository institutions have many more deposits accounts than loans. The New York regulations attempt to deal with this by a detailed procedure which allows institutions with more than 4,000 accounts to use a sample rather than all accounts.

Lending Base for Disclosure

1. Current Versus Total Loan Disclosure

This is the question of whether an institution should disclose only those loans made for a single current reporting period or all the loans (total portfolio) held by the institution regardless of when they were made. Disclosure of the total mortgage portfolio alone would tend to overshadow current lending patterns by the dominance of loans made in the past. Nonetheless, the total portfolio of loans can be one baseline for comparison with current practices.

Generally, disclosure reporting periods are for the most recent year, although they vary from two years for the Cleveland ordinance to monthly for the California regulations. The Illinois law and the Massachusetts regulations require both disclosure for a current period and for the whole portfolio. Data held by the California Department of Savings and Loan makes it possible for that agency to trace lending patterns for over a decade, though their present disclosure regulations require only current monthly reporting.

2. Loan Activity: Applications, Originations and Purchases

Six state or city disclosure provisions, including the St. Louis ordinance, require disclosure of applications received as well as loans made.[11] Thus, this set of regulations

provide some data for comparison of characteristics of accepted and denied loans. About half of the existing disclosure requirements include both the mortgages which the institution originates itself and the mortgages which they purchase from other lenders. The first draft of the implementing regulations for the New Jersey law specifically released institutions from reporting loans which they originated, but which they sold within the same year. The final regulations deleted this provision. Such a measure may eliminate from disclosure many loans which make up the total mortgage market. This is particularly true for mortgage bankers whose business depends upon their ability to originate and sell mortgages in a short time period.

3. Loan Characteristics

Information on the characteristics of loans facilitates a determination of whether there are variations in the terms and conditions of loans based on the location of the property. Information under this category generally includes (on a loan by loan or an aggregate basis) whether the loan is conventional or insured, the amount of the loan, the interest rates charged, size of downpayment, term (length) of the loan, and other service fees, application fees or charges for receiving or making the loan. The Chicago, Cleveland and Rockford ordinances require data on interest rates, downpayments and the term,[12] while the New York regulations include

both interest rates and term. Massachusetts regulations require reporting of interest rates only and the New Jersey law requires reporting of only the term.

Finally, loan characteristics include the purpose of the loan. All present disclosure requirements include reporting of mortgage loans for certain types of properties. Most also have categories for home improvement or rehabilitation loans. The New Jersey law requires a separate listing for loans from its state housing finance agency. The California regulations, the Illinois law and the Cleveland and Rockford ordinances require data on construction loans. Generally, existing requirements are limited to information on home loans. However, the Chicago ordinance also seeks data related to commercial and consumer loans, in order to assess the flow of credit to local business.

Property Profiles

Information on the characteristics of the property may help to determine the extent to which variations in loan terms and conditions are consistent with these factors. Property profiles contain two types of information - information on the physical characteristics of a property and information on the financial characteristics of the property. Physical data include such things as the type of structure, its use, its size, amenities, type of construction, etc. Economic characteristics

include such things as the appraised value, the selling price, or the operating statements (for income producing properties).

The California regulations and the regulations implementing the New Jersey law require data on the age of the property and its selling price. In addition, the California regulations also require data on the size of the living area and the appraised value.

All disclosure requirements include loan activity for single-family (one to four unit) properties. Disclosure regulations and laws include reporting of loans for multi-family structures, though not in the detail required for single-family loans.[13] Reporting for commercial properties is generally omitted, or lumped into a single commercial category - as is the case with the New York, Massachusetts and California regulations and the Minneapolis and Rockford ordinances. Only the California regulations require data on loans for the purchase of vacant land.

Borrower Profiles

California has included in its regulations selected information on the creditworthiness of the borrower(s). Such information includes the borrower(s) total annual and monthly income. These regulations also include certain social data, such as the race and sex of the borrower(s). No other disclosure regulation or law requires such data.[14]

Risk and Loss Experience

Data on actual risk factors are limited. The California regulations require reporting of whether or not neighborhood factors were considered in deciding upon the loan. The Massachusetts regulations require foreclosure data. Only the New York regulations contain detailed information on delinquent, defaulted and foreclosed mortgages and financially distressed properties.

