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PROFESSIONAL EDUCATION FOR PROFESSIONAL

MLO'S

2022 TEXTBOOK

BY DUANE GOMER, MICHELLE RODRIGUEZ, JOHN SHORE & LORENE RANDICH

CA DFPI SAFE COMPREHENSIVE 8 HOURS OF CONTINUING EDUCATION

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8 Hour CA-DFPI SAFE Comprehensive: Professional MLO Education 2022 Edition

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Attachments:

1. NMLS Rules of Conduct for Students

Rules of Conduct for NMLS Approved Pre-Licensure (PE) and Continuing Education (CE) Courses

The Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act), requires that state-licensed MLOs complete pre-licensing (PE) and continuing education (CE) courses as a condition to be licensed. The SAFE Act also requires that all education completed as a condition for state licensure be NMLS approved. Since 2009 NMLS has established course design, approval, and delivery standards which NMLS approved course providers are required to meet. To further ensure students meet the education requirements of the SAFE Act, NMLS has established a Rules of Conduct (ROC). The ROC, which have been approved by the NMLS Mortgage Testing & Education Board, and the NMLS Policy Committee, both of which are comprised of state regulators, are intended to stress that NMLS approved education be delivered and completed with integrity.

Rules of Conduct

As an individual completing either pre-licensure education (PE) or continuing education (CE), I agree to abide by the following rules of conduct:

1. I attest that I am the person who I say I am and that all my course registration information is accurate.

2. I acknowledge that I will be required to show a current government issued form of identification prior to, and during the course, and/or be required to answer questions that are intended to verify/validate my identity prior to, and during the course.

3. I understand that the SAFE Act and state laws require me to spend a specific amount of time in specific subject areas. Accordingly, I will not attempt to circumvent the requirements of any NMLS approved course.

4. I will not divulge my login ID or password or other login credential(s) to another individual for any online course.

5. I will not seek or attempt to seek outside assistance to complete the course.

6. I will not give or attempt to give assistance to any person who is registered to take an NMLS approved pre-licensure or continuing education course.

7. I will not engage in any conduct that creates a disturbance or interferes with the administration of the course or other students' learning.

8. I will not engage in any conduct that would be contrary to good character or reputation, or engage in any behavior that would cause the public to believe that I would not operate in the mortgage loan business lawfully, honestly or fairly.

9. I will not engage in any conduct that is dishonest, fraudulent, or would adversely impact the integrity of the course(s) I am completing and the conditions for which I am seeking licensure or renewal of licensure.

I understand that NMLS approved course providers are not authorized by NMLS to grant exceptions to these rules and that I alone am responsible for my conduct under these rules. I also understand that these rules are in addition to whatever applicable rules my course provider may have.

I understand that the course provider or others may report any alleged violations to NMLS and that NMLS may conduct an investigation into alleged violations and that it may report alleged violations to the state(s) in which I am seeking licensure or maintain licenses, or to other states.

I understand the CSBS Privacy Notice is applicable to these Rules of Conduct. The CSBS Privacy Notice can be found here:
https://nationwidelicensingsystem.org/about/policies/NMLS%20Document%20Library/CSBS%20External%20Privacy%20Notice-6.18%20(1).pdf

I further understand that the results of any investigation into my alleged violation(s) may subject me to disciplinary actions by the state(s) or the State Regulatory Registry (SRR), including removal of any course from my NMLS record, and/or denial or revocation of my license(s).

____
Course Number(s)

____ ___________________
Signature Date (mm/dd/yyyy)

____ ___________________
Print Name NMLS ID (If Known)

DUANE GOMER EDUCATION

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Dear Students,

Your support of our courses is so appreciated. It is a sincere pleasure to present this course for MLO's. I would like to highlight some factors:

1. In a recent survey of our students a high percentage voted for a final project instead of an exam so that will be the procedure to end the class today.

2. Students expressed a strong desire to keep breaks to a minimum and finish faster so we will follow that request.

3. You can now print your Certificates of completion from your student work center on our website right after you finish your webinar. This has made the final checkout go even smoother. As you know, the Certificate is only for your records. We have the official record.

4. Your hours will be banked and the $12 fee will be paid. We are allowed seven days by regulation to complete the process, but your hours are banked much faster. You can't renew your endorsement (pay dues online with the NMLS) until November 1st. The deadline for paying dues and filing is normally December 21st.

5. NMLS Regulations state that an hour is 50 minutes so an 8 hour course has 400 minutes of instruction, including the final project.

6. You have been told that you can't take the same class two years in a row. This class is a new class for 2022 so you can keep taking Duane Gomer Education forever.

7. MOST IMPORTANT: NMLS insists that students shall not take unauthorized breaks, talk, text, email or use your phone during class. Violation of this rule will result in no credit for an individual.

8. To Download a full copy of the textbook that accompanies this workbook go to http://duanegomer.com/nmls/2022.pdf

Thank you,

Duane Gomer

CHAPTER 1

2-HOUR SAFE ACT

NON-TRADITIONAL MORTGAGES

SECTION 1

REVERSE MORTGAGES[1]

Introduction

This Approved 8 Hour Continuing Education Course satisfies the requirements of both the California Department of Real Estate and the California Department of Financial Protection and Innovation licensed mortgage loan originators. The course consists of four chapters with three hours of Federal Law, two hours of Ethics, two hours of Non-Traditional Products and one hour of California Specific Education. All of the topics presented are approved by the NMLS.

History of Reverse Mortgages

The first reverse mortgage (RM) was written over fifty years ago in 1961. It was originated by Nelson Haynes of Deering Savings and Loan in Portland, Maine. Nelson designed one to help a young woman stay in her home after her husband's death. She was home equity rich and cash poor. The bank earned interest and the widow stayed in her home. Other banks followed suit, but there were only a small number produced.

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[1] *Crocker/Flanagan,S. Guy Puccio, and Weintraub Genshlea Chediak, Attorneys at Law. Reverse Mortgages Is One Right for You?. State of California Department of Real Estate, 2012*

The National Housing Act's Section 255 was established by the Housing and Community Development Act of 1987.[2] This section is a Federal Mortgage Insurance section created to insure Home Equity Conversion Mortgage (HECM) with the Department of Housing and Urban Development (HUD) acting as the administrator. So HECMs were born.

Annual HECM Endorsement Chart

FY 2022	FY 2021	FY 2020	FY 2019	FY 2018	FY 2017
15,200	49,207	41,859	31,274	48,359	55,332
FY 2016	FY 2015	FY 2014	FY 2013	FY 2012	FY 2011
48,902	58,043	51,642	60,091	54,822	73,131
FY 2010	FY 2009	FY 2008	FY 2007	FY 2006	FY 2005
79,106	114,692	112,154	107,558	76,351	43,131
FY 2004	FY 2003	FY 2002	FY 2001	FY 2000	FY 1999
37,829	18,097	13,049	7,781	6,640	7,982
FY 1998	FY 1997	FY 1996	FY 1995	FY 1994	FY 1993
7,896	5,208	3,596	4,165	3,365	1,964
FY 1992	FY 1991	FY 1990			
1,019	389	157		Total Loans:	1,264,189

Above is the number of HECMs made in each federal fiscal year since the program began. HUD provides data by federal fiscal year (each federal fiscal year begins October 1 and runs through September 30 of the following year. FY 2022, for instance, began October 1, 2021, and ends September 30, 2022).[3]

The peak years of HECM originations were from 2007 to 2009. Each year produced over 100,000 mortgages. Many citizens took advantage of their home equity to improve the balance of their lives.

The number dropped until the recent low of 31,274 loans in 2019. In the Covid year of 2021, there were 49,207 written. In the first quarter of fiscal year 2022, 15,200 were written so the market could be swinging up again. It may be time for more MLOs to consider helping senior citizens get their HECM.

[2] *Home Equity Conversion Mortgage (HECM) Program (Section 255) HUD*
[3] *Annual HECM Endorsement Chart*

Myths and Misinformation About Reverse Mortgages[4]

Many parties distribute misleading facts about reverse mortgages and a high percentage of the public believe what they hear. Taking out a loan on your home in your senior years is a scary proposition, even for homeowners who understand finances. I believe that MLOs should properly inform prospects about all the mysteries and conditions of reverse mortgages and allow them to make a knowledgeable decision based on their own financial conditions. Here is some of the misinformation promulgated today:

The Government Will Own My Property: The Government simply insures the loan that a lender makes. There will be a lien attached to your home with your lender listed as the beneficiary and you as the borrower, just like in any other type of mortgage or trust deed.

I Will Never Be Able To Sell My Property: You will be able to sell your property the same as you did before with any other loan. Pay off the loan in escrow and move on.

If I Die, Move Out, Etc. They Will Take The Property: If there is equity in the property, your heirs can buy the home by paying the amount of the loan at this time or the amount of 95% of the appraised value. They will be dealing with HUD's service company.

If The Loan Gets Bigger Than The Value Of The Home, They Will Come After Me: Tell your clients, "A reverse mortgage is a non-recourse loan". This means that even if the loan gets much larger than the value of the home, HUD can only look to the property for satisfaction. They cannot come after your clients or their heirs for any monies.

If I Have A Younger Spouse Who Is Not On The Loan, They Will Be Kicked Out When I Die: Wrong. A regulation was passed in 2014 that protects non-borrowing spouses. They can stay in the home until they die if they so desire.

You Cannot Lose Your Home: This is a falsehood told by some MLOs to their prospects. It is not true. A borrower can lose their home if they move out for more than 12 months, do not maintain the property properly, or do not pay costs such as property taxes, insurance, homeowner association fees, etc.

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[4] *"10 Reverse Mortgage Myths: Clearing Up Common Misconceptions" Longbridge Financial*

Homeowners should be reminded that they have to pay property taxes, insurance and other costs like when they own a property with a forward loan.

It Is All So Confusing, I Plan To Do Nothing. It's Easier: Yes, the regulations can be confusing. However, before you can proceed applying for a reverse mortgage, you must have a counseling period with an approved non-partisan counselor. They will describe all the aspects and answer all your questions. I went through the counseling as an educational tool and can tell you that they stress the important points. Our counselor from Florida told us numerous times that you can lose the property if you do not meet the conditions in the previous paragraph. So mortgagor cannot say they did not know.

The Mortgage Fees Are Huge: Yes, the fees can be higher than forward mortgages and Home Equity Lines of Credit. This is because reverse mortgages have many different aspects. There are no loan payments, no stringent qualifications, and no required income level to qualify. Additionally, reverse mortgages allow lower FICO credit ratings and are non-recourse. RM lines of credit keep growing and growing. If you secure a HELOC, you will find yourself learning a new word called Draw. After ten years you will have to start paying back the principal balance of the loan (amortized) in addition to interest.

The Upfront Costs Could Be Extensive: There could be third party costs, servicing fees, origination fees, and others. Most borrowers roll these costs into the loan so there are no out-of-pocket costs. This obviously lowers the amount of money one will receive. Yes, there are costs like any forward loan and some more due to the unique benefits of a reverse mortgage.

Mortgage Insurance Premium Costs Can Be High: Yes. The initial MIP cost is 2% of the lower of the appraised value of your home or FHA's lending limit ($970,800). These fees go to FHA. They are used to operate the Reverse Mortgage Insurance Program. Without the MIPs there would be no RMs. There is an annual MIP charge of .05% on the outstanding balance for each year. This fee was lowered from 1.25% a few years ago.

I Will Not Have As Much Money To Leave My Kids: Yes, that is true, but you are using your home's equity so you will not be a burden on them and to improve the quality of your golden years.

So MLOs, let's educate the public and ourselves so we can help senior citizens live more positive golden years.

Protections That a Borrower Has Under New Regulations

In the beginning of the HECM loan program there were many problems discovered. Some of them have been corrected and in doing so HUD has given better protection to their borrowers. Protections have been put in place so that borrowers will not lose their homes and will be more content while there.

These protections should be explained fully to the prospective borrowers. They should also be explained to anyone assisting them including advisors, real estate agents, financial personnel, relatives, heirs, accountants, spouses, friends and so forth. These protections have greatly improved the quality of the reverse mortgage products being offered. Study them, understand them, and explain them. Most of these topics will be discussed in the required counseling, but repetition is good for someone making such an investment in their future.

1. Limit On Funds Received

   Borrowers were having problems with managing their proceeds. They would receive all the funds that were due at the time of closing and the funds were spent quickly, sometimes on fraudulent investments or lavish gifts to friends and relatives. Their equity was gone, their money was gone and the bills for property taxes, insurance, flood insurance, and maintenance went unpaid. The lenders would assign the loans to HUD, and the government would begin a foreclosure. The borrowers were unhappy, the lenders were unhappy and HUD was unhappy. Not the American dream.

   In 2013 after many years of these problems, two Mortgage Letters were promulgated to address this situation. An "initial disbursement limit" (IDL) was established by Letters 2013-27[5] and 2013-33.[6] Borrowers were restricted to the greater of 60% of their principal limit or to mandatory obligations plus 10% of their principal limit.

[5] *Mortgagee Letter 2013-27*
[6] *Mortgagee Letter 2013-33*

Fixed-rate HECMs are closed end loans which means funds may only be drawn at the time of closing. There is no more drawing of funds.

Adjustable-rate loans are open-end loans, meaning the remaining principal limit plus growth may be available to the borrower at the start of the second year. These changes have lasted over eight years with no major edits and with success.

2. Non-Borrowing Spouse Can Now Stay After A Maturity Event Under Certain Conditions

The rule has always been that to be a borrower on a HECM loan a spouse must be 62 years of age, no exceptions. If a non-borrowing spouse lived in the home, at the time of a maturity event, they were asked to leave. They probably would inherit the home and if there was substantial equity, they could buy it. However, many times there was no equity or little equity; they would be out in the snow. AARP and other entities lobbied against this rule. These changes can be viewed in Mortgagee Letter 2021-11.[7]

Summary of Some 2021 Changes

There were some changes to benefit non-borrowing spouses:

1. Expanded criteria which will begin a deferral period for HECMs originated after August 3, 2014.

2. Expanded assignment criteria for MOE assignment for case numbers before August 4, 2014

3. Eliminated the requirement for an Eligible Non-Borrowing Spouse to establish title to remain after the death of the borrower.

4. For HECMs after August 3, 2014: if an absence is more than 12 consecutive months due to residence in a health facility, there

[7] *Mortgagee Letter 2021-11*

may be a deferral as long as said spouse meets all requirements. This now applies to loans written before August 4, 2014.

5. The definition of an eligible spouse is: Was either legally married or engaged in a committed relationship at time of closing and remained married. As well as having occupied and continues to occupy the subject property as a Principal Residence.

3. Financial Assessments

Another problem encountered was that reverse mortgages were written for borrowers who had very, very few assets. These borrowers would not be able to pay all the necessary expenses during the life of the loan, and they would lose their home. Something had to be done.

Mortgage Letter 2014-21[8] states that a lender must determine if the borrower has "the willingness and capacity to timely meet his or her financial obligations and to comply with the mortgage requirements." This is not a credit check and approval like on forward mortgages and HELOCs. The lender performs a cash flow/residual income analysis, in accordance with FHA guidelines.

The prospects are given an opportunity to explain any extenuating circumstances and/or compensating factors that have caused their financial problems. The lender is charged with the responsibility to determine the borrower's credibility.

4. LESAs[9]

Not all is lost. When a financial assessment is "failed," the lender can turn to a "Life Expectancy Set Aside." A portion of the borrower's principal limit is "set aside" for paying property charges over a calculated time. Think of an escrow or impound account on a forward loan. There are two types:

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[8] *Mortgagee Letter 2014-21*
[9] *24 CFR § 206.205*

Fully Funded LESA: The lender sets aside funds to pay three critical charges: property taxes, homeowner and flood insurance. The lender pays these charges directly when due.

Partially Funded LESA: Funds are set aside to supplement the borrower's income. The lender sends the money to the borrower semi-annually to fund a smaller gap in residual income. The borrower is responsible for paying the charges.

This is another protection for borrowers. Borrowers can elect to voluntarily establish a LESA. Many have found this to be a preferred method to meet their obligations and save their home.

5. Larger Loan Limits and Housing Values

Two of the benchmarks used to determine how much money a homeowner can borrow are the value of their home and the federal loan limits established each year. Both of these numbers have been increasing. This is a good sign for the borrowers as they can receive more money in their time of need.

For a comparison of increasing prices, we used the median price of existing detached homes in Los Angeles County listed in the LA Almanac[10]: Some interesting years to show trends are 1990 when reverse mortgages began-$212,855; 1996-$167,550; 2006-$585,447; 2011-$306,950; 2015-$502,750; Oct. 2021-$848,970. Sort of like a Disneyland ride.

The other factors are the loan limits: For 2022 it will be $970,800 and that is a good increase. It was a robust $822,375 in 2021. In 2022 for duplexes-$1,243,050, for 3 units-$1,502,475 and for 4 units-$1,867,275.

6. Aspects of California Real Estate That Help Reverse Mortgage Borrowers

When a borrower signs a note for a reverse mortgage in California, they are given a right to cancel for three business days. They can change their mind at the last moment.

[10] *"Existing Detached Homes by County, 1990-2021" Los Angeles Almanac*

A residential loan (a loan on a one to four unit owner-occupied property made at time of purchase or to make substantial improvements) is considered non-recourse. Tell everyone this. It really protects them in desperate times. If a lender forecloses on these loans, they can only look to the property (foreclosure which will be a trustee sale) in California.

Lenders cannot go after the owners, their heirs, or anyone else. Most of the people involved in the chaos of the early 2000's would not have been subject to any garnishment, debt collection or other actions on their "homes." This definitely applies to reverse mortgages.[11]

Borrowers can make payments on a reverse mortgage at any time if they believe it is in their best interests. There is no prepayment penalty on paying off a reverse loan.

7. Counseling Improved and Other Items[12]

After doing the counseling for many years, many nonprofits and federal agencies combined to improve the quality of the counseling and insisted that certain important safeguards be stressed. The loan originator must provide a list of all nationwide counseling companies (national intermediaries). A list of five local agencies must be provided.

A couple of items that are certainly going to be covered in the counseling is the fact that someone can lose their property if they do not follow the guidelines and pay all necessary charges. Also, prospects are warned against exotic investments and there should be no cross selling (pushing investment products or anyone involved having any affiliations with investment entities).

Nothing can happen until the lender receives the proper certification of counseling.

A point of information that would be valuable in California: a lender is called the beneficiary, the borrower is called the trustor and the third party is the trustee.[13]

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[11] *"Reverse Mortgage Non-Recourse Feature" HUD*
[12] *"Introduction to Reverse Mortgage Counseling" HUD*
[13] *"Who Are The Trustee & Beneficiary of a Mortgage?" PocketSense*

8. State of California Goes The Extra Step

This step is called California Civil Code 1923.5 (b).[14] This comprehensive code states that all applicants must receive some important information listed before any counseling. There is an IMPORTANT NOTICE that must be in 16 point (large bold type).

Some of the topics in the notice include: complex financial transactions, binding legal documents, implications for your estate and future needs, counseling required, advocacy groups advise against purchasing an annuity or other such investments without counseling with a counselor or family members, and much, much more in big type.

There is a Reverse Mortgage Worksheet Guide: It has five essential questions and prospects should bring the completed form to their counseling session. The questions have several extra sub-questions and commentary. The questions are:

6. What happens to others in your home after you die or move out?
7. Do you know that you can default on a reverse mortgage?
8. Have you explored other options?
9. Are you intending to use the reverse mortgage to purchase a financial product?
10. Do you know that a reverse mortgage may impact your eligibility for government assistance programs?

So those are some penetrating questions, and as an originator you must be ready with proper legal answers. Other facts:

1. An application shall not be accepted until 7 days after the counseling.
2. Counseling sessions are designed to be at least one and one-half hours long.
3. The Certification is good for 180 days.
4. There is no regulated price but the costs range around $150.00
5. All homeowners on the deed need counseling and must sign the deed and counseling certificate.

[14] *CA Civil Code § 1923.5*

9. Self-Protection[15]

   Applicants must be alert and should understand the requirements and nuances of a reverse mortgage. Protection begins at home. Possible confidants would include loan originators, attorneys, tax accountants, financial advisors, relatives, knowledgeable friends, heirs, and others.

   There are some important subjects that should be discussed; legal matters including a will, trust and other documents; possible tax effects when property is sold or mortgaged; gift tax, step-up in basis, and interest accounting will come to light.

   A question often asked is, "Do I deduct the interest each year?" Probably not as on a reverse mortgage the interest is not paid until the loan is paid off.

Time to Think 1.1

1) The monthly MIP on a reverse mortgage would be _____%

2) In which year did non-borrowing spouses get the right to remain in the property? _______

3) What was the Upper Limit of a Reverse Mortgage in 2021?

Proprietary Jumbo Reverse Mortgages[16] [17]

Over the last few years the topic of proprietary jumbo reverse mortgages has become more and more popular. It must be because the loan presents some solutions to the homeowner's financial needs that a HECM mortgage cannot provide. Mortgage loan originators should know the possibilities to better serve and protect homeowners with equity.

