

DYNEX CAPITAL INC
Form 8-K
March 09, 2011

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported) March 4, 2011

DYNEX CAPITAL, INC.

(Exact name of registrant as specified in its charter)

Virginia
(State or other jurisdiction
of incorporation)

1-9819
(Commission
File Number)

52-1549373
(IRS Employer
Identification No.)

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4991 Lake Brook Drive, Suite 100

Glen Allen, Virginia
(Address of principal executive offices)

23060
(Zip Code)

Registrant's telephone number, including area code

(804) 217-5800

N/A

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry Into a Material Definitive Agreement.

On March 4, 2011, Dynex Capital, Inc. (the *Company*) entered into an Underwriting Agreement (the *Underwriting Agreement*) with Merrill Lynch, Pierce, Fenner & Smith Incorporated and Credit Suisse Securities (USA) LLC, as the representatives (the *Representatives*) of the several underwriters named on Schedule A to the Underwriting Agreement (the *Underwriters*), relating to the issuance and sale of 8,000,000 shares (the *Firm Shares*) of the *Company*'s common stock, par value \$0.01 per share (the *Common Stock*), at a public offering price of \$10.35 per share. Pursuant to the Underwriting Agreement, the *Company* granted the *Underwriters* an option for 30 days to purchase up to 1,200,000 additional shares (the *Option Shares*) of Common Stock on the same terms and conditions, which option has been exercised by the *Underwriters*. The closing of the offering of both the *Firm Shares* and the *Option Shares*, which is subject to customary closing conditions, is expected to occur on March 9, 2011. The underwriting discount was \$0.5175 per *Firm Share* and *Option Share*, resulting in offering proceeds to the *Company* of \$90,459,000, before expenses.

The Underwriting Agreement contains various representations, warranties and agreements by the *Company* and the *Representatives*, conditions to closing, indemnification rights and obligations of the parties and termination provisions.

The shares of Common Stock will be issued pursuant to the *Company*'s shelf registration statement on Form S-3 (File No. 333-149475), which was declared effective by the Securities and Exchange Commission on April 17, 2008.

The Underwriting Agreement is filed as Exhibit 1.1 to this Current Report on Form 8-K, and the description of the material terms of the Underwriting Agreement is qualified in its entirety by reference to such exhibit, which is incorporated herein by reference.

In connection with the filing of the Underwriting Agreement, the *Company* is filing as Exhibit 5.1 hereto an opinion of its counsel, Troutman Sanders LLP, with respect to the legality of the shares and as Exhibit 8.1 hereto an opinion of Troutman Sanders LLP with respect to certain tax matters.

Item 8.01 Other Events.

The transfer agent and registrar for our common stock is BNY Mellon Shareowner Services.

Item 9.01 Financial Statements and Exhibits.

(d) *Exhibits.*

Exhibit No.	Description
1.1	Underwriting Agreement, dated March 4, 2011, by and among Dynex Capital, Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Credit Suisse Securities (USA) LLC

- 5.1 Opinion of Troutman Sanders LLP with respect to the legality of the shares
- 8.1 Opinion of Troutman Sanders LLP with respect to certain tax matters
- 23.1 Consent of Troutman Sanders LLP (included in Exhibits 5.1 and 8.1)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

DYNEX CAPITAL, INC.

Date: March 9, 2011

By: /s/ Stephen J. Benedetti
Stephen J. Benedetti
Executive Vice President, Chief Operating

Officer and Chief Financial Officer

EXHIBIT INDEX

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