Collection, Publication and Analysis of Disclosure Data

How the regulator collects and uses the data is an important part of the disclosure process. Only the California regulations and the St. Louis ordinance require a formal analysis of the disclosure data by the agency collecting the data. Most disclosure requirements simply guarantee that the public has access to the data for their own uses.

Aside from the categories of data which have been discussed, the form in which the data is collected can aid in analysis. Most forms of disclosure require the reporting of aggregate totals for census tracts or ZIP codes. The California regulations and the regulations implementing the New Jersey law do require individual, loan by loan, reporting. Thus, most data represent either total aggregates of all loans (or deposits) or some type of summary statistic (such as the average interest rate for all loans in a certain area for a

selected category). Data collected on such an aggregate basis can be misleading. Average interest rates for two areas may be similar, but in one area they may all be close to that average, while in the other lending policies may produce a wide range of interest rates which happen to average out at about the same level.

Aggregate data may also lead to inaccurate comparisons. One area may show a higher aggregate percentage of rejections than another. Aggregate data on property characteristics may show that the area with the higher loan rejection rate actually had a higher average income for loan applicants. These two pieces of aggregate data might lead to a conclusion that the area with the higher rejection rate was being arbitrarily redlined, when a comparison of individual applicant incomes and rejections might show that each loan rejection was based on clear evidence of insufficient income.

When data are reported for each individual loan, those using the data can aggregate and classify the data by any reporting category. Such reporting systems allow a more flexible form of analysis, not restricted to the aggregate characteristics chosen by those who drafted the reporting forms. One disadvantage of this individualized reporting is that it creates a vastly increased amount of data for the collecting agency (one set of information for each loan rather than one set for each geographic reporting area). Individual reporting may not

necessarily increase the burden on the lending institutions since they may have to create individual records in order to sort and tabulate the data for any reasonably detailed set of aggregate reporting categories. Individual reporting may have a second disadvantage for those seeking to analyze the data. Those using the data have to create all of the aggregate categories on their own, thus increasing their costs of analysis.

Finally, some of the regulators and citizens using disclosure data report that the data that has been provided has been incomplete, inaccurate and/or illegible. Detailed checks by agencies such as those in California, New York and Massachusetts have revealed significant errors in reporting. Perhaps the most frequent error has been on the reporting of the census tract locations of loans.[15]

The format for public access to disclosure data varies. Disclosure reports for all institutions are available at a single central location for institutions reporting under the California and Massachusetts regulations, for the Illinois law and for municipal disclosure ordinances.[16] There is no central collection agency for data under the Federal Disclosure Act. All of the disclosure laws and regulations which do not make reports available at a central location do require data for each institution to be publicly available at the main office and designated branches of that institution. Some laws, regulations and ordinances require public access at both places. Generally,

provisions are made to insure that citizens are allowed to obtain copies of the reports "at cost" or for "reasonable charges."

The California regulations and the St. Louis ordinance require an analysis by the agency collecting the data. Several other regulations state that certain officials may prosecute or hold hearings based on their review of the data, but they do not actually require either formal review or analysis of all the data. At present, there is not complete analysis of disclosure data by any regulator. Some regulators have analyzed parts of the data. The Commissioner of Banks in Massachusetts periodically releases selected analyses. The Banking Commissioner in New York hired a team of private consultants to analyze the initial set of data there. The final report has not yet been released. Analysis of the California data has not yet been completed or released. The City of Minneapolis has released some tabulations of their disclosure data, but these tabulations only compare city versus non-city loans and do not break down the data on a community basis within the city. Finally, the Community Development agency for the City of St. Louis, presented an analysis of the first round of disclosure data to the Funds Committee of the City Council in July of 1977.

Conclusion

Since the proposal for a state disclosure law in Illinois in 1974, there has been a growing number of regulations and laws at the local and state levels. The passing of the federal Home Mortgage Disclosure Act in 1975 did not mark the end of further attempts at state and local disclosure. Citizens and regulators in several states have expressed the view that state and local laws and regulations could improve upon the quantity, quality and uses of disclosure data. Disclosure requirements vary greatly from simple tabulations of the numbers and dollar amounts of single-family mortgages to individualized and detailed reports on many items of information considered important in loan underwriting.