The use of proprietary loans is particularly popular in California and other states west of the Rockies. With the high home prices the limits of HECMs,

[15] *"Considering a Reverse Mortgage?" Consumer Financial Protection Bureau*
[16] *"Are There Different Types of Reverse Mortgages" Consumer Financial Protection Bureau*
[17] *"Proprietary Reverse Mortgage" Investopedia*

(even with the new higher limits), are not high enough. To give an example of the value of properties in our state, note that there are 10 counties in California that have the very highest Federal Conforming Loan Limits for 2022. Yes, $970,800, an increase of $155,625 in one year. That is a major increase for a federal agency.[18]

In the year ending September 2021, Core Logic reported that homeowners with mortgages saw their equity increase over $3.2 Trillion (that is with a T) in one year. Also, it showed that US home equity stood at $23.6 Trillion at the end of the second quarter of 2021. A very high percentage of that amount rests in the states west of the Rockies and along the Atlantic Seaboard. Homeowners in those areas should enjoy the fruits of their labor. Many are equity rich and cash poor, and you can help to improve the quality of their lives.

The lenders on these loans are not normally your typical savings and loan or banks, etc. They are specialists in reverse mortgage lending. There are some that you hear mentioned all the time when talking to reverse mortgage producers. According to David Gomer, owner and founder of Senior Funding of Calabasas, they are Longbridge Financial (Platinum), Reverse Mortgage Funding (Equity Elite), Nationwide Equities (Equity Power), Liberty Home Equity (Equity IQ),and Finance of America (HomeSafe). David is a good source, as he has been originating reverse mortgages since 1989 with over 2,000 originated and closed. I listen to David Gomer.

Most of you readers have been taking our courses for years. You completed a 20 hour course and passed a difficult exam to become qualified to do loans. Then, every year you have completed at least 8 hours of continuing education. The topic of reverse mortgages is not new to you so this course will skip all the basics and start this section by discussing what the differences are between a HECM and a Proprietary Loan. The loans available do not all have the same aspects and you should really investigate the nuances of each.

1. NOT ALL 62: Some will use the 62 year age as their guide, but some will lower the age to 60 and some will offer a minimum of 55 years of age. The lenders are not bound by the 62 years of age rule of Federal Insured Loans such as HECM.

[18] *“FHFA Announces Conforming Loan Limits for 2022” Federal Housing Finance Agency*

2. INSURSED OR NOT INSURED, THAT IS THE QUESTION: The loans are not insured. Defaults would be treated like a defaulted forward loan in California. Which means trustee sale auction.
3. UPPER LIMIT: Most of the lenders advertise a higher limit of $4,000,000.00 and one or two can offer $6,000,000.00. A bit higher than federal limits. This means that an extreme amount of care must be exhibited by any MLO in recommending these loans.

4. REFINANCE AND PURCHASE: Refi and purchase loans are available, as are loans with a trust as the owner. Most of the companies offer a variety of pricing tiers, with both adjustable rate and fixed rate interest options.

5. NO MIP: This is a major cost difference. With higher valued homes and larger loan balances, Federal Mortgage Insurance Premiums would be very costly. Since these loans are not part of the HUD and FHA programs, no MIP.

6. CREDITS: Lender credits to cover customary closing costs are offered with a slight increase in rate (no definition of slight).

7. NO BACKLASH AGAINST BORROWER: The loans in California are non-recourse. Clients sometimes do not understand what this means. So explain. In the chaos around 2007-2010 so many homeowners on loans to purchase a home did not know that the lender could not come after them. Let's educate the public. Homeowners should know this, the banks do.

8. CONDOMINIUMS IN NON-APPROVED UNITS: HECM cannot make any loan in this situation. A proprietary lender can investigate and make a one unit approval. A major point for some prospects who live in non-approved complexes. They cannot get a HECM. A proprietary jumbo reverse mortgage is their only course.

9. NO PREPAYMENT PENALTY: Just like HECMs. This means that a borrower can pay it off and sell or make partial payments.

10. QUALIFICATIONS: Borrowers must qualify under U.S. Citizen or Resident Alien status and meet Financial Assessment Qualifications very similar to HECM rules. The properties must be one to four units or

condominium properties, with one unit owner occupied. No boarding houses, acreage over 20, co-ops, log homes, manufactured homes, titles held in a business' name, and so forth. A borrower with most of these lenders can own up to four financed properties including said unit.

11. NON-BORROWING SPOUSES: In most cases of non-borrowing spouses, the lenders recommend that the borrower check on the HECM loan requirements.

12. OTHER: HUD guidelines cover new construction. No surveys are required unless one is required for another purpose. Repair set-asides can be set up for necessary repairs with a minimum and a maximum. Properties must be seasoned so check first if you have any questions.

So it could be time for you to study up on Proprietary Products. You can assist your clients, protect them, serve them, and everyone will be happy. [19] [20]

What's Coming Next?

To complete this discussion I wanted to talk to a true reverse mortgage professional and ask their opinion on the near future. I am definitely not qualified but Don Currie, President of High Tech Lending sure is. 40 years in Lending and over 14 years in RM loans. His company does both Forward and Reverse and is number 2 in California RM origination (These predictions were made in February when this book was written).

Number of Reverse Mortgages in 2022: Don believes that 2022 will witness more RMs than 2021. The rising interest rates will probably cause a contraction in the number of forward mortgages, and RMs will become a possible alternative.

Popularity of Refinances: There should be more Refis. The recent increase in home prices, the increase in the lending limits and other increases in equity should be factors. Plus, the homeowners are familiar with the RM procedures and are happy with their loans. This is the low hanging fruit.

[19] *"Longbridge Platinum – Jumbo Reverse Mortgage" Longbridge Financial*
[20] *"Reverse Mortgages: What Consumers and Lenders Should Know" Federal Deposit Insurance Corporation*

Reverse Mortgages For Purchase: The percentage of reverse mortgages compared to the total number of forward loans originated is low. The number for purchase is still a low percentage of that total. Not a lot of Purchase RM loans being made.

Time to Think 1.2

1) What is the normal MIP at purchase for a private party reverse mortgage? ________
2) Are proprietary reverse mortgages insured or guaranteed by the Federal Government? ________
3) Are proprietary reverse mortgages non-recourse loans? ___________

SECTION 2

Lending on Single-Family Rental Properties

What is a Single-family Residence?[21]

You would think defining what a single-family residence is would be simple. However, lending rules and practices differ from the common understanding of these types of properties. For lending purposes, a single-family residence can contain up to four residential units. These properties are known in the mortgage lending industry as single-family 1-4 properties, or SFR 1-4. Single condominium units are also classified as single-family properties.

Properties containing five or more residential units are categorized as multifamily properties. Loans for multifamily properties are generally available through commercial lenders and banks. Residential lenders limit their loan offerings to properties with no more than four residential units. This guideline was established by Fannie Mae and Freddie Mac, which purchase SFR 1-4 loans originated by residential lenders. Fannie Mae and Freddie Mac are two federally backed home mortgage companies created by Congress. They purchase a significant number of loans originated in the residential mortgage market and residential lenders underwrite their loans to Fannie Mae and Freddie Mac standards, including the limitation of SFR 1-4 properties as collateral for the loans they purchase.

Owner-Occupied vs. Rental Property Loans

Loans are available for both owner-occupied and rental properties. However, loans on rental properties are generally offered at higher interest rates than loans on owner-occupied properties. This is because rental property loans represent a higher risk to the lender. Rental properties are dependent upon the rental income they can generate and the owner's experience in managing the property. These issues will be explored later in this chapter.

[21] § 1010.10(c)(2) Single-family residence exemption

Consumer Loans

Consumer loans are defined under the Truth-in-Lending Act, as implemented through Regulation Z, 12 CFR 1026.2(a)(12)[22], as loans for "…personal, family or household purposes." A loan to purchase a single-family residence that will be owner occupied would be considered a consumer loan. Other examples of consumer loans would be those to pay personal debts, make improvements to the borrower's home, pay for a family vacation, or pay for a child's tuition.

Business Purpose or Nonconsumer Loans

Nonconsumer or business purpose loans are those loans that are not for personal, family or household purposes. A loan to acquire a fourplex that will not be owner-occupied would be a nonconsumer loan. A cash out loan on a borrower's primary residence where the proceeds will be used to acquire equipment for the borrower's business is an example of a business purpose loan.

Applicable Regulations

The following laws and regulations apply to SFR 1-4 rental property loans. The list below is not a comprehensive list of all of the laws and regulations relating to SFR 1-4 rental property loans, nor is this meant to be a thorough discussion of these laws and regulations.

- The Equal Credit Opportunity Act (ECOA) is a federal anti-discrimination statute which prohibits discrimination in lending on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or good faith exercise of any rights under the Consumer Protection Act (12 CFR 1002.9(b)[23]. It also requires the lender to provide the reason for a credit denial to the applicant for all adverse credit decisions (12 CFR 1002.9). ECOA is found in Title VII of the Consumer Credit Protection Act.
- A California Mortgage Loan Disclosure Form is required to be provided to loan applicants by brokers licensed under the California Department of Real Estate (DRE) who negotiate the terms of the loan with the loan applicant. The disclosure provides information on the loan terms, including the monthly payment, interest rate, and loan costs. The

[22] § 1026.2(a)(12)
[23] § 1002.9(b)

forms RE 882 or RE 883, issued by the DRE, will meet the requirements of this law. (B&P s 10240[24] & 10241[25] and DRE Reg. 2840[26])

- The Truth-in-Lending Act (TILA) was enacted to ensure meaningful disclosure of the loan terms to allow the applicant to compare various loan offers. These disclosures are provided through a Loan Estimate and a Closing Disclosure provided at specified times through the loan application process. (15 U.S.C. §§ 1601 *et. seq.*[27])
- The Real Estate Settlement Procedures Act (RESPA) requires mortgage lenders and brokers to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process, including mortgage lending. The Act also prohibits specific practices, such as kickbacks, and places limitations upon the use of escrow accounts. (12 U.S.C. 2601 *et seq.*[28])
- Loan Originator Compensation Rule. Under the Truth-in-Lending Act certain compensation and steering practices relating to loan originators (LO) are prohibited. LO compensation may not be tied to loan terms, such as the interest rate charged, and 'dual compensation,' meaning compensation received from both the borrower and the creditor, is prohibited. Loan originators may not steer a borrower to a loan with less favorable terms in order to increase the originator's compensation. (12 CFR 1026.36[29])
- The Safe and Fair Enforcement (SAFE) Act requires all mortgage loan originators (MLO) who originate consumer SFR 1-4 loans to register with the Nationwide Mortgage Licensing System (NMLS). The NMLS registry provides a means for the public to verify the license status of a loan originator. The SAFE Act also requires MLO's to pass a background check and 20 hours of education prior to registering with the system. In addition, eight hours of continuing education is required each year for registration renewal. (Title V of P.L. 1010-289)
- CA Department of Real Estate Regulations: Private lenders and brokers who arrange loans for sale to the public under the DRE are subject to maximum loan to value percentages (B&P 10232.6). As related to SFR 1-4 properties, the maximum percentages are:

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[24] BPC 10240
[25] BPC 10241
[26] DRE Reg 2840
[27] 15 U.S. Code § 1601
[28] 12 U.S. Code § 2601
[29] § 1026.36

Single-family residence, owner-occupied	80%
Single-family residence, not owner-occupied	75%

In addition, investors in these loans must receive a Lender/Purchaser Disclosure Statement (DRE form RE 851B) which discloses to the prospective investor important borrower and property information for the loan under consideration (B&P s 10232.4).

Underwriting the SFR 1-4 Rental Loan

Stated simply, underwriting is the acceptance of risk. In real estate lending the act of underwriting a loan is the lender's process of reviewing the borrower's financial and credit application, and the type and condition of the real property securing the loan, in order to assess how much risk to take. The loan underwriter reviews the borrower's income, assets, debt and credit history, and the property location and characteristics. Lending decisions are the result of the weighing of all of the positive factors and elements of risk contained in the borrower's loan application.[30]

There are some key factors that are reviewed and considered for all mortgage loans.

Borrower Employment and Income

The amount of personal income the borrower receives is an important element in underwriting the loan. The question the underwriter seeks to answer is whether the borrower's income is sufficient to meet the borrower's personal and family needs and to make the payments on the loan the lender is considering.

Underwriters request income and employment documentation to verify the sources of the borrower's income, as well as its stability. Those who work for a company, known as wage-earners, can provide copies of their pay stubs and W-2's to document their income. On the other hand, because they do not receive pay stubs or W-2's, the self-employed borrower will often need to provide copies of their income tax returns, which the lender will then verify through the IRS. Lenders may also review copies of the borrower's bank statements to verify the amount of income the borrower receives on a monthly basis, in order to support the income shown on the tax returns. The sources, amount, and stability of the income the borrower receives are of high

[30] What Is Mortgage Underwriting?

importance in demonstrating the borrower's ability to make the loan payments.

Assets

The type and value of the borrower's assets are another factor the lender reviews in underwriting a loan. Assets consist of the following

- Bank accounts
- Investment accounts, including Bit-Coins and NFTS
- Stocks and bonds
- Retirement accounts, including IRA's and 401K's
- Personal property, such as automobiles, furnishings, art and jewelry
- Other real estate owned by the borrower
- Businesses owned by the borrower

Liquid assets carry more weight with lenders than illiquid assets. Liquid assets are assets that are cash, or those assets that are easily converted to cash, such as bank and investment accounts, stocks and bonds, and retirement accounts. Illiquid assets are those that are not easily converted to cash. Personal property, real estate and interests in businesses are examples of illiquid assets. Liquid assets are important to lenders because they can easily be used to make the mortgage payment, and because they are easier for the underwriter to verify, through bank statements and stock certificates. They are also much easier to value than illiquid assets.

Debt Obligations and Credit History

One of the most important elements in determining a borrower's qualifications is credit history. A borrower's income and assets speak to their ability to make the payment, also known as capacity. The borrower's credit history speaks to character. If past and current obligations are paid as agreed, the lender is likely to believe the borrower will continue this pattern of on-time payments and be much more comfortable making the loan.

Most of the borrower's credit and payment history is found in a credit report. During the application process, the borrower signs an authorization allowing the lender to obtain a copy of the borrower's credit report. A credit report contains the borrower's credit history and payment record for each credit account they have, known as a tradeline, all of which are compiled into a single report. Account balances, payment amounts, past and current delinquencies, account opening dates, and much more, are all reported by each creditor and are entered into the borrower's credit report. The credit data is compiled by three credit reporting agencies, TransUnion, Experian and Equifax.

Also, contained within the credit report is a score rating the borrower's credit-worthiness. The tradeline data points are processed through an algorithm to create the credit score. Each of the credit reporting agencies utilizes a proprietary system for producing credit scores. The most commonly known credit score is FICO, which stands for Fair Isaac Corp., the company that first developed credit scoring. FICO scores range between 300 and 850. Scores above 740 will provide the borrower access to the best interest rates offered by lenders.

Underwriting the Rental Property Loan

There are additional factors the lender will consider when underwriting an SFR 1-4 rental property loan. Lenders on SFR 1-4 rental properties are as interested in the operating performance of the property as they are in the borrower's financial and credit history.

The Rent Roll

A rent roll is a statement of the lease information presented in an easy to read format. On a per-unit basis a rent roll will provide the unit number, the name of the tenant, the number of bedrooms and bathrooms, the lease start and end dates, the monthly rent, and other pertinent information. Typically a lender will request a current rent roll along with copies of the leases on the property for underwriting review. The lender will compare this information with historical income as shown on the borrower's tax returns and operating statements.

Operating Statement

The operating statement is a statement of the income and expenses for the property. It's in a columnar form with the rental income listed first and the property expenses listed below and deducted from the income. Operating statements cover a specific period of time and can be current or historical. Historical operating statements will typically cover a calendar or fiscal year.

Current operating statements will cover a shorter timeframe, presented in a year-to-date format.

Borrower Experience

The borrower's experience in owning and managing small residential properties may have an influence on the lenders underwriting decision, or on the interest rate the lender charges for the loan. Borrowers who can show they have successfully operated properties in the past will be seen under a more favorable light by lenders. Conversely, borrowers who are acquiring their first rental property may be viewed as a higher risk. The lender does not know how the borrower will perform as a rental property owner. This is not to suggest that first time rental property buyers cannot obtain financing. They can and certainly do. But until the borrower can develop a track record showing successful ownership of rental properties, the lender may add lack of experience to the elements of risk under consideration during the underwriting process.

Property Characteristics

Property characteristics can be both physical and economic. Physical characteristics include the location and condition of the property, the number of units, rooms, bedrooms and bathrooms and the square footage of the property, among other things. Properties that are in better physical condition represent a lower risk to the lender.

Economic characteristics include the amount of the rental income, how long the tenants have occupied their units, the turnover rate, and the types and amount of expenses the property incurs. Turnover means the frequency of vacancies in the property. Lenders consider both the physical and the economic characteristics of properties in their underwriting analysis.

Appraising Rental Properties

Rental properties differ from owner occupied residences because there is an income component for the appraiser to analyze. The income the property will produce is an important factor in the rental property's value.

Buyers of residential properties that will be owner occupied are interested in the property's amenities, such as its location, the number of rooms, bedrooms and bathrooms it has, the size of the structure, the size of the lot it sits on, its location, any special features it has, such as a pool, fireplace or landscaping, and much more.

The buyer of an SFR 1-4 rental property is interested in all of these details about the property as well. But they are also interested in the amount of rent the property can generate, how consistent that rental income is and whether the income generated from the rents will be sufficient to meet all of the expenses in operating the property. A property with consistent rental income has tenants that can be relied upon to pay their rent timely, and vacancies (when they occur) can quickly be filled with new tenants. Properties with unreliable tenants or with a high turnover rate will generate less income, and more work, for the property owner.

Fannie Mae Form 1025

Special appraisal forms are used to analyze the value of SFR 1-4 rental properties. The most commonly used appraisal form is the Fannie Mae Form 1025, the Small Residential Income Property Appraisal Report. This report includes the following data.

- Property description, including address, Assessor's Parcel No., property rights appraised, occupancy and assignment type (purchase or refinance)
- Neighborhood location and characteristics
- Lot characteristics, including zoning, availability of utilities and whether the property is in a flood zone
- A general description of the property, including the number of units, the square footage, the unit breakdown by square footage and number of bedrooms and bathrooms, construction and foundation type, amenities (such as a pool or fireplace), automobile storage, and the types of materials used in the interior finishes
- Comparable rental properties with recently signed leases. These comparable properties are described in the report using the same characteristics as the subject property
- The appraiser's analysis of market rents for each residential unit of the subject property
- An analysis of the existing lease income as compared with market rents
- Comparable properties to the subject that have recently sold. These properties are called comparables. These comparables

are described in the report using the same characteristics as the subject property
- Photographs of the subject property's interior and exterior
- Photographs of the properties used in the rental comparable analysis
- Photographs of the properties used in the sales comparable analysis

Fannie Mae Form 1007

An alternative to the Small Residential Income Property Appraisal Report for appraisals of single-family rental properties that contain just one residential unit is the Uniform Residential Appraisal Report (Fannie Mae Form 1007). Form 1007 is widely used for appraising owner occupied properties and does not include sections on rental comparables or an income approach.

When appraising a rental property, an addendum is attached to Form 1007, the Single-family Comparable Rent Schedule. This schedule provides comparable rental data and space for the appraiser to include a market rent analysis and a valuation employing the income approach. The Form 1007 and the Single-family Comparable Rent Schedule would not be used for SFR 1-4 properties consisting of two, three or four residential units.

Analyzing the Property – Three Approaches to Value

Typically, appraisers have three tools at their disposal to use when appraising real estate, the Sales Approach, the Income Approach, and the Cost Approach.

The Sales Approach

The sales approach is applied in nearly every real property appraisal, no matter the property type. It is especially effective for appraising single-family residential properties, particularly those located in homogenous neighborhoods.

In the sales approach, the appraiser selects three or more recently sold properties that are comparable in size, unit count and condition to the property being appraised (the subject property), and that are located near it. The appraisal process compares the comparable properties to the subject property. Each comparable's sales price is calculated on a price per square foot of building area, a price per unit, a price per room and a price per bedroom basis.

The appraiser then makes adjustments for the differences between the subject property and the comparables. Adjustments will be upward or downward. If the comparable is better than the subject property for a particular characteristic, a downward adjustment will be made to the comparable's price. If the comparable is worse than the subject property for a particular characteristic, an upward adjustment will be made to the comparable's price. If the comparable is similar to the subject property for a particular characteristic, no adjustment will be made.

For instance, if the comparable is older than the subject property, an upward adjust will be made. If the comparable is in a better location than the subject property, a downward adjustment will be made. When analyzing the comparables, the appraiser starts with the comparable's sales price and makes the adjustments to it. The resulting sum represents the appraiser's estimated sales price for the subject property.

Example:
A comparable property sold for $900,000. The comparable property is better in some characteristics to the subject property, worse in others, and similar in still others. The total adjustments the appraiser makes to the comparable equal a positive $50,000. When added to the sales price of $900,000 the result is a value of $950,000. This represents the appraiser's value for the subject property as compared to that particular comparable property.

Adjustments are made to each comparable property. The value conclusion for each comparable produced through this comparison will not be entirely identical to the other comparable properties. The appraiser will consider each value conclusion and arrive at a final estimated sales price for the subject property.

This process of adjusting the comparable's sales price is repeated on a per unit, per room and per bedroom basis. All of the appraiser's analytical work and conclusions are shown on the appraisal report.

The Income Approach[31]

There are two primary methods of appraising properties on an income basis, the Gross Rent Multiplier method and the Direct Capitalization method.

