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Editorials/Opinions

Give states the power to regulate lending by national banks

THE Seattle Times series on Washington Mutual's collapse made clear that the bank lent tens of billions of dollars worth of loans that never should have been offered. These loans were bad from the start.

WaMu's pursuit of increasing its stock value by recklessly handing out loans is a prime example of why strengthening America's financial system is a big task, and this page has more than one thing to say about it. The place to begin is at the bottom, where the loan officer meets the customer. Fix the problem at the bottom and the problems at the top become much easier to solve.

In the mortgage-banking industry, consumer regulation has been a total failure. Scott Jarvis, director of the state's Department of Financial Institutions, says a major reason was the decision in 2004 by the Comptroller of the Currency to exempt national banks from state laws against predatory lending.

Did the Comptroller have the power to do that? Michigan's regulator, Linda Watters, didn't think so. She took the case to the Supreme Court, arguing that only Congress could exempt national banks from state laws. In 2007, she lost. A giant bank, Wachovia, won.

Wachovia has since erased itself from the financial firmament. The ruling remains — and Congress needs to change it. There is an opportunity to do so in the bill now being considered to create a new consumer financial-protection agency.

This page supports the creation of such an agency. But it is only one agency, and being in the nation's capital, its attention will be focused on the biggest problems at the biggest banks. Also it will be subject to the *lobbying* of the biggest banks. And it will be thousands of miles away from here.

Consumer protection is mostly a problem at the local level. Fighting it needs to be done by people at the local level, but with backing that matters. And that's the states.

Until Congress acts, customers of a national bank have to look to the federal government for protection. According to Jarvis, there hasn't been much.

"Nothing," he says, "is more frustrating to me than to get a call from a consumer who has been abused in a lending situation and have to send them off to a toll-free number and bottomless pit in Washington, D.C."

The states need to have their authority back. That is step one in strengthening America's financial system.