The number of disclosure laws and regulations has increased over the last several years, as has the comprehensiveness of these provisions. Increased attention has been paid to requiring the kinds of data which will permit a determination of whether credit needs are being met adequately in various neighborhoods and communities, so that if deficiencies are revealed, steps can be taken to insure that there is an adequate supply of credit throughout the jurisdiction involved.

Appendix:

Comparison of Disclosure Requirements

The following three-part table compares the provisions of the Federal Disclosure Act, the administrative regulations in California, Massachusetts and New York, the laws and implementing regulations in Illinois and New Jersey, and the municipal ordinances for Chicago, Cleveland, Minneapolis, St. Louis and Rockford (Illinois). The table also includes the provisions of the proposed Missouri state disclosure law - with the limitation that these provisions might be altered by any implementing regulations which would be developed if this proposed law were passed and put into effect.

The key for the tables is as follows:

X	means that this provision applies
?	means that it is not clear whether this provision applies or would apply
10	indicates the asset limitation in millions of dollars for those disclosure provisions which exempt from reporting institutions with assets below a certain level
X^3	means that there is a footnote further explaining some detail of this provision for this particular law, regulation or ordinance

Part I

	Federal Act	California	Massachusetts	Illinois	New York	New Jersey	Chicago	St. Louis	Cleveland	Minneapolis	Rockford	Missouri
Disclosure of Total Portfolio			X	X								
Disclosure for Single Reporting Period	X	X	X	X	X	X	X	X	X	X	X	X
Combined Conventional and Insured Mortgages												
Conventional Mortgages Separate	X	X	X	X	X	X	X	X	X	X	X	X
Combined FHA, VA, or FmHA Category	X		X		X	X	X	X	X	X		
Separate FHA, VA, or FmHA Categories		X		X							X	X
Loans Under State Programs						X						X
Improvement and/or Rehabilitation	X	X	X	X		X	X	X	X	X	X	X
Construction		X		X			X		X		X	X
Vacant Land Purchase		X										
Commercial		X					X					
Consumer							X					
Detailed Reporting - Single-Family	X	X	X	X	X	X	X	X	X	X	X	?
Multi-Family	X	X	X	X	X	X	X	X	X	X	X	?
Some Reporting - Other Real Estate		X	X		X	X				X	X	
Applications		X	X	X						X	X	X
Originated Loans	X	X	X	X	X[9]	X	X	X	X	X	X	X
Purchased Loans	X		X	X[10]		X		X		X		X
Individual or Average Interest Rate		X			X	X	X	X[5]	X		X	
Individual or Average Downpayment		X					X		X		X	
Individual or Average Term		X			X	X	X	X[5]	X		X	
Origination Fees and Charges												
Loan to Price (Appraisal) Ratio					X							

Part II

	Federal Act	California	Massachusetts	New York	Illinois	New Jersey	Chicago	St. Louis	Cleveland	Minneapolis	Rockford	Missouri
State Banks and Mutual Savings Banks	X		X	X	X	X	X	X	X	X	X	X
Federal Banks	X				X	X	X	X	X	X	X	X
State Savings and Loans	X	X	X	X	X	X	X	X	X	X	X	X
Federal Savings and Loans	X				X	X	X	X	X	X	X	X
Other Depository Institutions (Credit Unions)	X		X		X	X						
Mortgage Bankers					X							X
Insurance Companies					X							X
Asset Size Exemptions	10		20[1]	50		10		10				
Exemption of Institutions with no office in Selected Metropolitan Areas			1			X						
Metropolitan and Rural Areas		X	1	X		X						
All or Selected Metropolitan Areas Only	X		X		X		X	X	X	X	X	X
Census Tract Level - All Areas	X	X			X			X			X	
Census Tract for City or Metropolitan areas only			X	X	·	X	X		X	X		X
Zip Code or Single Summary	X		X	X	X[3]	X[4]	X	X	X	X		
Category for some Areas												
Combined Deposit Category												
Single and/or Time Deposits			X[2]	X			X	X[5]	X[6]	X[9]		
Demand Accounts (Checking, etc.)			X[2]				X	X[5]		X[10]		
Individual and Commerical Accounts										X[8]		
Annual Reporting	X	X	X	X			X	X		X[8]		
Semi-Annual					X						X	X
Quarterly						X						
Monthly		X			·							
Other			·						X[7]			