The Gross Rent Multiplier Method[32]

While analyzing the comparable properties in the sales approach method, the appraiser calculates a gross rent multiplier (GRM) for each comparable. To calculate a gross rent multiplier, the price the comparable sold for is divided by the amount of its annual rent. For example, if a property sold for $900,000 and the annual rent is $60,000, the gross rent multiplier will be 15.

Each comparable may have a different gross rent multiplier from the others, but most likely they will be fairly close in value. As with the appraiser's final conclusion on the sales approach, the appraiser will consider each comparable property and arrive at a concluded gross rent multiplier for the subject property. The concluded gross rent multiplier is then applied to the subject property's rents to arrive at an estimated value.

Example:
The appraiser's concluded GRM is 15.5
The subject's annual rent is $59,500.
The value conclusion is $922,250

59,500 x 15.5 = 922,250

The gross rent multiplier is also used by investors when making a decision on what to offer as a purchase price for a property. This makes it an especially useful tool in appraising small investment SFR 1-4 properties because it represents what a typical buyer would pay for the property.

The Direct Capitalization Method[33]

Direct capitalization is a method of valuing real estate typically used for commercial and multifamily property appraisals. However, it can also be useful tool for appraising SFR 1-4 properties.

[31] https://www.in.gov/dlgf/files/2021-Level-I-Income-Approach.pdf
[32] https://www.stessa.com/blog/gross-rent-multiplier/
[33] https://corporatefinanceinstitute.com/resources/knowledge/finance/direct-capitalization-method/

With direct capitalization, a figure is arrived at which represents the expected annual return on the investment to the owner (the cap rate). The direct capitalization method reflects the fact that there are alternative assets an investor can invest in in competition to real estate. Funds could be placed in an investment account, or stocks or bonds could be acquired to achieve income or appreciation. Real estate is one option among many that are available to investors.

The return an investor is willing to accept is generally related to the investment risk the investment represents. Funds deposited into bank accounts and insured by the federal government represent the lowest risk to the investor. But the interest rate paid on those funds is low as well. A volatile stock may offer a high dividend or increasing value to the investor. But the risk is also high due to the stock's volatility and the fact that the value can plunge. The investor would reasonably expect to receive a lower return for funds placed into a federally insured bank account than for a high risk/reward stock acquisition.

Although real estate values have generally increased over the past 75 years, continued increases in value are not a certainty. During times of recession or economic uncertainty property values can decrease. Investment in real estate represents a moderate to high risk to the investor.

Real estate is also subject to governmental risk. Changes in tax policy or implementation of government restrictions such as rent control can result in a decline in value of a real estate asset. Changes in a property's zoning can also affect its value.

Direct capitalization allows an investor to compare different investment products and the returns they produce. It is also a very useful method of valuing real estate as it allows an investor a means to compare properties with different operating histories, rental income and unit sizes and numbers to determine which might be the preferred real estate investment.
To arrive at a value through the direct capitalization method, the appraiser begins by obtaining information about the income and expenses of the property. Copies of rental and lease agreements are obtained and reviewed, as well as documents relating to the property's expenses, such as operating statements, management agreements and property tax statements.

The appraiser compares the property's financial operations with typical income and expenses for SFR 1-4 properties that are found in the market where the property is located. A pro-forma income and expense statement is created, using the appraiser's projected income, and subtracting the property expenses plus a small percentage of the income to allow for average vacancy loss (typically 5%). The sum of this calculation is called the Net Operating Income (NOI).

Mortgage expense is never considered when calculating the NOI. Any debt on the property, and any mortgage expense related to it, are not a part of the property's operating performance. Calculating the NOI before deducting for the mortgage payment allows each property to be analyzed based solely upon its operating income and expenses, and not on the debt the owner has incurred.

The Cap Rate[34]

To arrive at a valuation using the direct capitalization method, the appraiser must determine an appropriate capitalization rate (cap rate). The appraiser reviews the sales of comparable properties, their operating income and expenses as well as market data to determine the rate that represents the return on investment that those participating in the market (the buyers and sellers) would expect to achieve.

Once a cap rate is determined, it is applied to the net operating income to arrive at a market value. For the mathematical equation the NOI is divided by the cap rate, expressed as a decimal. NOI = $72,000 Cap Rate = 8%

In this example, the value of the property is $900,000. If the annual NOI is $72,000 and the investor expects to achieve an 8% return, then the property should be acquired for $900,000. Another way of looking at this is to consider that if the investor pays $900,000 for the property and the NOI is $72,000, then the investor will receive an 8% annual return.

The direct capitalization method is a valuable tool in appraising income properties. However, for the typical SFR 1-4 income property the more commonly used approach is the GRM.

The Cost Approach

The cost approach consists of two components: a) the value of the land, and b) the cost to build the structure, less an allowance for depreciation. Depreciation represents the decrease in the value of the structure due to physical deterioration, or wear and tear, over time.

[34] https://www.nolo.com/legal-encyclopedia/is-that-residential-real-estate-investment-property-worth-it.html

Most SFR 1-4 property appraisals will include a cost approach in their analysis. However, it is not relied upon as much as the sales approach or the income approach. It can be very difficult to accurately analyze a property's value using this approach, particularly an older property. The lot can be difficult to value. Established neighborhoods don't often have sales of individual vacant lots available for the appraiser to use as a point of comparison. Depreciation can be difficult to calculate as well. For these reasons, although most SFR 1-4 appraisals include a cost approach analysis, less weight is given to this approach as compared with the sales and income approaches.

Time to Think 1.3

1) The statement of lease information is called the ___________. (Rent Roll)
2) The three approaches to Rental Income Property Appraisals are Sales, Income and ________. (Cost)
3) The Small Rental Property Appraisal Report is Form Number ___________. (1025)

Interactive Case #1

Kathie Thompson owns a 5 unit apartment house. The annual gross rent is $100K. The NOI is $40K. A cost approach appraisal shows a value of $967K. The buyers are using a Gross Multiplier of 4.5 and their Cap rate is 8%.

1. What is the estimated value at the buyer's GM? ($450K)
2. What is the estimated value at the buyer's Cap Rate? ($500K)
3. The cost approach is normally not applicable in aged buildings.

CHAPTER 1
REVIEW QUIZ

1) A loan to purchase a triplex would be either a _____ loan or a________ loan.

2) Which property would normally have a higher interest rate, owner-occupied or non-owner-occupied single family property?

3) The acronym SAFE stands for ___________

4) On a partially funded LESA who pays the bills? __________________

5) GRM can be calculated on monthly rent or _________.

6) On a reverse mortgage in California the borrower is called the _________.

7) The Non-Traditional section of the 8 Hour CE course must be _____ hours.

8) On a full LESA who pays the County the property taxes when due?

9) The latest changes affecting Non-Borrowing Spouses are in Mortgagee Letter _____.

10) The lender on a proprietary reverse mortgage is called the _________ in California.

11) The California IMPORTANT NOTICE must be in _____ point type.

12) MLOs should be familiar with Federal _________Letters.

13) A loan estimate is required because of which Federal Act?

14) The number of reverse mortgages written in 2022 in the United States will be the closest to 5,000 or 50,000 or 500,000 or 5M?

CHAPTER 2

ETHICS

SECTION 1

HUD HOUSING COUNSELING

Introduction

The Housing and Urban Development Act of 1968 first enabled HUD to authorize public and private organizations to provide housing counseling. Congress believed that counseling was an essential complement to new mortgage insurance programs for lower-income families. The act's committee report comments, "While many families who would be eligible for mortgage insurance have strong aspirations to become homeowners, their experience in handling large financial responsibilities may be meager. Through counseling, these families can be helped to use their resources efficiently in meeting homeownership responsibilities."[35]

HUD began certifying Homeownership Education and Counseling (HEC) in 1971 and began directly funding it in 1974.[36] Since then, funding for HEC has steadily increased, and the program has broadened in scope.

In the late 1980s and early 1990s, the focus of HEC shifted from home retention to pre-purchase counseling as lenders tried to minimize the risks of lending to lower-income prospective homebuyers. In 2007, at the start of the housing crisis, Congress authorized hundreds of millions of dollars for HEC through the new National Foreclosure Mitigation Counseling (NFMC) program.

In 2010, as a directive from the Dodd-Frank Act, Congress created a centralized Office of Housing Counseling (OHC) within HUD to oversee the

[35] U. S. House of Representatives. 1968. House Report 1585, 90th Congress, Second Session, 11-2.
[36] Ibid

Housing Counseling Program's agencies, counselors, and counseling services. The Office of Housing Counseling certifies counseling agencies and has proposed regulations to certify individual counselors, as the 2010 legislation requires; only HUD-approved agencies can apply for Housing Counseling Program grants. HUD standards address the content and process of HEC, outline requirements for the training and expertise of counselors, and prohibit steering and conflicts of interest.[37]

The number of people participating in homeownership education and counseling has multiplied over the past 40 years.

Housing Counselor Competency (Certification)

To provide housing counseling services through HUD Programs, individuals must become certified through HUD by way of passing a written examination—*The HUD Housing Counseling Certification Examination*—and verifying employment at a Housing Counseling Agency.[38]

A HUD-approved housing counselor is specially trained and certified by HUD to help clients assess their financial situation and evaluate options if they are having trouble paying their mortgage loan and make a plan to get them help with their mortgage.

The federal exam tests the counselor's knowledge in six different subject areas:

1. Financial management
2. Property maintenance
3. Responsibilities of homeownership and tenancy
4. Fair housing
5. Housing affordability
6. Avoidance of rental and mortgage delinquency and avoidance of eviction and mortgage default

Requirements of HUD Counseling Agencies

The HUD Housing Counseling Handbook is known as the 7610.1 REV-5.

[37] 24 CFR Part 214 - Housing Counseling Program
[38] www.hudhousingcounselors.com

This handbook outlines the qualifications for a local housing counseling agency (LHCA) to be approved by HUD. This approval means that the agency has met the qualifications and conditions prescribed by HUD.[39]

To be considered for approval, all entities must show that they are:

1. Non-profit and tax-exempt status
2. One year of housing counseling experience
3. Compliant with Fair Housing and Civil Rights Laws
4. Record keeping and reporting in compliance
5. Using a HUD-approved Client Management System (CMS).
6. Have a properly identified office (signage)
7. Have knowledge of HUD programs and local housing market.

All LHCAs must submit a Housing Counseling Work Plan, which outlines how their program(s) will work and their anticipated outcomes. Once HUD has approved an agency they will then be listed on the HUD website or can be identified by calling (800) 569-4287.[40]

Approved Housing Counseling and Education Topics

The following are examples of approved housing counseling, education and outreach topics that participating agencies may provide to, and discuss with, clients:

1. Pre-purchase/home buying
2. Resolving or preventing mortgage delinquency or default
3. Non-delinquency post-purchase, including home maintenance
4. Locating, securing or maintaining residence in rental housing
5. Homeless assistance
6. Fair housing/fair lending
7. Financial management/budgeting
8. HECM mandatory counseling and education

HECM (Reverse Mortgage) Origination Counseling

The most important consumer protection built into the reverse mortgage program is the requirement that a prospective borrower must first meet with

[39] HUD 7610.1 REV-5, 2-1
[40] HUD Housing Counseling

an exam-qualified, independent third-party counselor approved by the U.S. Department of Housing and Urban Development (HUD) before signing a loan application or incurring any fees.[41] HUD has approved nearly 800 individuals to be on its Approved Counselor Roster as Reverse Mortgage (HECM) Counselors.

HECM counseling is a requirement whether the reverse mortgage is for purchasing a home, refinancing from one HECM to another or refinancing from a forward mortgage to a HECM. A lender may not process a Home Equity Conversion Mortgage without the required counseling certificate. The HECM Certification is in addition to the Housing Counseling Certification exam. HECM Counselors have received special training from Neighborworks America and are required to pass a separate Federal Exam.

Requirements of HECM Counselors

Since the reverse mortgage is so different from forward mortgages, a HUD Certified Home Equity Conversion Mortgage (HECM) counselor has special requirements while counseling potential borrowers. One such requirement is that the counselor must ask ten questions to determine whether the client has understood the essential features of the reverse mortgage. The counselor must disclose to the client that questions will be asked during the counseling session to determine if the client understands the information being discussed. These questions should be asked randomly during the counseling session.

Clients must answer at least five questions correctly. Because these questions are meant to test the most basic mortgage concepts, if the client cannot provide adequate answers for five questions, the counselor is not allowed to issue the counseling certificate and must determine what course of action should be taken.[42]

Typical questions the counselor might ask would be:

- When does the reverse mortgage have to be paid back?
- When you have a reverse mortgage, who owns your home?
- What homeowner responsibilities will you continue to have after you get a reverse mortgage?

[41] National Reverse Mortgage Lenders Association
[42] HUD manual 7610.0, HECM Housing Counseling Protocol

HUD's Anti-Steering Statement

Helping clients resolve their housing problems may include discussing for-profit entities such as lenders or real estate professionals. If a client requests information or asks questions about a particular for-profit entity, or if the counselor feels that having information about a specific for-profit entity is in the best interest of the client, the agency may discuss the entity but must also identify and discuss a minimum of three reasonable alternative for-profit entities, if available.[43]

LHCA Fee Schedule

Participating agencies must inform counseling and education clients of any fee schedule/structure in advance of providing services, including the intake process. Additionally, an agency's fee schedule must be posted in a prominent place that is easily viewed by clients; however, participating agencies should also verbally communicate the fee schedule directly to the clients. Agencies must not refuse to provide counseling services if a client cannot afford to pay fees.[44]

Performance Reviews

HUD may conduct periodic on-site or desk performance reviews of all participating agencies. HUD reserves the right to monitor a participating agency's performance, whether on-site, remotely or a combination of both, as part of the re-approval process or based on perceived risk. The performance review will consist of a review of the participating agency's compliance with program requirements, including applicable civil rights requirements, and the agency's ability to deliver quality counseling services.[45]

Housing Counseling Works

HUD approved Housing Counseling has been helping consumers across America make informed housing decisions for more than 50 years. The HUD Office of Housing Counseling's recent statistics for the first nine months of HUD's fiscal year 2021, show that HUD counseling agencies:

- Counseled over 808,222 households

[43] 7610.1 REV-5, 3-13
[44] 7610.1 REV-5, 6-1, Par. I
[45] 7610.1 REV-5, 6-3

- 287,784 households received group education
- 520,438 households received one-on-one counseling

For the State of California, for the same period, counseling agencies:

- Counseled 68,100 households
- 23.900 received group education
- 44,200 received one-on-one counseling

HUD requires that every client or household with whom an agency works with are to receive, at a minimum:

- Information on fair housing and fair lending laws
- A sustainable budget for the household
- An Action Plan that tells them of their next steps
- Referrals for services not offered by the agency
- Disclosures as required by HUD[46]

Nationally, the most common topics for education were pre-purchase homebuyer education (47%) and financial literacy (40%), including home affordability, budgeting, and understanding the use of credit.[47] Only 18% of HUD-certified housing counseling covered mortgage delinquency, default resolution or prevention; other common topics included pre-purchase or home buying counseling (44%), rental topics (17%), and reverse mortgages (12%).

Affirmatively Furthering Fair Housing

The passage of the Fair Housing Act (FHA) sought to address the pervasive housing discrimination that existed during the 1960s. However, the FHA also contains a powerful mandate: that it is simply not enough to prohibit housing discrimination, but that the federal government must do more in its programs and activities to achieve the aims of the Fair Housing Act.

This mandate is known as the obligation to Affirmatively Further Fair Housing (AFFH). The AFFH obligation requires federal agencies and federal funding recipients (such as housing counseling agencies) to take proactive steps to address longstanding patterns of segregation, discrimination, and

[46] 7610.1 REV-5, 6-1, Par. H
[47] The state of the Housing Counseling, U S Department of HUD

disinvestment. The Department of Justice (DOJ) and the Department of Housing and Urban Development (HUD) are jointly responsible for enforcing the federal Fair Housing Act, which prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability.

HUD's Office of Fair Housing and Equal Opportunity (FHEO) works to eliminate housing discrimination promote economic opportunity and achieve diverse, inclusive communities.

HUD approved housing counselors are trained to look for and identify possible violations of the Fair Housing Act. They are also required to report such violations directly to HUD. Clients can also report violations online by going to: https://portalapps.hud.gov/FHEO903/Form903/Form903Start.action

In 2019 the number of fair housing complaints that were reported to HUD was 28,712. It was noted that 73.5% of these complaints were received by private fair housing organizations such as HUD approved housing counseling agencies.[48]

Mortgage Lending Violations

While most Fair Housing complaints come from the real estate sales and property management areas, the mortgage industry is also guilty of various fair housing and fair lending complaints. As MLOs we should all be reminded that it is illegal to discriminate if we, or our company, takes any of the following actions based on race, color, religion, sex, disability, familial status, or national origin:

- Refusing to make a mortgage loan or provide other financial assistance for a dwelling
- Refusing to provide information regarding loans
- Imposing different terms or conditions on a loan, such as different interest rates, points, or fees
- Discrimination in appraising a dwelling
- Conditioning the availability of a loan on a person's response to harassment
- Refusing to purchase a loan[49]

[48] Fair housing complaints remained elevated in 2020
[49] HUD's Office of Fair Housing and Equal Opportunity (FHEO)

Housing Counseling Federal Advisory Committee

The Housing Counseling Federal Advisory Committee (HCFAC) was established to advise HUD's Office of Housing Counseling (OHC) to meet its mission to provide individuals and families with the knowledge they need to obtain, sustain, and improve their housing through a strong national network of HUD-approved housing counseling agencies and HUD certified counselors. The HCFAC consists of eight individuals. The memberships represent the mortgage and real estate industry, consumers and HUD-approved housing counseling agencies. The formation of this committee was a requirement of the Dodd-Frank Act. [50]

About 2,000 HEC agencies are part of HUD's network as of 2016. The most recent comprehensive review of the housing counseling industry, published by HUD in 2020, found that HUD-certified nonprofit organizations were "by far" the most common HEC providers. Others providers include state and local governments as well as entities not eligible for HUD approval, such as lenders, real estate agents, and mortgage companies. HUD's 2008 review also found that most agencies were relatively small, with 15 or fewer employees and serving fewer than 500 clients per year. Housing counseling agencies use a wide array of curricula and several other sets of HEC standards complement HUD's.

The voluntary and self-certified National Industry Standards for Homeownership Education and Counseling, for example, have been widely adopted. These standards impose a code of ethics; describe minimum operating standards, such as training and certification expectations for homeownership counselors; and create minimum content standards, such as key topics for homeownership education.[51]

Required Agency Reporting to HUD

All Housing Counseling Agencies (HCA) are required to report their activity to HUD every quarter of each fiscal year. The report is completed by each agency on HUD form 9902.

[50] HUD Exchange Housing Counseling
[51] National Industry Standards for Homeownership Education and Counseling

The report helps HUD track the number of households each agency is seeing and what services they are providing. It breaks down the households that received counseling by their ethnicity, race, income levels and whether or not they live in a rural area. It also separates households that received one-on-one counseling, group education and/or both.

The income levels that HUD uses to track clients are based on a percentage of the Area Median Income (AMI). The AMI is determined and released every year by HUD. The AMI is the midpoint of a region's income distribution – half of families in a region earn more than the median and half earn less than the median. Knowing the AMI of an area your client is considering is important, as many HUD programs and many loan programs are only available to households in the lower income level. The percentages that are used for the 9902 reporting determine the household levels into these percentages:

a. < 50% of AMI
b. 50 – 79% of AMI
c. 80 – 100% of AMI
d. > 100% of AMI[52]

The 9902 report also lets HUD know if the household was helped under funding from HUD or if the HCA received funding from another source. HUD does not want to be the HCAs only source of funding.

Therefore, HCAs depend on funding from state and local governments as well as from major banks. HUD also allows HCAs to charge fees for some of their services.

The last section of the 9902 report tells HUD what the result or outcomes were for the households who received counseling.

Working with an HCA

As part of HUD's Strategic Plan, one of their goals can be paraphrased as:

"Homeownership is the platform for a better quality of life"[53]

[52] HUD-9902 Desk Guide
[53] 2010 – 2015 HUD Strategic Plan

The role of an HCA is to educate households who want to become homeowners. To the homeowner who might be struggling with their mortgage, the role is to offer help so that the client better understands what options are available to them.

Both real estate agents and MLOs should seek out HCAs in their local service area and learn more about the services the HCA has to offer. Many times, HCAs look to mortgage professionals to speak at homebuyer workshops. HCAs are always seeking knowledgeable professionals to volunteer to help at outreach events.

It is a known fact that clients who have been educated in the home buying process, become much better clients to work with – both from the perspective of the real estate agent and the MLO.[54]

Time to Think 2.1

1) Which Act of Congress created the Centralized Office of Housing Counseling?
2) Counselors on which type of mortgage must have additional training?
3) The Housing Counseling Handbook is number ______.

Ethics in Mortgage Banking

The Importance of being an Ethical Mortgage Loan Originator

The longer that you work in the mortgage industry, the more apparent it becomes that you are successful for many reasons. However, the one reason that stands out above the others centers around your ethical behavior.

Often MLOs believe that the company they work for is what sets them apart. Is it the rates, the types of programs, the speed at which loans are processed or just what is it? While all of these are important, this author believes that your ethical behavior or simply put, your ethics is a big part of your success. While legislation such as the Dodd-Frank Act, tries to keep originators in line, no law or regulation can control the ethics that you bring to your job.

