

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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