Part III

Federal Act	California	Massachusetts	New York	Illinois	New Jersey	Chicago	St. Louis	Cleveland	Minneapolis	Rockford	Missouri	
	X				X							Age of Properties
	X											Living Space
	X											Appraised Value
	X				X							Selling Price
	X				X							Amount of Loan
	X											Borrower's Income
	X											Borrower's Race
	X											Borrower's Sex
	X											Borrower's Age
		X	X									Foreclosure
			X									Delinquency and Defaults
			X									Others
	X				X							Individual Loan-by-Loan Reporting
X			X	X		X	X	X	X	X	X	Aggregate Date for Geographic Areas
	X						X				X	Analysis Required by Agency
	X		X				X		X			Some Analysis Done by Agency
	X	X2		X		X	X	?11	X	X	X	Data Available at Central Place
X		X2	X		X		X		X	X	X	Data at Lending Institutions
					X	X	X		X		X	Part of Anti-Discrimination Legislation
						X	X	X	X	X		Part of Public Deposits Ordinance

Footnotes for Text

[1]Statement made by Senator William Proxmire during the following congressional hearings: U.S. Senate. Committee on Banking, Housing and Urban Affairs. The Home Mortgage Disclosure Act of 1975 - To Improve Public Understanding of Depository Institutions in Home Financing. 94th Congress, 1st Session. May 5-8, 1975.

[2]This represents a modification of a list originally taken from: Center for Community Change, The Lifeblood of Housing: A Report to the Commonwealth of Pennsylvania on Housing Investment and Conservation (Alexandria, Virginia: Mount Vernon Publishing Company, 1976), p.34.

[3]The Federal Home Mortgage Disclosure Act of 1975 - Title III of Public Law 94-200 (12 U. S. C. 2801 et seq.) which was implemented under Regulation C (12 CFR 203) drafted by the Board of Governors of the Federal Reserve System and published in the Federal Register on June 14, 1976 (41 FR 23931).

[4]See: Illinois Financial Institutions Disclosure Act (Public Act 79-632), Illinois Revised Statutes, Chapter 95, Section 201, et seq. and implemented by instructions from the Director of the Department of Financial Institutions (undated), "Information and Instructions - Reporting Form - Financial Institutions Disclosure Act;" New Jersey Disclosure Act, Chapter 1, Public Laws of 1977 (N. J. S. A. 17:16F-1 et seq.) and implemented by regulations drafted by the New Jersey Department of Banking (Title 3, Subtitle A, Chapter 1, Subchapter 9, adopted on August 22, 1977); Act to Prohibit Discrimination in Mortgage Lending (Connecticut) (Public Act 77-153, which becomes effective October 1, 1977); and in Ohio there was an amendment to a bill (H. B. 485 [illegible] into law July 17, 1975) which gave authority to the state regulators of commercial banks and savings and loan associations to require disclosure of mortgage activity and to develop implementing regulations; though no regulations have ever been adopted.

[5]For California, see S. B. No. 3 (introduced December 6, 1976); for Michigan see H. B. 4227 (which passed the Michigan House on July 1, 1977); for Minnesota see H. R. 786 (introduced in the spring of 1977); for Pennsylvania see H. B. 986 and S.B. 778 (both introduced on April 26, 1977); and for Washington see H. B. No. 323 (introduced February 9, 1977).

[6]The California Regulations are contained in a memo (No. 75-25) from the California Department of Savings and Loan (July 2, 1976, Los Angeles). These regulations change or enact Subchapters 4, 10, 20, 23 and 24 of Chapter 2, Title 10 of the California Administrative Code, effective August 1, 1976. The New York Regulations are contained in Supervisory Procedure G-107 of the Department of Banking for the State of New York. The final regulations were issued on April 30, 1976. The regulations for the Commonwealth of Massachusetts are contained in a series of directives from the Banking Department. On August 1, 1975, two directives were issued. One defined the format and coverage of disclosure for the current reporting period (including forms A through E for recording the data). The second outlined the process allowing depositors of any state chartered institution to have their institution included, regardless of asset size or location of the institution. On June 14, 1976 (and again on June 9, 1977) a directive was issued defining the coverage and format for disclosure data on each institution's total portfolio of loans (including forms G through K for reporting this data).