[54] Why housing counseling?

So Why Do Ethics Matter?

Ethics matter because (1) it is part of how many groups define themselves and thus part of the identity of their individual members, (2) other regarding values in most ethical systems both reflect and foster close human relationships and mutual respect and trust, and (3) it could be “rational” for a self-interested person to be moral, because his or her self-interest is arguably best served in the long run by reciprocating the moral behavior of others.[55]

Ethics Knows No Boundaries

As part of its effort to fight predatory lending in the Mid-West, the Tri-State Best Practices Lending Committee drew up this code. This code may be something for all to consider as a way to call attention to your ethics. It calls for all mortgage lenders to:

1. Protect everyone they deal with against fraud, misrepresentation or unethical practices of any nature.
2. Adopt a policy that will enable them to avoid errors, exaggeration, misrepresentation or the concealment of any pertinent facts.
3. Steer clear of engaging in the practice of law and refrain from providing legal advice.
4. Follow the spirit and letter of the law of Truth in Advertising.
5. Provide written disclosure of all financial terms of the transaction.
6. Charge for their services only such fees as are fair and reasonable and which are in accordance with ethical practice in similar transactions.
7. Never condone, engage in or be a party to questionable appraisal values, falsified selling prices, concealment of pertinent information and/or misrepresentation of facts, including the cash equity of the mortgagor in the subject property.
8. Not knowingly put customers in jeopardy of losing their home, nor consciously impair the equity in their property through fraudulent or unsound lending practices.
9. Avoid derogatory comments about their competitors but answer all questions in a professional manner.
10. Protect the consumer's right to confidentiality.
11. Disclose any equity or financial interest they may have in the collateral being offered to secure the loan.

[55] Why do ethics matter/YouTube

12. Affirm commitment to the Fair Housing Act and the Equal Credit Opportunity Act.[56]

Webster's defines ethics as the discipline dealing with what is good and bad and with moral duty and obligation.[57] As a licensed MLO, one also needs to think in terms of having a fiduciary responsibility to our clients. Regardless of your licensing, be it the Department of Real Estate (DRE) or the Department of Financial Protection and Innovation (DFPI), MLOs must embrace the high standards of fiduciary responsibility. In other words, doing what is in the best interest of your client, your borrowers.

While the website of the DFPI has a very thorough glossary of financial terms, the words 'fiduciary responsibility' are not included. However, what is included is the term, 'financial fraud.' Its definition is "The crime of gaining money or financial benefits by deception or lying".[58]

Going about your profession with an attitude of fiduciary responsibility, will pay you dividends of repeat and referral business. Clients tend to gravitate to MLOs who take the time to explain different mortgage options. This practice will also keep you busy with clients when other MLOs are slow. After all, it is about doing what is in the best interest of your clients.

Mortgage Fraud

Forgery, lies, fake documents and blank documents are all common in mortgage fraud. The rescuer/scammer takes advantage of the homeowner, lying about the ability to save your home, even having the homeowner sign blank or fake documents to give the impression that action is being taken and help is on the way. Often the scammer talks about guaranties and promises. Those are both red flags!

Housing Counselors are trained to remind clients to never sign a document that needs to be notarized, without making sure the client understands the purpose and impact that the signing of this document will have.

[56] A Code of Ethics for Lenders
[57] Merriam-Webster's Collegiate Dictionary, 11th edition
[58] Glossary of Financial Terms

Avoiding Foreclosure Rescue Fraud

In a foreclosure rescue fraud scheme, someone may falsely promise to be able to save your home from foreclosure. Common elements of this scheme include the fraudster or scammer:

- Requiring you to sign over to them the title to your home.
- Asking you to sign unfamiliar documents.
- Asking you to share your personal information.
- Charging you rent to stay in your home.
- Offering to pay your delinquent mortgage by purchasing your home.
- Promising that you can repurchase your home when your financial situation improves.

The people orchestrating these schemes pose as professionals and promise to stop foreclosure, often at a high price. However, these people do not deliver on their promises. As a result, you could lose the title to your home and are at risk of foreclosure.[59]

CAMP's Stance on Predatory Lending

The California Association of Mortgage Professionals supports a consumers' right to be treated fairly and honestly, and to be given equal access, full disclosure, and be subject to an objective evaluation of their creditworthiness.

Ethical mortgage professionals utilize recognized standards including work history, creditworthiness, down payment capacity and debt-to-income ratios to evaluate and process loan applications. They strive to provide consumers with a variety of options based on each consumer's individual financial situation and long-term goals. Professional loan originators explain all relevant loan information and give consumers the time necessary to make informed and considered decisions regarding their home financing choices. By contrast, predatory lending practices are based on fraud, deception, coercion and greed. The Association unconditionally denounces predatory lending practices.

Predatory lending is intentionally placing consumers in mortgage loans with significantly worse terms and higher costs than loans offered to similarly

[59] My Home by Freddie Mac

qualified consumers, by the majority of mortgage professionals or lenders in the region, for the primary purpose of enriching the loan originator and with little or no regard to the costs to the consumer.

Predatory lending is not only unethical, predatory lending practices are often violations of state and federal law. Examples include:

- **Fraud:** Forged loan documents, falsified tax returns or other documents, overstating income or assets to qualify borrowers for loans they cannot afford or inflated appraisals.
- **Discrimination:** Charging higher rates and fees with less favorable terms to borrowers based on their race, national origin, age, marital status or neighborhood than would be charged according to traditional factors such as employment history, credit record, and sufficient income to make required mortgage payments.
- **Misrepresentation:** The costs or loan terms at closing are not as advertised, or as presented at the time of application, and which are not properly disclosed prior to closing as mandated by law.
- **Bait and Switch**: Qualified borrowers are steered away from affordable options for the express purpose of increasing fee income to the unethical loan originator.
- **Non-Disclosure**: Key costs, fees, and terms that are partially, inaccurately, or not disclosed in violation of law and state and federal lending regulations

To protect consumers from falling victim to predatory lending practices, the California Association of Mortgage Professionals encourages its members to advise borrowers to:

- Never sign a blank document.
- Read all documents carefully and ask questions. Do not be hurried into signing anything you do not clearly understand.
- Stop the entire transaction if you feel you are not getting clear answers
- Be wary of telephone, mail or e-mail solicitations, especially promises that seem “too good to be true.” Experience shows they probably are.

- Do not be pressured into applying for more money than you can reasonably be expected to pay back according to the terms of your loan.
- Get copies of all loan documents, especially anything you have signed

Whenever possible, seek recommendations from friends, associates, and other trusted advisors, to assist in selecting a broker or lender.[60]

Mortgage Fraud Case Study #1[61]

Ernesto Diaz, 66, former El Monte, California resident, a former Realtor and longtime fugitive was sentenced today to 48 months in federal prison for scheming to defraud distressed homeowners out of nearly $4 million by falsely promising them help with their mortgages, but instead pocketing their money causing many victims to lose their homes.

From March 2010 to March 2011, Diaz and co-defendant Maria Marcella Gonzalez, Whittier, California ran a fraudulent mortgage-elimination program that operated in Montebello, California under the name Crown Point Education Inc. Diaz and Gonzalez advertised to distressed homeowners that the Crown Point program could eliminate whatever balance existed on their mortgages.

Homeowners, who had fallen behind on their mortgage payments, paid Crown Point thousands of dollars, typically with a partial payment demanded at the program's inception, followed by monthly fees.

Diaz and Gonzalez offered seminars describing the Crown Point program to prospective customers. At the seminars, Diaz and Gonzalez guaranteed that the Crown Point program would be successful and had cleared the mortgage problems of past customers. Diaz and Gonzalez often counseled customers to cease mortgage payments to their lenders altogether and to pay Crown Point instead.

After clients signed up for the program and paid a fee – usually $15,000 per property – Diaz and Gonzalez directed others to mail packets of information to the clients' lenders that falsely asserted that the client's mortgages were

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[60] CAMP
[61] Department of Justice Release

invalid and that mortgages would be extinguished if the lenders did not respond.

In fact, Crown Point had no success in eliminating customer mortgage debt and many customers – including Diaz's brother – lost their homes.

One integral part of the scheme involved the filing of unauthorized bankruptcy petitions to delay the foreclosure process, leaving victims with the impression that the Crown Point program was working and inducing them to continue making payments, but damaging clients' credit ratings in the process.

Many victims could have qualified for loan modifications or legitimate foreclosure forbearance programs to save their homes. However, they were never able to avail themselves of these options.

Gonzalez pleaded guilty in July 2015 to two counts of superseding information charging her with making a false statement in a bankruptcy declaration. Judge Wilson sentenced her to 70 months in federal prison. Diaz was also ordered to pay $3,061,159 in restitution to his victims.[62]

Mortgage Fraud Case Study #2[63]

Ira Morya Davis, 40, Irving, Texas, pleaded guilty to conspiracy to commit wire fraud on Oct. 26, 2021. Davis and at least two other co-conspirators devised a fraud scheme targeting various financial institutions and real estate purchasers. Davis and his co-conspirators created shell companies and executed various mortgage and property documents that purportedly conveyed ownership interests of various real properties from the true owners to the conspirators' shell companies.

Davis and his co-conspirators then filed the fraudulent documents with county offices falsely showing that they had mortgage liens on the properties, sold the properties, and triggered the title companies to unwittingly fund the co-conspirators. During the course of the scheme, Davis obtained and used fraudulent notary stamps using real people's identities, which enabled the conspirators to legitimize the otherwise fraudulent documents. Davis and

[62] Mortgagefraudblog.com
[63] Department of Justice Release

his co-conspirators targeted multiple properties, and the financial harm resulting from his offense was at least $2.5 million.

Davis faces up to 20 years in federal prison. A sentencing hearing will be scheduled after the completion of a presentence investigation by the U.S. Probation Office. The case is being investigated by the Federal Housing Finance Agency, The Office of Inspector General and the Federal Bureau of Investigation.[64]

Mortgage Fraud: Don't Be Complicit

California is the fifth-highest state for mortgage fraud risk as of Quarter 2 of 2021. For reference, nationally, Core Logic's mortgage fraud index rose to 132 in Q2 of 2021, where 100 equals the average mortgage fraud level in 2010, when the index began. In California, the index was as high as 157.

Here in California, the metro areas with the highest level of mortgage fraud risk are in order of highest risk:

- San Jose, with an index of 189;
- Los Angeles, with an index of 176;
- San Francisco, with an index of 171;
- Stockton, with an index of 151; and
- Sacramento, with an index of 142.[65]

High levels of mortgage fraud are worrisome because when mortgage applicants skirt around the requirements, they are usually failing to meet the terms needed to ensure they avoid ***default*** down the road.

Further, mortgage fraud can also point to more sinister practices. For example, unlike money laundering, which tends to be perpetrated directly by *all-cash buyers*, mortgage fraud can often originate with *the lender* and end up targeting borrowers.

Identity Theft

An estimated nine million Americans have their identities stolen each year. Identity thieves may drain accounts, damage credit, and even put medical

[64] Mortgagefraudblog.com
[65] Journal.firsttuesday.us/californias-mortgage-fraud

treatment at risk. The cost to businesses — left with unpaid bills racked up by scam artists — can be staggering, too.[66]

It wasn't until Congress passed the Identity Theft and Assumption Deterrence Act of 1998 that identity theft was officially listed as a federal crime. The act strengthened the criminal laws governing identity theft. Specifically, it amended existing law ("Fraud and related activity in connection with identification documents") to make it a federal crime to knowingly transfer or use, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law.[67]

The Identity Theft and Assumption Deterrence Act accomplished four things:

- It made identity theft a separate crime against the individual whose identity was stolen and credit destroyed. Previously, victims had been defined solely by financial loss and often the emphasis was on banks and other financial institutions, rather than on individuals.
- It established the Federal Trade Commission (FTC) as the Federal Government's one central point of contact for reporting instances of identity theft by creating the Identity Theft Data Clearinghouse.
- It increased criminal penalties for identity theft and fraud. Specifically, the crime now carries a maximum penalty of 15 years imprisonment and substantial fines.
- It closed legal loopholes, which previously had made it a crime to produce or possess false identity documents, but not to steal another person's personal identifying information.

Time to Think 2.2

1) When was Identity Theft classified a Federal Crime?

2) Which agency enforces the Red Flags Rules?

3) What does FACTA stand for?

[66] Fighting Identity Theft With The Red Flags Rule: A How-To Guide For Business
[67] Identity Theft and Assumption Deterrence Act

Fair Credit Reporting Act (FCRA)[68] and Fair and Accurate Credit Transactions Act (FACTA) of 2003[69]

FCRA is the law governing the accuracy and privacy of credit reports. FACTA amended the Fair Credit Reporting Act in 2003 to strengthen and add to the protections for victims of identity theft. These laws require consumer reporting agencies (CRAs) and creditors to help victims recover from identity theft, and allow consumers to place alerts on their credit files if they are or believe they may become victims of identity theft (fraud alerts). Consumers have the right to dispute inaccurate information, and CRAs and creditors must investigate the claim and correct information if it is inaccurate. The laws also entitle consumers to a free credit report once per year from each of the three credit reporting agencies. As part of the responsibilities under FACTA, the Federal Trade Commission and the federal financial agencies established "Red Flags Rule" requiring creditors and financial institutions to establish programs designed to address identity theft. [70]

The “Red Flags Rule” requires many businesses and organizations to implement a written identity theft prevention program designed to detect the red flags of identity theft in their day-to-day operations, take steps to prevent the crime, and mitigate its damage. The bottom line is that a program can help businesses spot suspicious patterns and prevent the costly consequences of identity theft.

The Red Flags Rule tells you how to develop, implement, and administer an identity theft prevention program. A program must include four basic elements that create a framework to deal with the threat of identity theft.

1. A program must include reasonable policies and procedures to identify the red flags of identity theft that may occur in your day-to-day operations. Red flags are suspicious patterns or practices, or specific activities that indicate the possibility of identity theft. For example, if a customer has to provide some form of identification to open an account with your company, an ID that doesn’t look genuine is a “red flag” for your business.
2. A program must be designed to detect the red flags you’ve identified. If you have identified fake IDs as a red flag, for

[68] FCRA
[69] FACTA
[70] FTC Red Flag Rules

example, you must have procedures to detect possible fake, forged, or altered identification.

3. A program must spell out appropriate actions you'll take when you detect red flags.
4. A program must detail how you'll keep it current to reflect new threats.

Just getting something down on paper won't reduce the risk of identity theft. That's why the Red Flags Rule has requirements on how to incorporate your program into the daily operations of your business. Fortunately, the Rule also gives you the flexibility to design a program appropriate for your company its size and potential risks of identity theft. While some businesses and organizations may need a comprehensive program to address a high risk of identity theft, a streamlined program may be appropriate for businesses facing a low risk.

Securing the data you collect and maintain about customers is important in reducing identity theft. The Red Flags Rule seeks to prevent identity theft, too, by ensuring that your business or organization is on the lookout for the signs that a crook is using someone else's information, typically to get products or services from you without paying for them. That's why it's important to use a one-two punch in the battle against identity theft: implement data security practices that make it harder for crooks to get access to the personal information they use to open or access accounts, and pay attention to the red flags that suggest that fraud may be afoot.

The Federal Trade Commission (FTC) enforces the Red Flags Rule with several other agencies. The Red Flag Rules require "financial institutions" and some "creditors" to conduct a periodic risk assessment to determine if they have "covered accounts." The determination isn't based on the industry or sector, but rather on whether a business' activities fall within the relevant definitions. A business must implement a written program **only** if it has covered accounts.

Identity Theft Penalty Enhancement Act of 2004[71]

This act establishes penalties for "aggravated" identity theft, which is using the identity of another person to commit felony crimes, including

[71] Identity Theft Penalty Enhancement Act

immigration violations, theft of another's Social Security benefits, and acts of domestic terrorism.

Identity Theft Enforcement and Restitution Act of 2008[72]

This act amends prior restitution law to make it clear that restitution orders for identity theft cases may include an amount equal to the value of the victim's time spent remediating the actual or intended harm of the identity theft or aggravated identity theft. The new law also allows federal courts to prosecute when the criminal and the victim live in the same state. Under previous law, federal courts only had jurisdiction if the thief uses interstate communication to access the victim's Personal Identifiable Information (PII).

Gramm-Leach-Bliley Act of 1999[73]

The Gramm-Leach-Bliley Act includes a Financial Privacy Rule, which requires financial institutions to provide consumers with a privacy notice when the consumer relationship is established and then annually thereafter. The privacy notice must explain what information the institution collects about the consumer, where that information is shared, how it is used, and how that information is protected. The notice must also identify the consumer's right to opt out of the information being shared with unaffiliated parties and notify him or her if the privacy policy changes.[74]

Anti-Money Laundering Update

The Financial Crimes Enforcement Network (FinCEN), issued a statement on June 30, 2021 addressing new government-wide priorities for anti-money laundering and countering the financing of terrorism policy.[75] These priorities are being issued pursuant to the Anti-Money Laundering Act of 2020.

The establishment of these priorities is intended to assist all covered institutions in their efforts to meet their obligations under laws and regulations designed to combat money laundering and counter terrorist financing.

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[72] Identity Theft Enforcement and Restitution Act
[73] Gramm-Leach-Bliley Act
[74] ftc.gov/idtheft
[75] 180-Day Update on AML Act Implementation and Achievements (June 30, 2021)

The priorities include:

1. Corruption
2. Cybercrime, including cybersecurity and virtual currency
3. Foreign and domestic terrorist financing
4. Fraud (of all types)
5. Transnational criminal organization activity
6. Drug trafficking organization activity
7. Human trafficking, human smuggling
8. Proliferation financing

Marketing Service Agreements

In October 2015, The Consumer Financial Protection Bureau (CFPB) issued a bulletin providing guidance to the mortgage industry regarding marketing services agreements.[76] The bulletin offers an overview of the federal prohibition on mortgage kickbacks and referral fees, and describes examples from the Bureau's enforcement experience as well as the risks faced by lenders entering into these agreements. During the course of supervising mortgage lenders and enforcing federal law, the Bureau has found that marketing services agreements carry legal and regulatory risk for lenders.

The bulletin explains that while marketing services agreements are usually framed as payments for advertising or promotional services, in some cases the payments are actually disguised compensation for referrals. Any agreement that entails exchanging a thing of value for referrals of settlement service business likely violates federal law, regardless of whether a marketing services agreement is part of the transaction.

The bulletin describes a number of legal violations the Bureau has encountered in investigations involving kickbacks and referral fees. For example, the CFPB found a title insurance company that entered into marketing services agreements where the fees paid by the company were based in part on the number of referrals it received, as well as the revenue generated by those referrals. In another case, a settlement service provider did not disclose its affiliate relationship with an appraisal management company and did not tell consumers that they had the option of shopping for services before directing them to the affiliate.

[76] CFPB Provides Guidance About Marketing Services Agreements

The CFPB's enforcement actions against companies and individuals for violations of the Real Estate Settlement Procedures Act (RESPA) have resulted in more than $75 million in penalties to date. The payment of improper kickbacks and referral fees has been the basis of almost all of those actions. As the bulletin notes, the CFPB intends to continue actively scrutinizing the use of such agreements and related arrangements in the course of its enforcement and supervision work.

AfBA Disclosure Requirements[77]

The RESPA Affiliated Business Arrangement (AfBA) disclosure form is required whenever a settlement service provider involved in a RESPA covered transaction refers the consumer to a provider with whom the referring party has an ownership or other beneficial interest.

The referring party must provide the AfBA disclosure to the consumer at or prior to the time of referral. The affiliated business arrangement disclosure must describe the business arrangement that exists between the two providers and give the borrower an estimate of the second provider's charges.

Except in cases where a lender refers a borrower to an attorney, credit reporting agency, or real estate appraiser to represent the lender's interest in the transaction, the referring party may not require the consumer to use the particular provider being referred.

Sometimes, several businesses that offer settlement services are owned or controlled by a common corporate parent. These businesses are known as "affiliates." When a lender, real estate broker, or other participant in your settlement refers you to an affiliate for a settlement service (such as when a real estate broker refers you to a mortgage broker affiliate) the form must be provided. The purpose of this form is to remind consumers that they are generally not required, with certain exceptions, to use the affiliate and are free to shop for other providers.

Mortgage Fraud Case Study #3[78]

A West Hollywood man who defrauded more than 2,000 homeowners and caused $7.6 million in losses was sentenced on August 2, 2021 to more than 12 1/2 years in federal prison.

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[77] § 1024.15
[78] Department of Justice Release

Patrick Soria, 35, was “a skillful conman who created a very sophisticated scheme,” U.S. District Judge Dale S. Fischer said, according to a statement from the U.S. district attorney's office. “This is not the largest case I have presided over in terms of dollars, but it is the most brazen and heartless,” Fischer said.

Prosecutors said Soria ran the mortgage fraud scheme around the country. He made phony filings at county recorders' offices claiming to own properties that he then sold. He used the money to fund a lifestyle that included escort services, luxury hotel stays and rentals of fancy cars, such as a Lamborghini, the prosecutors said. Soria also defrauded some homeowners by befriending them and convincing them that he could reduce their mortgage payments by modifying their loans or taking over their mortgages from their lenders, prosecutors said.

“After gaining the victims’ trust, Soria convinced homeowners to stop paying their real lender and to start paying him" and many lost their homes, the statement said. The properties involved were in states including California, Texas, New York and Nevada, prosecutors said. Soria pleaded guilty in March to conspiracy to commit wire fraud and contempt of court.

CA Penal Code 532F - Mortgage Fraud

California Penal Code § 532F[79] states that you can be charged with mortgage fraud if, “with the intent to defraud,” you:

- Deliberately make any inaccurate or misleading statements during the mortgage lending process
- You intentionally omit relevant information during the mortgage lending process that is relied on by the mortgage lender
- Receive funds as a result of information you knew to be false
- File documents containing the information you know to be false during the mortgage lending process.

This statute applies to anyone involved in a mortgage transaction, including the lender, borrower, along with others who participate in the process.

[79] Penal Code 532f PC

Penal Code 532F covers not only residential mortgage loan transactions, but also commercial loans and other forms of credit. Put simply, mortgage fraud occurs when somebody commits a fraudulent act directly related to the purchase, sale, rental or financing of real estate property.

These laws cover a wide array of conduct involving housing, rental agreements, mortgages, and foreclosures. They provide penalties for anyone who deliberately provides false representation connected to any part of a real estate transaction. Anyone convicted of mortgage fraud will face harsh penalties, including jail time, fines, and restitution.

Foreclosure fraud and other types of real estate fraud are normally a California "wobbler" offense that means the prosecutor has the discretion to file the case as either a misdemeanor or felony crime. A conviction will normally require defendants to pay restitution to the victim. Some common examples of real estate and mortgage fraud include:

1. Foreclosure fraud
2. Filing forged documents
3. Rent skimming
4. Illegal property flipping
5. Straw buyer schemes
6. Predatory lending schemes
7. Phantom help schemes

Mortgage Fraud Case Study # 4[80]

The Los Angeles Police Department announced the indictment and arrest of 12 individuals on 133 felony counts for allegedly operating a sophisticated mortgage fraud and green loan scheme throughout Southern California. The scheme resulted in a loss of approximately $15 million over the course of several years.

A Los Angeles County grand jury indicted the 12 individuals on charges of conspiracy, mortgage fraud, grand theft, identity theft, forgery, filing a false or forged document, money laundering, as well as a special allegation for aggravated white-collar crime. Eleven out of the twelve defendants were arrested on April 29, 2021. Eleven of the twelve defendants pleaded not guilty at their arraignments on May 5, 2021.

[80] LAPD Release

The arrests were the result of a multi-year investigation led by the Los Angeles Police Department, assisted by the Federal Housing Finance Agency, Office of Inspector General (FHFA-OIG). The Fraud and Special Prosecutions Unit of the California Department of Justice is prosecuting this case.

Between 2014 and 2020, defendants collectively ran a scheme that used stolen identities to obtain mortgage and green loans. The identities belonged to real persons, some of whom were in state prison, had developmental disabilities, or were deceased. Defendants seized control of these identities and commonly constructed synthetic identities with the real identities.

In constructing the synthetic identities, defendants created email accounts, shell companies, and bank accounts. They altered tax documents, payroll statements, and bank statements to reflect the identities as high-net worth individuals. They also forged the signatures, names, and personal information of the identities on loan applications, financial documents, and county recorder documents. Using this fake construction, defendants applied for millions of dollars in loans from unsuspecting lenders of mortgage and green loans, which were subsequently wired to bank accounts within the defendants' control.

As a part of their operation, defendants exploited Ygrene Energy Fund and Renew Funding. These companies provided funding to licensed contractors for energy-efficient home improvements for homeowners. Defendants also used the identities to obtain mortgage loans from conventional banks and hard money lenders. For years, they successfully applied for loans, culminating in a $15 million loss. Defendants forged court stamps, generated false court documents, or filed false bankruptcies to avoid responsibility for their actions. Arrest warrants were issued for all defendants.

Mortgage Fraud Case Study #5[81]

Ronald J. McCord, 71, Oklahoma City, Oklahoma, was sentenced this morning to serve 104 months in prison for defrauding locally-based banks, Fannie Mae, homeowners, and others through a broad range of fraudulent conduct.

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[81] Department of Justice Release

On June 3, 2020, a grand jury returned a 24-count indictment against McCord. The charges included bank fraud, money laundering, and making a false statement to a financial institution. McCord was the chairman and founder of First Mortgage Company an Oklahoma City based mortgage company. In May 2021, McCord admitted to defrauding Spirit Bank and Citizens State Bank.

An independent audit discovered that McCord had sold more than $14 million in Spirit/Mortgage Corp. and Citizens/Funding Corp. loans “out of trust” by failing to repay Spirit/Mortgage Corp. when certain Spirit/Mortgage Corp. initiated loans were refinanced or otherwise paid off. At the time of this discovery, FMC carried outstanding balances of about $200 million and $140 million on the Spirit/Mortgage Corp. and Citizens/Funding Corp. lines of credit, respectively.

Upon learning of McCord’s conduct, Spirit/Mortgage Corp. and Citizens/Funding Corp. terminated future warehouse lending to FMC and instituted new notification requirements that required McCord to assign FMC-funded mortgages to Spirit/Mortgage Corp. and Citizens/Funding Corp., to ensure the title companies handling those mortgages sent payoffs directly to the banks. McCord admitted at his change of plea hearing that he filed the assignments as required, but then caused the mortgages to be released on two properties after collecting the mortgage payoffs.

Spirit/Mortgage Corp. and Citizens/Funding Corp’s refusal to fund new FMC mortgages prompted McCord to seek out a new warehouse lender. In early 2017, McCord began negotiating with CapLOC, a North Carolina-based mortgage lending business, and offered to sell FMC’s mortgage lending business in exchange for quick funding from CapLOC. McCord admitted that he made a materially false statement and representation to CapLOC in the course of those negotiations, in order to influence CapLOC’s actions.

Finally, in 2017, FMC serviced approximately 12,000 loans worth a total of approximately $1.8 billion. McCord admitted at his plea hearing that he defrauded Fannie Mae by diverting escrow monies intended to pay homeowners’ taxes and insurance premiums to cover FMC’s operating expenses. McCord also admitted that he then laundered the proceeds by causing a wire transfer from FMC’s operating account to a custom home builder, as payment towards construction of McCord’s vacation home in Colorado. The announcement was made by Acting U.S. Attorney Robert J.

Troester.“*This sentence should serve as notice that those who defraud financial institutions for personal gain will be held accountable*.” McCord was also ordered to pay $51.8 million in restitution to the victims of his fraudulent schemes.

At the sentencing hearing, Judge Cauthron found that McCord caused a total loss of more than $95 million to local banks, other financial institutions, and borrowers. Judge Cauthron heard statements from representatives of three of those victims, as well as arguments from both parties, before rendering the 104 month sentence. The Court ordered McCord to self-surrender to the Federal Bureau of Prisons on January 6, 2022 to commence his term of imprisonment.

Time to Think 2.3

1) Which bill addressed Financial Privacy?

2) Entities with common corporate parents are called _______?

3) In California a crime that can be charged as a misdemeanor or felony is called a ____?

CHAPTER 2
REVIEW QUIZ

1) Which birthday will HUD celebrate in 2022?

2) What is a LHCA?

3) Approximately how many HUD certified counselors are there?
8., 80., 800., or 8,000

4) What is the borrower called in CA?

5) Refusing to purchase a loan could be discriminatory?

6) The HUD Form, HUD 9902 must be submitted _____?

7) You should follow the ________ and letter of the law?

8) CAMP stands for______.

9) Recommending a loan option that creates a better commission for an originator and not better results for the borrower is ____.

10) Anti-money Laundering regulations are enforced by ___.

11) Violations of RESPA Kickback Regulations should be reported to _______.

12) CFPB stands for ___________________.

13) The AfBA disclosure form is regulated by ________.

14) Do you think Ethics classes improve the Ethics of originators?

CHAPTER 3

Federal Law

SECTION 1

Who Established the Required CE Topics?

The required topics for the NMLS continuing education classes are determined by the Multi-State Mortgage Committee (MMC). The MMC is comprised of 10 appointed State Regulator members and one Conference of State Bank Supervisors (CSBS) member. Their role is to implement cooperative protocol between state agencies and the financial industry.[82]

The role of the State Regulators includes licensing and supervising of state-chartered banks and non-bank entities to include mortgage lenders. They ensure the financial services operate in a safe and sound manner.

The CSBS is the nationwide organization of American financial regulators. CSBS provides state supervisors a national forum to coordinate supervision and develop policy. CSBS also represents its members before federal policymakers and regulators, provides training, and manages the Nationwide Multistate Licensing System.

An examination is completed by State Regulators to determine if a financial institution is operating in compliance with state and federal laws. A review of a institution's loans and corporate records are conducted to decide whether the entities are effectively meeting the requirement to operate, monitor, and control risks associated with loan origination activities.

Individual mortgage loan originators are and will be held accountable by State Regulators for violations found during examinations. The required topics are common violations found through examinations performed by the MMC. The

[82] MMC Mortgage Examination Manual

following required CE topics are common violations found during MMC examinations:

- Equal Credit Opportunity Act (ECOA)
- E-Sign Act
- Fair Credit Reporting Act
- Housing and Urban Development
- Real Estate Settlement Procedures Act
- Truth-in-Lending Act

Adverse Action Rules

The adverse action rules are some of the key requirements of ECOA and Regulation B (Reg. B). There are three kinds of notices under the adverse action rules: the adverse action notice, the notice of incomplete application, and the counteroffer notice.

The notice of adverse action, or adverse action notice, must be sent to the applicant within 30 days after receiving a complete application concerning the creditors approval of, counteroffer to, or adverse action on the application, or within 30 days of taking an adverse action on an existing account (usually applicable to open-ended lines of credit).[83] If there are multiple applicants, the notification need only be given to one applicant, but it must be given to the primary applicant, if that can be ascertained.[84]

An application is defined as an oral or written request for an extension of credit that is made in accordance with procedures used by the creditor for the type of credit requested. A complete application is an application in which the creditor has received all the information that the creditor regularly obtains and considers in evaluating applications for the amount and type of credit requested.[85]

The Multi State Mortgage Committee and State Regulators are concerned that there may be an adverse action letter that includes conflicting dates. Reg. B, 12 CFR 1002.9 requires that once a creditor has obtained all the information it considers in making a credit decision and the application is complete, the creditor has 30 days in which to notify applicants of credit decisions in

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[83] § 1002.9(a)(1)
[84] § 1002.9(f)
[85] § 1002.2(f)

writing.[86] Some files reviewed do not meet the requirements set forth in the Statute and Administrative Interpretations. To prevent this mistake, creditors must review the adverse action notices prior to sending them.

What is an Adverse Action?

An adverse action is a refusal to grant credit substantially in the amount or on the terms requested in the application unless the creditor makes a counteroffer which the applicant accepts. Here are some examples of an adverse action:

1. Lender denies a loan application. An Adverse Action Notice, also known as a notification of action taken, must be provided to the applicant if an application is denied.
2. Lender tells an applicant that the borrower does not qualify for the loan amount initially requested because their income is insufficient, but qualifies the borrower for a lower loan amount.

For open-ended lines of credit, an adverse action also includes a termination of an account, or unfavorable change in the terms of the account that does not affect all of a class of the creditor's accounts, or a refusal to increase the amount of credit available to an applicant who applied for an increase. [87] The following are not considered to be an adverse action:

1. A change in terms of an account expressly agreed to by an applicant;
2. Any action taken in relation to default, delinquency or inactivity of an account;
3. A refusal to extend credit because applicable law prohibits it or -
4. A refusal to extend credit because the creditor does not offer the type of credit requested.[88]

Adverse Action Notice

The notice itself has to be in writing and state the following:

1. A statement of the action taken,
2. The name and address of the creditor,

[86] 12 CFR 1002.9
[87] § 1002.2(c)
[88] § 1002.2(c)(2)

3. A statement that it is unlawful for any creditor to discriminate against any applicant with respect to any aspect of a loan on the basis of race, color, religion, national origin, sex or marital status, or age, or because all or part the applicants income derives from public assistance, or because the applicant has in good faith exercised any Consumer Credit Protection Act rights.
4. The name and address of the Federal agency that administers ECOA compliance for the creditor, and either:
   - A statement of specific reasons for the adverse action taken, or
   - A disclosure of the applicant's right to request the specific reasons within 30 days, if the request is received within 60 days of the creditor's notice. The disclosure has to include the name, address, and telephone number of the person or office from which the statement may be obtained.[89]

If the creditor chooses to provide the reasons for the adverse action orally, the creditor shall also disclose the applicant's right to have them confirmed in writing within 30 days of receiving the applicant's written request for confirmation. The statement of reasons of adverse action required by paragraph (a)(2)(i) of the 12 CFR §1002.9 must be specific and indicate the principal reason(s) for the adverse action.

Stating that the adverse action was based on the creditor's internal standards or policies, or a statement that the applicant or other party failed to achieve a qualifying score on the creditor's scoring system are insufficient.[90]

For business credit applicants, the requirement depends on the size of the business. For a business that had gross revenues of $1 million or less in the preceding fiscal year, the rules are the same as for non-business applicants except that:

1. The statement may be given orally or in writing when the adverse action is taken;
2. Disclosure of the applicant's right to a statement of reasons may be given at the time the application is taken, instead of when the adverse action is taken, provided the creditor also gives the ECOA notice, and

[89] § 1002.9(a)(2)
[90] § 1002.9(b)(2)

3. For a telephone application, the creditor can give an oral statement of the action taken and the applicant's right to a statement of the reasons for the adverse action.[91]

For business credit applicants with gross revenues greater than $1 million in the preceding fiscal year, the creditor must notify the applicant of the adverse action taken either orally or in writing within a reasonable time, and provide a written statement of the reasons for the adverse action along with the ECOA notice if the applicant makes a written request for the reasons for the adverse action within 60 days of the notification.[92]

Failure to Accurately Complete the Adverse Action Notice

When an adverse action is taken on a consumer loan application based on information from an outside source other than a consumer reporting agency, such as a credit bureau, the creditor must include that information in the adverse action notice, or disclose to the applicant their right to request such information. Also, if the creditor obtained information from an affiliate other than in a credit report, or information concerning the affiliates own experience or transactions with the applicant, the Adverse Action Notice must include that information. To facilitate the creditor to provide the correct notice, the rule provides model forms for the different notices.

Notice of Incompleteness

Within 30 days of receiving an application that is incomplete, the creditor must notify the applicant either of 1) an adverse action taken, using the Adverse Action Notice or 2) the incompleteness using a Notice of Incompleteness. The Notice of Incompleteness is a written notice sent to applicant that sets forth the following:

1. The information needed to complete the application;
2. Designating a reasonable time for the applicant to provide the information; and

[91] § 1002.9(a)(3)(i)
[92] § 1002.9(a)(3)(ii)

3. Informing the applicant that failure to provide the information requested will result in no further consideration being given to the application.[93]

If the applicant fails to respond in the time given, the creditor doesn't have to send any more ECOA notices. If the lender does not send out the Notice of Incompleteness, and takes an adverse action on an incomplete application, the lender must send the Adverse Action Notice.[94] If the applicant sends in the additional information within the specified time, then the creditor has to take action on the application, and send out the appropriate ECOA notices.

At its option, the creditor can orally notify the applicant of the incompleteness, and if the application remains incomplete, the creditor has to send out the Notice of Incompleteness.[95]

ECOA Notice

The ECOA Notice is the following:
"The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is the Consumer Protection Bureau."[96]

The ECOA notice is usually given soon after receiving the loan application.

Requirement on Providing Appraisals

When a lender takes an application for a loan that will be secured by a first lien loan on the borrower's 1-4 unit dwelling, the creditor has to give the applicant a disclosure that they have the right to receive a copy of all written appraisals or valuations developed in connection with the application. The disclosure

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[93] § 1002.9(c)(2)
[94] § 1002.9(a)(1)(ii)
[95] § 1002.9(c)(3)
[96] 12 CFR 1002.9(b)(1); The list of federal agencies can be found here: https://www.consumerfinance.gov/rules-policy/regulations/1002/A/

must be given not later than the third business day after receiving the loan application.

Also, the creditor must provide an applicant a copy of all appraisals and other written valuations developed in the connection with an application for credit that is secured by a first lien on a dwelling.[97]

The creditor shall provide the copy of each appraisal or other written valuation promptly upon completion, or three business days prior to consummation of the transaction for closed-end loans or account opening for open-end credit, whichever is earlier. In California, consummation occurs when the promissory note and deed of trust are signed.

The applicant is allowed to waive the timing requirement as long as they receive a copy of the appraisal at or before consummation or account opening. The requirement applies even if the application is withdrawn, denied, or if the application is incomplete.[98] The creditor cannot charge the applicant for the copy of the appraisal, but can charge the borrower for the cost of the appraisal or valuation.[99]

Records Retention and Information for Monitoring Purposes

A creditor needs to retain an original or copy of applications for 25 months for consumer credit, and 12 months for business credit, after the creditor gives the Notice of Incompleteness or Notice of Adverse Action. The creditor must also retain a copy of the Adverse Action Notice or Notice of Incompleteness, if sent in written form, or the notation or memorandum that either was given, if they were given orally.

If the applicant submits a written statement alleging violation of ECOA or Reg B., the creditor must retain a copy for the applicable time period.[100] The same retention periods apply to Adverse Action Notices and written statement alleging ECOA or Reg B. violations involving open-ended lines of credit. The creditor must retain information beyond the required periods if the creditor has actual notice that it is under investigation or subject to an enforcement proceeding for a violation of ECOA or Reg. B. In that case, the information

[97] 12 CFR 1002.14(a)(1)
[98] 12 CFR 1002.14(a)(4)
[99] 12 CFR 1002.14(a)(3)
[100] 12 CFR 1002.12(b)(1)

must be retained until the final disposition of the matter, or an earlier time if allowed by a court order.
Other information must be retained for 25 months for consumer credit transactions, or 12 months for business credit transactions including:

1. Written or recorded information about self-tests for ECOA or Reg B compliance; and
2. Text of any prescreened solicitation, a list of criteria the creditor used to select potential recipients of the solicitations, and any correspondence related to complaints about the solicitation.

There is a special exception for business credit applications. If an applicant had gross revenues in excess of $1 million in its preceding fiscal year, the creditor only has to retain records of an adverse action for 60 days after notifying the applicant of the adverse action. If the applicant requests in writing the reasons for the adverse action within the 60 days, then the creditor shall retain the records for 12 months.

Information for Monitoring Purposes

Reg. B requires that creditors who receive applications for consumer loans to be secured by the applicant's primary dwelling that contains 1-4 units, collect the following information:

1. Ethnicity and Race
2. Sex
3. Marital status using the categories married, unmarried, and separated, and
4. Age

The creditor must inform the applicants that:
"The information regarding ethnicity, race, sex, marital status, and age is being requested by the Federal Government for the purpose of monitoring compliance with Federal statutes that prohibit creditors from discriminating against applicants on those bases." The creditor must also inform the applicant that if the applicant declines to provide the information, the creditor is required to note the ethnicity, race, and sex **based on visual observation or surname.**[101]

[101] 12 CFR 1002.13

Penalties

It is never a good idea to violate Federal law, and the penalties for violating ECOA and Reg B are steep. Violation of ECOA or Reg B. subjects the lender and/or broker to civil liability for actual damages, punitive damages, and a possible class-action lawsuit. Punitive damages are limited to $10,000 in individual actions, and the lesser of $500,000 or 1% of the lender or broker's net worth in class actions. Violators can also be liable for costs and reasonable attorney's fees to the applicant.[102]

Time to Think 3.1

1) A _________ is received once a creditor has obtained all the information it considers in making a credit decision**.**

2) An _________ Notice, also known as a notification of action taken, must be provided to the applicant if an application is denied.

3) A creditor must give an applicant for a first lien loan secured by the borrower's primary dwelling, a disclosure that the applicant is entitled to a copy of the **appraisal** no later than the __________ business day after taking the application.

[102] 12 CFR 1002.16

SECTION 2

Electronic Records and Signatures in Commerce

In 1999, two bills regarding the Electronic Records and Signatures in Commerce Act were introduced: one bill in the Senate introduced by Senator Spencer Abraham, a Republican Senator from Michigan, and one bill in the House of Representatives introduced by a number of Representatives. The Act was signed into law on June 30, 2000 by President Bill Clinton.

Its common name is the E-Sign Act. The purpose of the act is to provide a framework for allowing electronic signatures in interstate and foreign commerce. A contract cannot be found unenforceable solely because an electronic signature was used.[103]

The E-Sign Act states that information required by law to be in writing can be made available electronically if the consumer affirmatively consents electronically or confirms his or her consent electronically, in a manner that reasonably demonstrates the consumer can access information in electronic form. In addition, the business must clearly and conspicuously disclose certain information to the consumer such as soft-ware and hardware requirements before obtaining his or her consent. To summarize, the E-Sign Act requires:

- Pre-Consent Disclosures by the person asking the borrower or consumer to consent to receiving electronic disclosures;
- Consumer consent to the electronic disclosure and/or signatures;
- Post-Consent Disclosure – the on-going obligation to notify consumers of changes in hardware or software needed to access or retain the electronic records.