[7]Rockford, City Ordinance #1976-11-0 (passed January 19, 1976); Minneapolis, Minnesota Code Section 945.040 (passed in 1974); Cleveland Administrative Code Section 127.34 et seq. (passed April 26, 1976); and Chicago Illinois Codes Chapter 7, Subsection 7-30 et seq. (passed in 1974). Also, while the District of Columbia has no actual disclosure ordinance, they did set up a special commission on Residential Mortgage Investments as a result of a council resolution of July 15, 1974.

[8]Regulation C implementing the Federal Home Mortgage Disclosure Act allows state chartered institutions to opt to report only under state disclosure requirements for states whose disclosure requirements are deemed to satisfy federal standards. Presently, there is a court suit by several

federally chartered institutions in Illinois claiming that they cannot be forced by the state to report under state regulations (which are more detailed than federal requirements). Thus, these lenders are testing the pre-emption question to see if they must comply with state regulations which require more than the federal regulations.

[9] For a description of the functions and role of mortgage bankers and the present forms of regulation of their activities see the forthcoming paper on state efforts to license and regulate mortgage bankers.

[10] A forthcoming paper will discuss the relationship between reinvestment performance and the granting of chartering, branching, and relocation privileges.

[11] They are California, Illinois, New Jersey, Massachusetts, Minneapolis and Rockford.

[12] The St. Louis ordinance does not require data on mortgage rates or terms but allow institutions to supply such data if they choose to do so.

[13] The phrase "by detail" means that no categories are defined to identify different size or types of multi-family properties.

[14] The New York regulations require lenders to keep certain records on income and social characteristics of applicants, but these data are not part of the public disclosure data.

[15] Pilot studies on discrimination in lending were carried out by the federal financial regulatory agencies in 1974. These studies included census tract locations of loan applicants, but in their analysis of the data, agencies deleted any analysis of loan locations due to the high level of inaccuracy in reporting by the individual lending institutions in the surveys.

[16] The Cleveland ordinance does not state directly either which agency shall collect the data or whether it shall be open to the public for inspection.

[17] The New York State Banking Department released to the public a preliminary report: Mortgage Financing and Housing Markets in New York State: A Preliminary Report (May 10, 1977).

Footnotes for Appendix

1 The Commissioner of Banks in Massachusetts has ordered any institution, regardless of its asset size or location, to comply with the disclosure requirements if 25, or more, of the institution's depositors sign such a request.

2 Deposit data is not released on an institution by institution basis, but only in an aggregate form combining the deposits of all reporting institutions for each reporting area. Thus, the disclosure made to the Banking Commissioner is not the same as what is disclosed to the public and the deposit data is not available for inspection at individual lenders' offices.

3 The Illinois law provides for disclosure by both census tract and ZIP code for all areas covered.

4 The regulations implementing the New Jersey law include a category for loans made or purchased out of the state. This is unique.

5 Reporting of deposit data and loan conditions is not required.

6 All accounts listed at the downtown Cleveland offices of reporting institutions have been exempted from this reporting, regardless of the actual location of the person or institution holding the account. This appears to make the deposit data meaningless.

7 Decisions on the deposit of city funds are made every two years. Thus lenders in Cleveland report on a bi-annual basis.

8 There are deposit categories for time and demand accounts from out of the state as well as the non-Minneapolis portion of the Minneapolis-Saint Paul metropolitan area. However, deposit data for the City is not broken down by census tract or ZIP code.

9

Only "own-serviced" loans are reported under the regulations. "Own-serviced" is defined as "a mortgage loan for which the servicing function is performed by the institution that owns the mortgage..." It is not clear that this would include all loans originated by the institution, since it may not include loans originated, but sold. Further it may not include loans purchased, if the institution does not service those loans.

10

Presumably disclosure of the entire portfolio would include loans purchased as well as loans originated and still active, although no mention is made of this in either the Illinois law or the directions for reporting.

11

Although it has been assumed that the data will be collected and examined at an office of the Cleveland City government, the ordinance states neither which office shall collect the data nor that the data shall be made public.