Pre-Consent Disclosure

Before asking a borrower to consent to receiving disclosures using electronic media, the person giving the disclosure must send the borrower a Pre-Consent

[103] 15 USC 7001(a)

Disclosure. The Pre-Consent Disclosure must be clear and conspicuous, and must do the following:

1. Inform the consumer of any right or option of the consumer to have the record provided on paper, and the right of consumer to withdraw the consent, and consequences or fees in the event of such withdrawal;
2. Inform the consumer whether the consent applies only to the current transaction or to identified categories of records that may be provided during the course of the parties' relationship;
3. Describe the procedures that the consumer must use to withdraw consent and to update information needed to contact the consumer electronically;
4. Inform the consumer of how, after the consent, consumer may, upon request, obtain a paper copy of an electronic record, and whether any fee will be charged for such copy;
5. Provide a statement of the hardware and software requirements for access to, and retention of the electronic records; and
6. The consumer consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent.[104]

The last requirement in the Pre-Consent Disclosure requires some thought. The method by which the lender or broker plans on delivering the notice will dictate what means the consumer can use to consent to the electronic delivery in a way that will fulfill the requirement. For instance, if the borrower has to go onto a portal on a website to access the disclosure, the method of consenting to the electronic delivery should involve accessing the portal.

Consent to Electronic Disclosures and Records

Next, the borrower must affirmatively consent to use of electronic records, and does not withdraw the consent.[105]

[104] 15 USC 7001(c)(1)(B) & (C)
[105] 15 USC 7001(c)(1)(A)

Post-Consent Disclosure

The person sending the electronic records has an on-going obligation to notify consumers of changes in hardware or software needed to access or retain the electronic records. If there is a change, the Post-Consent Disclosure must contain the following:

1. The revised hardware and software requirement for access to, and retention of the electronic records,
2. Right to withdraw consent without the imposition of any fees for such withdrawal and without any consequences not disclosed in the pre-consent disclosure, and
3. Consumer consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the new electronic format that will be used to provide the information that is the subject of the consent.[106]

Pre-Emption

Not only is there the Federal E-Sign Act governing electronic signatures, but most states also have legislation covering this area. The E-Sign Act provides that a state law or regulation may limit or supersede the E-Sign act under certain circumstances. One circumstance under which a state law may limit or supersede the E-Sign Act is if the law constitutes an enactment of Uniform Electronic Transactions Act ("UETA"), except that any exception to the scope of any such act shall be preempted to the extent such exception is inconsistent with E-Sign or would give greater legal status to a specific technology or technical specification.

The other circumstance under which the E-Sign Act allows for a state law to limit or supersede it, is if the state law specifies alternative procedures or requirements for the use or acceptance of electronic records or signatures to establish the legal effect, validity, or enforceability of contracts or other records if: 1) Such alternative procedures are consistent with E-Sign, 2) Such alternative procedures do not require or accord greater legal status or effect to the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or signatures;

[106] 15 USC 7001(c)(1)(D)

and, 3.) If it was enacted after June 30, 2000, the state law makes specific reference to the Federal E-Sign Act (California's law was enacted in 1999).[107]

It is important to note that the state of California has its own version of the Uniform Electronic Transactions Act (UETA) governing electronic signatures, located in the California Civil Code Section 1633.1 et seq.

There is some good news in this area from the Department of Real Estate. In summer of 2021, the DRE issued a Real Estate Bulletin Vol. 80, No. 2, in which they announced that the DRE has updated their position on the use of electronic signatures.

The DRE now allows the use of electronic signatures on 1) the Mortgage Loan Disclosure Statement (MLDS), the RE forms 881, 882 & 885, and 2) the Lender/Purchaser Disclosure Statement (LPDS), RE form 851. Prior to this change, the Department of Real Estate's position was that these forms had to be wet-signed.

Exceptions

E-Sign doesn't apply to the following:

- Contracts or records governed by wills and trust laws or regulations;
- Contracts or records governed by adoption, divorce or other family law matters;
- Contracts or records governed by the UCC except 1-107, 1-206 and Article 2 and 2A,
- Court orders, notices, or official court documents required to be executed in connection with a court proceeding;
- Notice of default, acceleration, repossession, foreclosure, eviction, or right to cure under a loan or lease for a primary residence of an individual;
- Notice of cancellation or termination of health or life insurance (excluding annuities);
- Notice of recall of a product or material failure of a product that risks endangering health or safety;
- Notice of cancellation or termination of utility services;

[107] 15 USC (7002(a)(2)(A)(ii))

- Any document required to accompany any transportation or handling of hazardous materials, pesticides or other toxic or dangerous materials.

E-Sign Act Take-Aways

In designing and implementing electronic consumer disclosures, consider the following issues:

1. Whether procedures are needed to deal with electronic disclosures that are returned undelivered;
2. Whether electronic disclosures are provided in a form that can be retained by consumers;
3. Duration of electronic notices or disclosures availability to consumers through the financial institution's systems;
4. Establishing a process to respond appropriately to consumer requests for paper copies of electronic notices and disclosures.
5. Dealing with changes in hardware or software that may create a risk that consumers will no longer be able to access or retain electronic disclosures.
6. In addition, ensure that electronic disclosures comply with the timing, format, content, and recordkeeping requirements of the underlying substantive rule (e.g., Regulation Z (Truth in Lending) and Regulation B (Equal Credit Opportunity Act).

Likewise, when choosing the technology, or an electronic platform on which to deliver contracts or disclosures electronically, consider whether technology used will:

- Reasonably be expected to reliably deliver disclosures to consumers,
- Maintain the security of sensitive customer information,
- Limit or prevent fraudulent and other illegal activities, and
- Provide disclosures in a form that consumers can retain.

SECTION 3

Fair Credit Reporting Act[108]

Similar to ECOA, the Fair Credit Reporting Act, or FCRA, also requires certain persons to notify the consumer of adverse actions taken. In this case, persons taking an adverse action using information contained in a consumer report, commonly known as a credit report, must notify the consumer.

Who is Covered?

Any person who takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report is covered. This definition is clearly very broad and would include lenders and brokers.

Requirements

Any person who takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report shall provide the following to the consumer:

1. Oral, written, or electronic notice of the adverse action;
2. Written or electronic disclosure of the numerical credit score used in taking the adverse action;
3. The name, address, and telephone number of the consumer reporting agency from which it received the information;
4. A statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken.[109]

[108] Fair Credit Reporting Act
[30] 15 U.S. Code § 1681m (a)

Contents of FCRA Notice of Adverse Action

As stated above, 15 USC 10681m(a)(3)(A) requires notification to an applicant when taking adverse action on a credit application. The notification shall contain the:

1. The name, address, and telephone number of the consumer reporting agency that furnished the credit report when the adverse action is based in whole or in part on any information contained in such a report.
2. In addition, 15 U.S.C. § 1681m(b)(1) requires notification to an applicant when credit is denied either wholly or in part based on the information obtained from a source other than a consumer reporting agency.

Time to Think 3.2

1) Like ECOA, the ________ requires that an adverse action notice be sent to a consumer when an adverse action is taken based on information found in a consumer report.

2) The FCRA adverse action notice must disclose the numerical ________ used in taking the adverse action.

3) The name, address and telephone number of the ______ that furnished the report upon which the adverse action was based must be contained in the FCRA adverse action notice.

SECTION 4

Housing and Urban Development (HUD)

To be approved by HUD for participation in the Title I or Title II FHA programs, the lender must meet a list of general requirements, and also meet the requirements for one of the eligible classes of lenders found in 24 USC 202.6-202.10. Title I loans are loans used to finance property improvements. Title II loans are loans used to finance the purchase of the property as the borrower's primary residence. Here are the general requirements.

1. **Business Form.** The lender must be either a corporation or other chartered institution, a permanent organization having succession, or a partnership. A partnership must meet other requirements in 24 CFR 202.5(a)(1)(i)-(iv).[110]
2. **Employees.** The lender shall employ competent employees trained to perform their assigned responsibilities in mortgage lending. The lender shall maintain adequate staff & facilities to originate & service mortgages or Title 1 loans in accordance with the applicable regulations.
3. **Officers.** All employees who will sign applications for mortgage insurance on behalf of the lender or report loans for insurance shall be corporate officers or shall otherwise be authorized to bind the lender in the origination transaction. The lender must ensure that an authorized person reports all originations, purchases, and sales of Title I loans or Title II mortgages to HUD for the purpose of obtaining or transferring insurance coverage.
4. **Escrows.** The lender must follow specific rules regarding the handling of escrow deposits.
5. **Servicing.** The lender shall service or arrange for servicing of the loans in accordance with HUD rules.
6. **Business Changes.** The lender must notify HUD of 1) changes in its legal structure, such as mergers, change in name or location, control of ownership, etc., and 2) if any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter,

[31] 24 CFR § 202.5

loan originator of the lender has been subject to sanctions for any of the "bad boy" activities listed below.

7. **Financial Statements.** The lender shall furnish HUD with audited financial statements within 90 days of its fiscal year end (with some exceptions), and submit to an examination of the parts that relate to its Title I or Title II program activities.

8. **Quality Control Plan.** The lender must implement a written quality control plan, acceptable to HUD that assures compliance with HUD rules and regulations.

9. **Fees.** The lender must pay an application fee and annual fees, including additional fees for each approved branch office. There are some exemptions from one or more of these fees.

10. **Ineligibility Due to "Bad Boy" Acts.** A mortgage lender, or any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the lender cannot engage in the following "Bad Boy" activities:

    a. Be suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under 2 CFR part 2424[111] or 24 CFR part 25[112], or by any other federal agency;

    b. Be indicted for, or have been convicted of, an offense that reflects adversely upon the integrity, competency, or fitness to meet the responsibilities of the lender to participate in the Title I or Title II programs;

    c. Be subject to unresolved findings as a result of HUD or other governmental audit, investigation, or review;

    d. Be engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility;

    e. Be convicted of, or have pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry:
        i. During the 7–year period preceding the date of the application for licensing and registration; or

[111] 2 CFR Part 2424
[112] 24 CFR Part 25

ii. At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust or money laundering;

f. Be in violation of provisions of the Secure and Fair Enforcement (SAFE) Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.)[113] or any applicable provision of state law; or

g. Be in violation of any other requirement established by HUD.

11. **Branch Offices.** A lender may, upon approval by HUD, maintain branch offices for the origination of Title I or Title II loans. A branch office of a mortgagee must be registered with the Department in order to originate mortgages or submit applications for mortgage insurance. HUD Handbook 4000.1[114] adds further guidance stating the mortgagee must register all branch offices in which it conducts FHA business including originating, underwriting, or servicing of FHA-insured mortgages.[115]

12. **Conflicts of Interest.** There is a prohibition against the lender being paid a referral fee, or receiving a fee, or paying a fee to anyone other than fees approved by HUD and paid for services performed.

13. **Reports.** Each FHA lender must submit an annual certification form, in addition to quarterly financial statements if the lender is experiencing specified financial hardships.[116]

14. **Net Worth.** FHA lenders must meet net worth requirements that depend on what type of lender they are when they received FHA approval, and whether or not they are considered a small business. The detailed requirements are found at 24 CFR 202.5(n).

Informed Consumer Choice Disclosure

Title 24 Part 203.10 requires that borrowers pursuing FHA loans must be provided an Informed Consumer Choice Disclosure Notice. This notice must

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[113] 12 U.S. Code § 5101
[114] HUD Handbook 4000.1
[115] 24 CFR § 202.5(k)
[116] 24 CFR § 202.5(m)

be revised at least annually in order to ensure borrowers receive accurate information.

The notice must contain the following:

- Provide a one page generic analysis comparing the mortgage costs of an FHA–insured mortgage with the mortgage costs of similar conventional mortgage products offered by the mortgagee that the prospective FHA mortgagor may qualify for;
- Provide information about when the requirement to pay FHA mortgage insurance premiums terminates; and
- The amount of the prospective mortgage cannot exceed the limits found in section 203(b)(2) of the National Housing Act (12 USC 1709(b)(2).

The notice must be given in the format of the model form provided by HUD. The notice must be provided to a prospective FHA borrower no later than three business days after the lender received the borrower's application.

SECTION 5

Real Estate Settlement Procedures Act (RESPA)

RESPA was passed in 1974, and was mostly concerned with the disclosure of settlement costs. In addition to the disclosure of settlement costs, RESPA also contains the requirement of the Home Ownership Booklet, escrow account requirements and other loan servicing rules, and the prohibitions against kickbacks and unearned fees.

Prohibitions Against Kickback and Unearned Fees

Section 8 of RESPA is the section which prohibits kickbacks and unearned fees. The prohibition against kickbacks contained in section 8(a) of RESPA states, “No person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.”[117]

The prohibition against unearned fees in section 8(b) of RESPA states, “No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed.” The effect of these two provisions is that (1) settlement service providers must be careful that they aren’t paying for, or accepting money or a “thing of value” for referrals of a federally related mortgage loan, and (2) settlement service providers have to be careful that they are only charging for actual work performed.

The penalty for violating section 8 of RESPA is a fine of not more than $10,000 or imprisonment of not more than one year, or both, for the person paying the kickback, referral or unearned fee, and also for the person accepting the kickback or unearned fee.

[117] §1024.14

Affiliated Business Disclosure

Regulation X, 12 C.F.R., §1024.15(b)(1)[118] states that lenders are required to provide an Affiliated Business Arrangement disclosure form at the time of referral, or at the time of loan application, that discloses the ownership and financial interest between the parties, and provides an estimate of the charges generally made by the service provider.

An “affiliated business arrangement” means an arrangement in which (A) a person who is in a position to refer business incident to or a part of a real estate settlement service involving a federally related mortgage loan, or an associate of such person, has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1 percent in a provider of settlement services; and (B) either of such persons directly or indirectly refers such business to that provider or affirmatively influences the selection of that provider.[119]

Here are some examples of an affiliated business arrangement:

1. A mortgage broker has a wholly-owned escrow company
2. A Realtor and a title company jointly own a title agency
3. A lender owns a real estate brokerage

Regulation X sets forth the rules under which an affiliated business arrangement can be accomplished without violating RESPA. It consists of the following requirements:

1. Written disclosure
2. Disclosure must be given within specified time frames
3. Restrictions on the “things of value” given
4. Records retention

Written Disclosure

The written disclosure must be given to each person to whom business is referred. The written disclosure must be in the format of the Affiliated Business Arrangement Disclosure Statement set forth in the rule, and reproduced below, listing:

[118] § 1024.15(b)(1)
[119] 12 U.S. Code § 2602

1. The nature of the relationship between the provider of the settlement services or business incident thereto and the person making the referral; and
2. An estimated charge or range of charges generally made by such provider.
3. The disclosure must be provided on a separate piece of paper.

Timing of Disclosure

The disclosure must be given no later than:

- The time of each referral, or
- The time of the loan application, if the lender requires use of a particular provider, except that the lender can also give the disclosure at the time the Loan Estimate is given; and
- Whenever an attorney or law firm requires a client to use a particular title insurance agent, the attorney or law firm shall provide the disclosures no later than the time the attorney or law firm is engaged by the client.

Exceptions

There are a few exceptions to the requirement of giving the written disclosure:

1. Where a lender makes a referral to a borrower, the written notice requirement is satisfied at the time that the Loan Estimate or good faith estimate is given; or
2. Whenever an attorney or law firm requires a client to use a particular title insurance agent, the attorney or law firm shall provide the disclosures no later than the time the attorney or law firm is engaged by the client.[120]

Safe Harbor

Even if a settlement service provider fails to comply with this requirement, there is a safe harbor, if the person making the referral can prove by a preponderance of the evidence that procedures reasonably adopted to result in

[120] § 1024.15(b)(1)

compliance with these conditions have been maintained and that any failure to comply with these conditions was unintentional and the result of a bona fide error. However, an error of legal judgment with respect to a person's obligations under RESPA is not a bona fide error.

Cannot Require Use of Particular Providers

The person making a referral cannot require any person to use any particular settlement service provider, or provider of business incident to settlement services, with the following exceptions:[121]

1. The referring person is a lender, for requiring a buyer, borrower or seller to pay for the services of an attorney, credit reporting agency, or real estate appraiser chosen by the lender to represent the lender's interest in a real estate transaction,
2. If such person is an attorney or law firm for arranging for issuance of a title insurance policy for a client, directly as agent or through a separate corporate title insurance agency that may be operated as an adjunct to the law practice of the attorney or law firm, as part of representation of that client in a real estate transaction.

Payment for Referrals Prohibited

The prohibition of payments for referrals in Section 8 of RESPA still applies.[122]

Timing of TRID Disclosures

RESPA also requires that the Loan Estimate and Closing Disclosure be given to the borrower within certain time frames. The Loan Estimate and Closing Disclosure are collectively known in the mortgage industry at the TILA-RESPA Integrated Disclosures, or TRID disclosures. The Consumer Financial Protection Bureau (CFPB) calls these forms, Know Before You Owe disclosures, or KBYO disclosures.

[121] § 1024.15(b)(2)
[122] § 1024.15(b)(3)

The Loan Estimate is often referred to by industry professionals as the "LE" and the Closing Disclosure is referred to as the "CD". A lender shall provide all applicants for a federally related mortgage loan with a loan estimate of the amount of, or range of charges for the specific settlement services the borrower is likely to incur in connection with the settlement within three days from the date of the loan application.[123]

Additionally, United States Code requires that "each person who makes a federally related mortgage loan shall disclose to each person who applies for the loan, at the time of application for the loan, whether the servicing of the loan may be assigned. Both of these requirement are met by the lender or broker delivering a properly completed LE within 3 days of receiving the loan application. The requirement of disclosing the estimated amount of charges for specific settlement services the borrower is likely to incur is found on page 2 of the LE, as shown in the following example.

Closing Cost Details

Loan Costs

A. Origination Charges	$10,404
1.89 % of Loan Amount (Points)	$6,804
Broker Fee	$3,600
B. Services You Cannot Shop For	$3,596
25102 (f) Filing Fee	$50
Appraisal Fee	$600
Flood Certification	$14
Tax Service	$95
Title - Check Fee	$30
Title - Courier Fee	$60
Title - Escrow Fee	$900
Title - Escrow Wire Fee	$25
Title - Lender's Title Insurance	$1,022
Title - Notary Fee	$250

Other Costs

E. Taxes and Other Government Fees		$725
Recording Fees and Other Taxes		$725
Transfer Taxes		
F. Prepaids		$6,044
Homeowner's Insurance Premium (months)		
Mortgage Insurance Premium (months)		
Prepaid Interest ($84.60 per day for 15 days @8.578 %)		$1,269
Property Taxes (6 months)		$2,160
Delinquent Property Taxes (months)		$2,615
G. Initial Escrow Payment at Closing		$3,913
Homeowner's Insurance	$139.26 per month for 10 mo.	$1,393
Mortgage Insurance	per month for mo.	
Property Taxes	$360.04 per month for 7 mo.	$2,520
H. Other		$50
Verification of Employment		$50

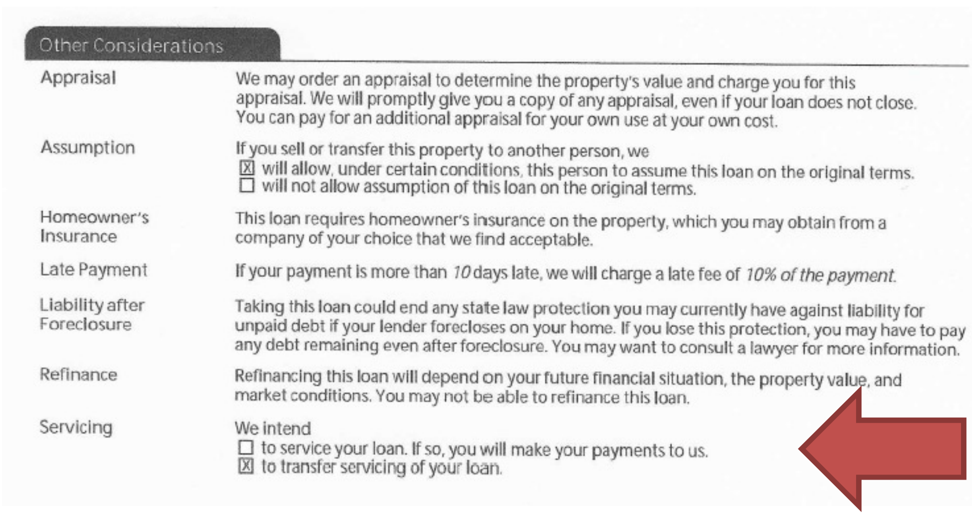
Whether the servicing of the loan may be assigned or not is found on page 3 of the LE, as shown in the example below.

RESPA also touches on the timing for redisclosing the LE in case of a changed circumstance that affects the costs or terms. Recently, the CFPB found that a company was not in compliance with the RESPA rules regarding the redisclosure timing.

[123] Regulation X, § 1024.7(a) and § 1026.19(f)

The company failed to demonstrate overall compliance with Regulation X pursuant to 12 C.F.R. § 1024.7[124] by failing to provide re-disclosures within the prescribed timeframe. If a changed circumstance affects settlement costs, tolerances, there are borrower-requested changes, or there are interest rate dependent charges and terms, the loan originator must provide a revised Loan Estimate within 3 days of receiving information sufficient to establish changed circumstances.

Following are some other considerations.



Other Considerations	
Appraisal	We may order an appraisal to determine the property's value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close. You can pay for an additional appraisal for your own use at your own cost.
Assumption	If you sell or transfer this property to another person, we ☒ will allow, under certain conditions, this person to assume this loan on the original terms. ☐ will not allow assumption of this loan on the original terms.
Homeowner's Insurance	This loan requires homeowner's insurance on the property, which you may obtain from a company of your choice that we find acceptable.
Late Payment	If your payment is more than *10* days late, we will charge a late fee of *10% of the payment.*
Liability after Foreclosure	Taking this loan could end any state law protection you may currently have against liability for unpaid debt if your lender forecloses on your home. If you lose this protection, you may have to pay any debt remaining even after foreclosure. You may want to consult a lawyer for more information.
Refinance	Refinancing this loan will depend on your future financial situation, the property value, and market conditions. You may not be able to refinance this loan.
Servicing	We intend ☐ to service your loan. If so, you will make your payments to us. ☒ to transfer servicing of your loan.

Time to Think 3.3

1) A branch office of a lender must be ___________ and ____________ with HUD in order to conduct FHA business including originating, underwriting or servicing of FHA-insured mortgages.

2) An________________________________ must be delivered to a prospective FHA borrower not later than three business days after the lender received the borrower's application.

3) Originating loans from a non-registered FHA branch _______ permitted.

[124] § 1024.7

SECTION 6

Truth-in-Lending Act

Loan Estimate Timing

The Loan Estimate must be delivered or mailed within 3 business days after application date and at least 7 business days before consummation date. Application Date is defined as the date when consumer supplies the creditor with these six items of information: (1) borrower name (2) income (3) social security number to obtain credit report (4) property address (5) estimate of property value (6) loan amount sought.[125] The borrower is presumed to have received the disclosures three business days after the disclosures are delivered or placed in the mail.

The term "Business Day" for purposes of the three business day requirement is defined as a day when creditor's offices are open to the public for substantially all of its business functions. This is known as the "general" business day definition.

The term "Business Day" for purposes of the seven business day requirement is defined as all calendar days except Sundays and the Federal public holidays referred to in 12 CFR 1026.2(a)(6). This is known as the "specific" business day definition.

Note that the specific business day definition is similar to the business day definition used in the Truth-in-Lending Act three day right to cancel, but for the seven day rule, the creditor does not have to wait until after midnight of the seventh day to consummate the loan.

Consummation date is defined as the date the borrower becomes contractually obligated on the loan (In California that is generally the day the borrower signs the note & deed of trust). However, there could be an earlier consummation date if the lender's "commitment letter" to the borrower is worded in such a way that the borrower is actually contractually obligated on the loan at the time they sign the commitment.[126]

[125] § 1026.19 (e)
[126] § 1026.19(e)(1)(iii)

No Charging of Fees Prior to Receiving the LE

Neither a creditor nor any other person may impose a fee on a consumer in connection with the consumer's application for a mortgage transaction before the consumer receives the disclosures (LE) required and indicates **intent to proceed** with the transaction.[127] The lender has to be careful that their procedures don't inadvertently run afoul of this rule. During the examination of one company, the CFPB found that upon receipt of an initial application, the Company regularly presented borrowers with a document used to obtain credit card information for the payment of an appraisal.

While the borrower is unable to complete the document until an intent to proceed is provided to the Company, the Company should be aware that pursuant to the definition of "imposing a fee," as out-lined in the commentary for 12 CFR 1026.19(e)(2)(i)(A), is the act of providing a request for payment authorization prior to receiving a documented intent to proceed from the borrower. The Company's process could be reasonably perceived as a requirement for obtaining the loan given that the borrower(s) are allowed to review this request for credit card authorization prior to the Company having received a documented intent to proceed from all borrowers.

Federal Regulation prohibits creditors from imposing any fee prior to receiving the borrower's intent to proceed. Also, regarding the verification of consumer information, Regulation Z, 12 CFR 1026.19(e)(2)(iii) prohibits a creditor from requiring a consumer to submit documents verifying information related to the consumer's application before providing a good faith estimate of the disclosures required in Regulation Z, 12 CFR 1026.37, which is the Loan Estimate.

Written List of Settlement Service Providers

If the creditor allows the borrower to shop for a settlement service provider, the creditor must provide the borrower with a written list of settlement service providers, containing at least one settlement provider available for each settlement service for which the borrower is permitted to shop, and stating that the consumer may choose a different provider for that service. The creditor is required to document the delivery of the Written List of Providers.

[127] § 1026.19(e)(2)(i)(A)

Fee Tolerances

The TRID rules require that a good faith estimate of fees be given to the consumer on the Loan Estimate. If the fees increase after the Loan Estimate is given, there are tolerances set for the many of the fees, determining whether the borrower can be charged the higher fee, or not, unless there has been a bona fide change in circumstances. Fees paid by the borrower above the allowed tolerance must be refunded within 60 days after consummation.

Here is a summary of the fee tolerance categories:

Zero Tolerance[128]

The following amounts disclosed on the Loan Estimate are considered to be in good faith if the charge paid by or imposed on the consumer does not exceed the amount originally disclosed, unless an exception applies:

- Fees paid to the creditor,
- Fees paid to a mortgage broker,
- Fees paid to an affiliate of the creditor or mortgage broker,
- Fees paid to an unaffiliated third party for which consumer is not permitted to shop, and
- Transfer taxes.

10% Aggregate Tolerance[129]

The aggregate of the following amounts disclosed on the Loan Estimate cannot increase by more than 10% unless an exception applies: Note the word aggregate

- Third-party services selected from the Written List of Providers
- Recording fees

No Tolerance

The following amounts disclosed on the Loan Estimate must be based on "best information reasonably available at the time" using "reasonable due diligence" Otherwise, there is no limitation on fee increases:

[128] Comment 19(e)(3)(i)-1
[129] Comment 19(e)(3)(ii)

- Prepaid interest
- Property insurance premiums
- Amounts placed into escrow or impound accounts
- Charges paid to consumer-selected, third-party service providers not on the Written List of Providers
- Charges paid for third-party services not required by the creditor, even if paid to an affiliate of the creditor

Lastly, the amount imposed upon the consumer for any settlement service shall not exceed the amount received by the settlement service provider for that service.[130]

Closing Disclosure Timing

The initial Closing Disclosure must be received by the borrower at least three business days before consummation date. The term "Business Day" for delivery related to the "consummation" date is defined as every day except Sundays and Federal public holidays.

Note: The CD must be "received" by borrower at least 3 days before consummation. The CD is considered received by the borrower 3 days after the CD is placed in the United States Mail. The Settlement Agent is required to provide the seller in a purchase transaction with the disclosures in the CD that relate to the seller's transaction.

Re-Disclosures

If the disclosures become inaccurate prior to consummation, the creditor must provide a corrected disclosure reflecting the changes at or before consummation, except for changes that require another three day waiting period, and the creditor must allow the borrower to inspect the closing disclosure with all of the changes known to the creditor during the business day immediately before consummation. The creditor is allowed to omit from this inspection items that only pertain to the seller.

[130] § 1026.19(f)(i)(ii)

A new three-day waiting period applies if any of the following occur:

1. The Annual Percentage Rate, or APR, increases more than 1/8th of one percent (or 1/4th of one percent for certain loans);
2. There is a change in loan product (from adjustable rate to fixed, or vice versa)

The imposition of a second three day waiting period if charges increase significantly makes it very important that the CD is correct the first time. The second three day waiting period for re-disclosures can postpone the closing of a purchase transaction, causing hardship for both the buyer and the seller. And if there is a "daisy-chain" of dependent purchase transactions, each dependent on the closing of the previous sale in the chain, many people can endure stress and hardship. Brokers, creditors, and Realtors should review their clients' CD's very carefully.

Until a CD is issued, re-disclosures may be made on the LE. Once a CD is issued, no more LEs can be issued. All new re-disclosures must be done using the CD.

Post-Closing Changes

If the estimated costs on Closing Disclosure increase beyond the permitted tolerances with no bona fide change in circumstance, and consumer pays those amounts at consummation, then the creditor must refund excess payment to consumer and deliver or place in the mail a corrected Closing Disclosure that reflects the refund no later than 60 days after the consummation date.

If an event occurs within 30 days of consummation date that causes a consumer paid amount to change that causes the disclosures to become inaccurate, then a corrected Closing Disclosure must be provided to consumer within 30 days after the creditor receives information sufficient to establish that such an event has occurred.

Non-numerical clerical errors must be corrected by causing a corrected CD to be delivered to the borrower or placed in the mail within 60 days after consummation date.[131]

[131] § 1026.19(f)(2)(v)

Highlighted Contents of the Loan Estimate

While there is not time here to discuss all of the contents of the Loan Estimate, certain contents will be highlighted here in accordance with NMLS requirements.

NMLS ID on Loan Documents

Regulation Z provides that a loan originator for a consumer credit transaction secured by a dwelling must, when required by applicable State or Federal law, be registered and licensed in accordance with those laws.[132] TRID requires that for consumer loans secured by a dwelling, a loan originator organization, also known as a mortgage broker organization, must include its name and NMLS number on certain loan documents, as well as the name and NMLS number of the loan originator primarily responsible for the origination.[133]

The documents on which this information must appear are:

1. The loan application;
2. The Loan Estimate and Closing Disclosure;
3. The note or loan contract; and
4. The deed of trust or mortgage.

Rate Lock Information

The LE should contain a statement of whether the interest rate disclosed is locked for a specific period of time, labeled "Rate Lock." For transactions in which the interest rate is locked for a specific period of time, the creditor must provide the date and time (including the applicable time zone) when that period ends. The "Rate Lock" statement shall be accompanied by a statement that the interest rate, any points, and any lender credits may change unless the interest rate has been locked, and the date and time (including the applicable time zone) at which estimated closing costs expire.[134]

Other Information on the LE

The creditor shall disclose the date the LE is mailed or delivered to the consumer.[135] This is located on page 1 of the LE.

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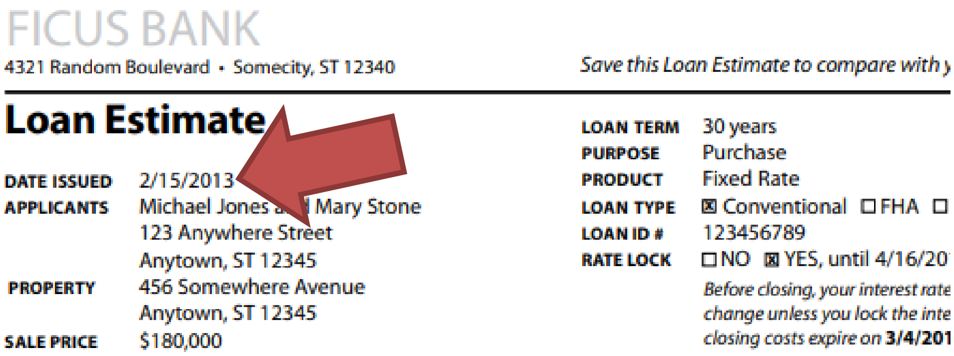
[132] § 1026.36(f)
[133] § 1026.36(g)
[134] § 1026.37(a)(13)
[135] § 1026.37(a)(4)

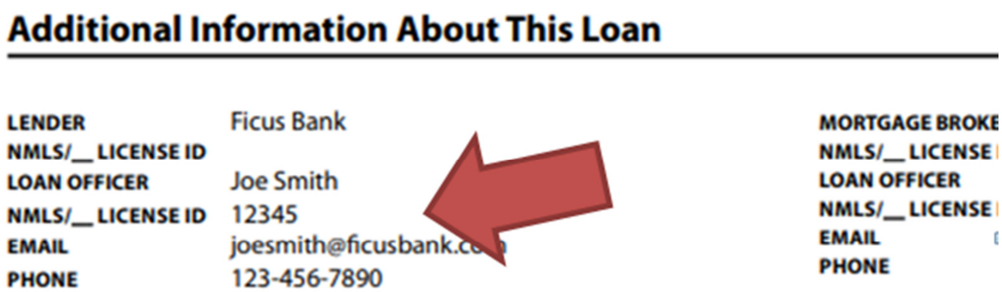


FICUS BANK
4321 Random Boulevard • Somecity, ST 12340
Save this Loan Estimate to compare with y

Loan Estimate

DATE ISSUED	2/15/2013	LOAN TERM	30 years
APPLICANTS	Michael Jones and Mary Stone 123 Anywhere Street Anytown, ST 12345	PURPOSE	Purchase
PROPERTY	456 Somewhere Avenue Anytown, ST 12345	PRODUCT	Fixed Rate
SALE PRICE	$180,000	LOAN TYPE	☒ Conventional ☐ FHA ☐
		LOAN ID #	123456789
		RATE LOCK	☐ NO ☒ YES, until 4/16/20 *Before closing, your interest rate change unless you lock the inte closing costs expire on* **3/4/201**

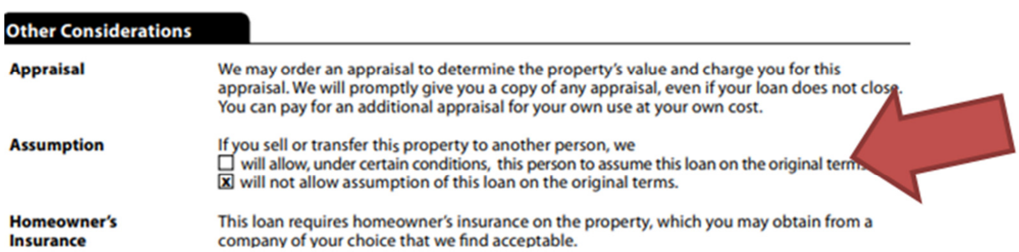
Also, the creditor shall disclose through the Loan Estimate the email address and telephone number of the loan officer. This is located on page 3 of the LE.



Additional Information About This Loan

LENDER	Ficus Bank	MORTGAGE BROKE	
NMLS/__LICENSE ID		NMLS/__LICENSE	
LOAN OFFICER	Joe Smith	LOAN OFFICER	
NMLS/__LICENSE ID	12345	NMLS/__LICENSE	
EMAIL	joesmith@ficusbank.com	EMAIL	
PHONE	123-456-7890	PHONE	

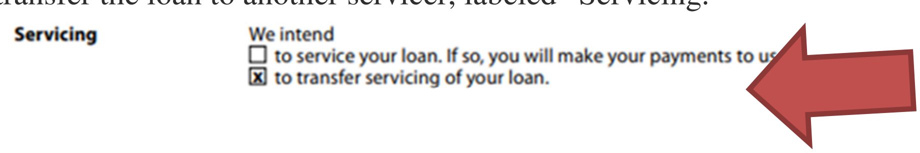
On page 3 of the LE, the creditor must disclose a statement of whether a subsequent purchaser of the property may be permitted to assume the remaining loan obligation on its original terms, labeled "Assumption."[136]



Other Considerations

Appraisal	We may order an appraisal to determine the property's value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close. You can pay for an additional appraisal for your own use at your own cost.
Assumption	If you sell or transfer this property to another person, we ☐ will allow, under certain conditions, this person to assume this loan on the original terms. ☒ will not allow assumption of this loan on the original terms.
Homeowner's Insurance	This loan requires homeowner's insurance on the property, which you may obtain from a company of your choice that we find acceptable.

Also on page 3 of the LE, the creditor shall disclose, through the Loan Estimate, a statement of whether the creditor intends to service the loan or transfer the loan to another servicer, labeled "Servicing."[137]



Servicing	We intend ☐ to service your loan. If so, you will make your payments to us. ☒ to transfer servicing of your loan.

[136] § 1026.37(m)(2)
[137] § 1026.37(m)(6)

Highlighted Contents of the Closing Disclosure

In this section we will cover selected contents of the Closing Disclosure as required by the NMLS. The creditor is required to utilize the Closing Disclosure form to disclose payment and contact information.[138]

Creditors are required to itemize the costs and fees for the loan transaction on page 2 of the CD in a section called Closing Cost Details. An itemization of the services and corresponding costs for each of the settlement services required by the creditor, for which the consumer did not shop and disclosed under the subheading "Services Borrower Did Not Shop For."[139]

B. Services Borrower Did Not Shop For		**$236.55**				
01 Appraisal Fee	to John Smith Appraisers Inc.					$405.00
02 Credit Report Fee	to Information Inc.		$29.80			
03 Flood Determination Fee	to Info Co.	$20.00				
04 Flood Monitoring Fee	to Info Co.	$31.75				
05 Tax Monitoring Fee	to Info Co.	$75.00				
06 Tax Status Research Fee	to Info Co.	$80.00				
07						

The lender must provide all borrowers with Closing Disclosures that include accurate closing cost details and information for section "B. Services Borrower Did Not Shop For" and section "C. Services Borrower Did Shop For."

The creditor must also disclose, under the subheading "Other" and in the applicable column, an itemization of each amount for charges in connection with the transaction that are in addition to the charges disclosed in other parts of page 2 of the CD, and are for services that are required or obtained in the real estate closing by the consumer, the seller, or other party, the name of the person ultimately receiving the payment, and the total of all such itemized amounts that are designated borrower-paid at or before closing.[140]

H. Other		**$2,400.00**				
01 HOA Capital Contribution	to HOA Acre Inc.	$500.00				
02 HOA Processing Fee	to HOA Acre Inc.	$150.00				
03 Home Inspection Fee	to Engineers Inc.	$750.00			$750.00	
04 Home Warranty Fee	to XYZ Warranty Inc.			$450.00		
05 Real Estate Commission	to Alpha Real Estate Broker			$5,700.00		
06 Real Estate Commission	to Omega Real Estate Broker			$5,700.00		
07 Title – Owner's Title Insurance (optional)	to Epsilon Title Co.	$1,000.00				
08						

The Calculating Cash to Close table is located on page 3 of the CD. On it, the creditor is required to disclose under the subheading "Final," the amount of "Total Closing Costs" designated as borrower-paid before closing. If the amounts disclosed under this section are different from those disclosed under

[138] § 1026.38(c)(1)
[139] § 1026.38(f)(2)
[140] § 1026.38(g)(4)

the subheading "Loan Estimate," a statement of the fact along with a statement that the amounts were paid prior to settlement.[141]

Calculating Cash to Close — Use this table to see what has changed from your Loan Estimate.

	Loan Estimate	Final	Did this change?	
Total Closing Costs (J)	$8,054.00	$9,712.10	YES	• See **Total Loan Costs (D)** and **Total Other Costs (I)**
Closing Costs Paid Before Closing	$0	– $29.80	YES	• You paid these Closing Costs **before closing**
Closing Costs Financed (Paid from your Loan Amount)	$0	$0	NO	
Down Payment/Funds from Borrower	$18,000.00	$18,000.00	NO	
Deposit	– $10,000.00	– $10,000.00	NO	
Funds for Borrower	$0	$0	NO	

On page 5 of the CD, there must be a brief statement of whether, and the conditions under which, the consumer may remain responsible for any deficiency after foreclosure under applicable State law, a brief statement that certain protections may be lost if the consumer refinances or incurs additional debt on the property, and a statement that the consumer should consult an attorney for additional information, under the subheading "Liability after Foreclosure."

The Official Interpretation to Section 1026.38(p)(3)[142] of Regulation Z states, if the applicable State law affords any type of protection, other than a statute of limitations that only limits the timeframe in which a creditor may seek redress, Section 1026.38(p)(3) requires a statement that State law may protect the consumer from liability for the unpaid balance.

Liability after Foreclosure
If your lender forecloses on this property and the foreclosure does not cover the amount of unpaid balance on this loan,

☒ state law may protect you from liability for the unpaid balance. If you refinance or take on any additional debt on this property, you may lose this protection and have to pay any debt remaining even after foreclosure. You may want to consult a lawyer for more information.

☐ state law does not protect you from liability for the unpaid balance.

Also on page 5 of the CD, the creditor must disclose, under the subheading "Contact Information," the consumer's real estate broker (under subheading "Real Estate Broker (B)) and the seller's real estate broker (under the subheading "Real Estate Broker (S))", the address, and other contact

141 § 1026.38(i)(2)(ii)
142 § 1026.38(p)(3)

information of the brokers.[143] The Contact information table must be complete and accurate when provided to the borrower.

Contact Information

	Lender	Mortgage Broker	Real Estate Broker (B)	Real Estate Broke (S)	
Name	Ficus Bank		Omega Real Estate Broker Inc.	Alpha Real Estate Broker Co.	Epsil
Address	4321 Random Blvd. Somecity, ST 12340		789 Local Lane Sometown, ST 12345	987 Suburb Ct. Someplace, ST 12340	123 C Some
NMLS ID					
ST License ID			Z765416	Z61456	Z616
Contact	Joe Smith		Samuel Green	Joseph Cain	Sarah
Contact NMLS ID	12345				
Contact ST License ID			P16415	P51461	PT12
Email	joesmith@ ficusbank.com		sam@omegare.biz	joe@alphare.biz	sarah epsil
Phone	123-456-7890		123-555-1717	321-555-7171	987-5

Adjustable Rate Mortgage Change Disclosure

The creditor, assignee, or servicer of adjustable rate mortgages (ARMs) must provide consumers with disclosure regarding the change in interest rate prior to the interest rate adjustment.[144]

Coverage

This rule covers ARMs which are closed-end consumer loans secured by the consumer's principal dwelling in which the interest rate may increase after consummation. The rule does not apply to:

1. ARMs with a term of one year or less;
2. The first interest rate adjustment to an ARM if the first payment at the adjusted level is due within 210 days after consummation and the new interest rate disclosed at consummation was not an estimate; or
3. The creditor, assignee, or servicer of an ARM is subject to the FDCPA and has sent out an FDCPA notice under section 805(c) of that Act (15 USC 1692c(c)).[145]

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[143] § 1026.38(r)(2)
[144] 12 CFR 1026.20(c)
[145] 15 U.S. Code § 1692c

Timing

The disclosure shall be provided to consumers at least 60, but no more than 120, days before the first payment at the adjusted level is due for loans originated after January 10, 2015. The disclosures shall be provided to consumers as soon as practicable, but not less than 25 days before the first payment at the adjusted level is due for the first adjustment to an ARM if it occurs within 60 days of consummation and the new interest rate disclosed at consummation was an estimate.

Content of Notice

The ARM Change Disclosure must contain the following:

1. A statement providing:
    a. An explanation that under the terms of the consumer's adjustable-rate mortgage, the specific time period in which the current interest rate has been in effect is ending and the interest rate and mortgage payment will change;
    b. The Multi State Mortgage Committee and State Regulators have found instances where, under 12 CFR 1026.20(c)(2)(i)(B), the Adjustable Rate Mortgage Change Disclosure did not accurately disclose the correct effective date of the interest rate adjustment. The Disclosure must provide the effective date of the interest rate adjustment and when additional future interest rate adjustments are scheduled to occur.
    c. Any other changes to loan terms, features, or options taking effect on the same date as the interest rate adjustment, such as the expiration of interest-only or payment-option features.
2. A table containing the following information:
    a. The current and new interest rates;
    b. The current and new payments and the date the first new payment is due; and
    c. For interest-only or negatively-amortizing payments, the amount of the current and new payment allocated to principal, interest, and taxes and insurance in escrow, as applicable. The current payment allocation disclosed shall be the payment allocation for the last payment prior to the date of the disclosure. The new payment allocation disclosed

shall be the expected payment allocation for the first payment for which the new interest rate will apply.

3. An explanation of how the interest rate is determined, including:
   a. The specific index or formula used in making interest rate adjustments and a source of information about the index or formula; and
   b. The type and amount of any adjustment to the index, including any margin and an explanation that the margin is the addition of a certain number of percentage points to the index, and any application of previously foregone interest rate increases from past interest rate adjustments.
4. Any limits on the interest rate or payment increases at each interest rate adjustment and over the life of the loan, including the extent to which such limits result in the creditor, assignee, or servicer foregoing any increase in the interest rate and the earliest date that such foregone interest rate increases may apply to future interest rate adjustments, subject to those limits.
5. An explanation of how the new payment is determined, including:
   a. The index or formula used;
   b. Any adjustment to the index or formula, such as the addition of a margin or the application of any previously foregone interest rate increases from past interest rate adjustments;
   c. The loan balance expected on the date of the interest rate adjustment; and
   d. The length of the remaining loan term expected on the date of the interest rate adjustment and any change in the term of the loan caused by the adjustment.
6. If applicable, a statement that the new payment will not be allocated to pay loan principal and will not reduce the loan balance. If the new payment will result in negative amortization, a statement that the new payment will not be allocated to pay the loan principal and will pay only part of the loan interest, thereby adding to the balance of the loan. If the new payment will result in negative amortization as a result of the interest rate adjustment, the statement shall set forth the payment required to amortize fully the remaining

balance at the new interest rate over the remainder of the loan term.

7. The circumstances under which any prepayment penalty may be imposed; the time period during which such a penalty may be imposed; and a statement that the consumer may contact the servicer for additional information, including the maximum amount of the penalty.

Time to Think 3.4

1) The CD must disclose whether state law permits the lender to pursue the borrower for a _______ after a foreclosure sale.

2) An Adjustable Rate Change Notice shall be provided to consumers at least ______, but no more than ______, days before the first payment at the adjusted level is due.

3) If an event occurs after consummation that affects the fees that the borrower paid and makes the CD inaccurate, the lender has ______ days to issue a corrected CD.

TILA Advertising Rules[146]

If any one of the triggering terms is used, the following must be disclosed clearly and conspicuously:

- The amount or percentage of the down payment
- The terms of repayment over the full term of the loan, including any balloon payment; and
- The "annual percentage rate", using that term, and if the rate may be increased after closing.[147]

1. If a catalog or other multiple-page advertisement, or an electronic advertisement (such as an advertisement appearing on an Internet Web site), gives information in a table or schedule in sufficient

[146] § 1026.24
[147] § 1026.24(d)(2)

detail to permit determination of the required disclosures, it shall be considered a single advertisement if:

a. The table or schedule is clearly and conspicuously set forth; and
b. Any statement of the credit terms appearing anywhere else in the catalog or advertisement clearly refers to the page or location where the table or schedule begins.
c. A catalog or other multiple-page advertisement or an electronic advertisement (such as an advertisement appearing on an Internet Web site) is in compliance if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher-priced property or services offered.

2. For advertisements of loans secured by a dwelling, other than television or radio ads, the following applies:

   a. If the advertisement states a simple annual rate of interest and more than one simple annual rate of interest will apply over the term of the advertised loan, the advertisement shall disclose in a clear and conspicuous manner:

      i. Each simple annual rate of interest that will apply. In variable-rate transactions, a rate determined by adding an index and margin shall be disclosed based on a reasonably current index and margin;
      ii. The period of time during which each simple annual rate of interest will apply; and
      iii. The annual percentage rate for the loan.

3. If an advertisement for credit secured by a dwelling states the amount of any payment, the advertisement shall disclose in a clear and conspicuous manner:

   a. The amount of each payment that will apply over the term of the loan, including any balloon payment. In variable-rate transactions, payments that will be determined based on the application of the sum of an index and margin shall be disclosed based on a reasonably current index and margin;
   b. The period of time during which each payment will apply; and

c. In an advertisement for credit secured by a first lien on a dwelling, the fact that the payments do not include amounts for taxes and insurance premiums, if applicable, and that the actual payment obligation will be greater.

Clearly and conspicuously disclosed generally means that the required information shall be disclosed with equal prominence and in close proximity to any advertised rate that triggered the required disclosures. Envelopes and banner ads or pop-up ads in electronic media are exempt from these rules. There are alternate rules for television and radio ads. If the advertisement is for a loan secured by the consumer's principal dwelling, and the advertisement states that the advertised loan may exceed the fair market value of the dwelling, the advertisement must follow specific rules.

The following acts or practices are prohibited in advertisements for credit secured by a dwelling:

1. If a loan advertisement states specific credit terms, it shall state only those terms that actually are or will be arranged or offered by the creditor.
2. Making misleading comparisons between actual or hypothetical payments or rates or APR that will be available under the advertised product for a period of less than the full term of the loan unless specific rules are followed.
3. Making any statement in an advertisement that the product offered is a “government loan program”, “government-supported loan”, or is otherwise endorsed or sponsored by any Federal, state, or local government entity, unless the advertisement is for an FHA loan, VA loan, or similar loan program that is, in fact, endorsed or sponsored by a Federal, state, or local government entity.
4. Using the name of the consumer's current lender in an advertisement that is not sent by or on behalf of the consumer's current lender, without following specific rules.
5. Making any misleading claim in an advertisement that the mortgage product offered will eliminate debt or result in a waiver or forgiveness of a consumer's existing loan terms with, or obligations to, another creditor.
6. Using the term “counselor” in an advertisement to refer to a for-profit mortgage broker or mortgage creditor, its employees, or persons working for the broker or creditor that are involved in offering, originating or selling mortgages.

7. Providing information about some trigger terms or required disclosures, such as an initial rate or payment, only in a foreign language in an advertisement, but providing information about other trigger terms or required disclosures, such as information about the fully-indexed rate or fully amortizing payment, only in English in the same advertisement.

Time to Think 3.5

1) Additional disclosures are required under TILA when a ________ item is listed.

2) Stating or implying that the advertiser is affiliated with a _________ agency is prohibited, unless the advertiser actually is affiliated with such an agency.

3) If an interest rate is stated, it shall be stated as an ________.

Case Study

On April 1st, Bonnie Broker talked to Amy Applicant and they agreed that Bonnie would help Amy find a loan to purchase Amy's dream home. Amy was excited to move in as soon as possible. Bonnie had Amy sign a credit card authorization so that as soon as Amy received the Loan Estimate, Bonnie could order the appraisal.

That day, Bonnie submitted FHA loan applications for her client, Amy Applicant to ACME Mortgage Lenders and to Bountiful Home Loans. Bonnie planned on using her affiliated escrow company on the transaction, but she will allow Amy to use any title company or pest inspection company that Amy chooses. On April 6th, Amy received a Loan Estimate from ACME Lenders that was issued on April 3rd.

Although Bonnie's branch was not approved by HUD for FHA loans, Bonnie believed that a "de minimus" exemption applied if she was only submitting one FHA loan application from the unapproved branch. Amy signed the Loan Estimate and the intent to proceed.

Three days prior to signing the loan documents, Amy received the Closing Disclosure. She noticed that Bonnie's name was not on the CD – the broker's information was blank. The transaction closed and Amy got the keys to her dream home. After the closing, Amy received a corrected closing disclosure and check dated 30 days after she signed her final documents. The CD corrected the messenger fees, which turned out to be less than anticipated, and the refund check was for the difference.

About 2 months after the closing the loan with ACME Mortgage Lenders, Amy received a Notice of Adverse Action from Bountiful Home Loans, stating that her application had been denied, and instead they offered her a lower loan amount.

Case Study Review

1. **Was there any problem with Bonnie having Amy sign a credit card authorization for an appraisal prior to sending out the Loan Estimate?**
   - **a.** Yes. The borrower cannot be obligated to pay any fees other than a credit report fee prior to receiving the LE. The CFBP has found that having the borrower sign the credit card authorization, even if no charges are put on the credit card, could make the borrower feel obligated, and therefore it would violate this rule.
2. **Was the Loan Estimate send out on time?**
   - **a.** Yes. The application was taken on April 1, and the LE was issued on April 3, so the LE was issued within 3 days of taking the application.
3. **Was it ok for Bonnie to originate an FHA loan from a branch that wasn't approved by HUD?**
   - **a.** No. There is no de minimus exemption for unapproved branches. All branches must be approved by HUD prior to originating FHA loans.
4. **Was there any additional disclosure Bonnie should have sent with the LE due to her use of an affiliated escrow company?**
   - **a.** Yes. She should have sent an Affiliated Business Arrangement Disclosure.
5. **Did Bonnie need an NMLS license to originate Amy's loan?**
   - **a.** Yes. An NMLS license is required to originate a consumer loan secured by a residential 1-4 unit dwelling. Since Bonnie was planning on moving into the home, it was a consumer loan, and an NMLS endorsement is required.
6. **On which loan documents was Bonnie required to disclose her NMLS license?**
   - a. The loan application;

b. The Loan Estimate and Closing Disclosure;
c. The note or loan contract; and
d. The deed of trust or mortgage.

7. Was it a TRID violation to omit Bonnie's name and contact information from the CD?

a. Yes. The CD must have all of the contact information complete and accurate.

8. Was the CD corrected on time?

a. Yes. The lender had 30 days to issue a refund check and corrected CD.

9. Was Bountiful Home Loans required to send out an Adverse Action Notice?

a. Yes. Even though they offered Amy a loan, they denied her application for a higher loan amount and issued a counteroffer for a lower loan amount. This is considered an adverse action, and an adverse action notice must be sent.

10. Did Bountiful Home Loans send out their Adverse Action Notice on time?

a. No. The adverse action notice must be sent within 30 days of the lender taking the adverse action. Bountiful didn't send out their notice until almost 60 days.

CHAPTER 3
REVIEW QUIZ

1) Business days for purposes of the three business day requirement are known as _______.

2) When is the consummation of a loan in California?

3) The Wall Street Reform and Consumer Protection Act of 2010 is popularly known as _________

4) What does the S in RESPA signify?

5) No fees can be imposed until the consumer indicates a(n) ________.

6) What is the nationwide association of American Financial Regulators called?

7) The Loan Estimate regulations are in which act?

8) A pre-consent disclosure must be _____ and _____.

9) The topics for MLO Continuing Education are determined by ________.

10) The three kinds of adverse action rules are adverse action, incomplete application and __________________________.

11) The creditor must send an incomplete notice within _______ days.

12) Original copies of business credit must be retained for ____________________________ time.

13) A Pre-Consent disclosure is required before sending documents for ________________________ signatures.

14) Can the E-Sign signature method be used on contracts governed by wills? _______________

15) The RESPA Section that discusses kickbacks is # _____________.

16) Could a trip to Las Vegas paid by an Escrow company be a thing of value? __________

17) TILA was enacted on _____________________

CHAPTER 4

CALIFORNIA DFPI AGENCY SPECIFIC EDUCATION

SECTION 1

CALIFORNIA RESDENTIAL MORTGAGE LENDING ACT[148]

Introduction

This Act is extremely important in California Lending. It was passed in 1994 and was effective January 1, 1995. This Act is supervised, altered, and enforced by the Department of Financial Protection and Innovation. Many times you will see the phrase, Department of Corporations. This was the Department that enforced this Act until July 1, 2013 when the DOC and the Department of Financial Institutions were combined by Governor Jerry Brown into the Department of Business Oversight. This was part of a reorganization plan to cut the costs of state government.

The department was reorganized again on September 29, 2020 and named DFPI. It has the same duties and functions. I have never heard any explanation for this change. I guess "a rose by any other name would smell as sweet." For your information, there are three MLO licensing groups in California. The Federal Deposit Insurance Corporation for registered MLOs, Department of Financial Protection and Innovation for state licensed MLOs, and the Department of Real Estate.

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[148] *Fin.Code Division 20 California Residential Mortgage Lending Act [50000-50706]*

Who Does Not Have to Be State Licensed?[149]

1. Any bank, trust company, insurance company, or industrial loan company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States that is authorized to transact business in this state.

2. A federally chartered savings and loan association, federal savings bank, or federal credit union that is authorized to transact business in this state.

3. A savings and loan association, savings bank, or credit union organized under the laws of this or any other state that is authorized to transact business in this state.

4. A person engaged solely in business, commercial, or agricultural mortgage lending.

5. A wholly owned service corporation of a savings and loan association or savings bank organized under the laws of this state or the wholly owned service corporation of a federally chartered savings and loan association or savings bank that is authorized to transact business in this state.

6. An agency or other instrumentality of the federal government, state government or municipal government.

7. An employee or employer pension plan making residential mortgage loans only to its participants, or a person making those loans only to its employees or the employees of a holding company, or an owner who controls that person, affiliate, or subsidiary of that person.

8. A person acting in a fiduciary capacity conferred by the authority of a court.

9. A real estate broker licensed under California law, when making, arranging, selling, or servicing a residential loan.

[149] *Fin Code Division 20 California Residential Mortgage Lending Act [50002]*

10. A California finance lender or broker licensed under Division 9 (commencing with Section 22000)[150], when acting under the authority of that license.

11. A trustee under a deed of trust pursuant to the Civil Code, when collecting delinquent loan payments, interest, or other loan amounts, or performing other acts in a judicial or nonjudicial foreclosure proceeding.

12. A mortgage loan originator who has obtained a license under Chapter 3.5 (commencing with Section 50140)[151], provided that the mortgage loan originator is employed by a residential mortgage lender or servicer.

Employment Transition of MLOs

The following amendments to the SAFE ACT were effective November 24, 2019. The additions established a Temporary Authority for MLOs who are changing employment or seeking licensure in another state.

It permits qualified MLOs to act as a loan originator temporarily when changing employment from a depository institution to a state licensed mortgage company and for a state-licensed MLO when going to another state. For complete information it is strongly recommended that anyone reference the NMLS' FAQ quick sheet on Temporary Authority to Operate.[152]

The maximum length that the Temporary Authority can run is 120 days after a contract is listed as incomplete. Applicants must meet several experience requirements and not be disqualified for any sanctions, etc.

The most important part of the treatise is the information on what must be included in a license application.

1. Licensing form MU14 with documents to explain any yes answers

2. Criminal History from FBI and a request for sponsorship from the MLO's employer

3. Authorization to obtain a credit report and Worker Classification

[150] Fin Code Division 9 California Financing Law [22000]
[151] Fin Code Division 20 Chapter 3.5 California Residential Mortgage Lending Act [50140-50146]
[152] NMLS FAQ Quick Sheet on Temporary Authority to Operate

4. AND the big item to slow down most registered MLOs: Required state documents, SAFE ACT Test, and pre-licensure education requirements.

Yes, we are an industry of regulations. However, the depository institution MLOs can originate loans now with no SAFE ACT Test and the 8 Hours of CE each year are not required. Go figure.

Loan Processor or Servicer[153]

A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a loan originator shall not be required to be licensed as a mortgage loan originator.

An independent contractor may not engage in the activities of a loan processor or underwriter for a residential mortgage loan unless the independent contractor loan processor or underwriter obtains and maintains a residential mortgage lender or residential mortgage servicer license and a mortgage loan originator license under this division.

Time to Think 4.1

1) The DFPI was born in the year __________.

2) What is the maximum number of days of Temporary Authority?

3) When was the Temporary Authority regulation effective?

[153] *Fin Code Division 20 California Residential Mortgage Lending Act [50003.6]*

Requirements of a Mortgage Loan Originator or Servicer[154]

1. A residential mortgage lender or servicer shall do all of the following:

    a. Maintain staff adequate to meet the requirements of this division, as prescribed by rule or order of the commissioner.

    b. Keep and maintain for 36 months from the date of final entry the business records and other information required by law or rules.

    c. File with the commissioner any report required under law or by rule or order of the commissioner.

    d. Disburse funds in accordance with its agreements and to make a good faith and reasonable effort to effect closing in a timely manner.

    e. Account or deliver to a person any personal property such as money, funds, deposit, check, draft, mortgage, other document, or thing of value, that has come into its possession and is not its property, or that it is not in law or equity entitled to retain under the circumstances, at the time that has been agreed upon or is required by law, or, in the absence of a fixed time, upon demand of the person entitled to the accounting or delivery.

    f. File with the commissioner an amendment to its application prior to any material change in the information contained in the application for licensure, including, without limitation, the plan of operation. The commissioner shall, within 20 business days of receiving a completed amendment to the application, or within a longer time if agreed to by the licensee, approve or disapprove the effectiveness of the proposed amendment.

    g. Comply with the provisions of this division, and with any order or rule of the commissioner.

    h. Submit to periodic examination by the commissioner as required by this division.

    i. Advise the commissioner by amendment to its application of any material judgment filed against, or bankruptcy petition filed by, the licensee within five days of the filing.

[154] *Fin Code Division 20 California Residential Mortgage Lending Act [50124]*

j. Notify the commissioner, in writing, prior to opening a branch office in this state or changing its business location or locations or its branch offices from which activities subject to this division are conducted.

k. Comply with all applicable state and federal tax return filing requirements.

l. Refrain from employing, or paying a commission or other fee to, a mortgage loan originator who is not licensed in this state, unless the individual is exempt from licensure.

m. Refrain from committing a crime against the laws of any state or the United States, involving moral turpitude, misrepresentation, fraudulent or dishonest dealing, or fraud, and disclose to the commissioner any final judgment entered against it in a civil action upon grounds or allegations of fraud, misrepresentation, or deceit.

n. Refrain from engaging in conduct that would be cause for denial of a license.

o. Remain solvent.

p. Proceed with due care and competence in performing any act for which it is required to hold a license under this division.

q. Comply with any other requirement established by rule of the commissioner.

2. The commissioner may require an applicant to submit a statement agreeing to comply with the requirements of this section.

Education Required[155]

An applicant for a mortgage loan originator license shall complete at least 20 hours of education approved in accordance with subdivision (b). The education shall include at least the following:

1. Three hours of instruction on federal law and regulations.
2. Three hours of ethics, this shall include instruction on fraud, consumer protection, and fair lending issues.

[155] *Fin Code Division 20 California Residential Mortgage Lending Act [50142]*

3. Two hours of training related to lending standards for the nontraditional mortgage product marketplace.
4. Two hours of training related to relevant California law and regulations.
5. Pre-licensing education may be offered either in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

Testing[156]

1. An applicant for a mortgage loan originator license shall pass a qualified written test developed or otherwise deemed acceptable by the Nationwide Mortgage Licensing System
2. An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent of correct answers to questions.
3. An individual who fails the qualified written test may retake the test up to three consecutive times, although at least 30 days shall pass between each retesting.
4. An applicant who fails three consecutive retests shall wait at least six months before retesting.
5. A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer shall retake the test, not taking into account any time during which the individual is a registered mortgage loan originator.

Time to Think 4.2

1) What grade must be achieved on the NMLS state exam?

2) NMLS stands for ___________.

3) A California licensed real estate broker must have a CRMLA license?

[156] *Fin Code Division 20 California Residential Mortgage Lending Act [50143]*

Protecting Clients in Trouble

Remember at all times that you are not an attorney and cannot give legal advice. You should learn the laws of foreclosures so you can recognize signs of trouble and make recommendations to your clients on whom to visit and where to get counseling. These are important decisions and can affect someone for years. The homeowners have rights that must be protected. The federal bill that established rules for mortgage loan originators is known popularly as the Dodd-Frank Bill, but the official name is Wall Street Reform and Consumer Protection Act.

California Homeowner Bill of Rights

The California Homeowner Bill of Rights is a set of laws that provide protections to homeowners who are facing foreclosure. It became law on January 1, 2013, with many sections renewed and modified as of January 1, 2019.

Key provisions include:

1. **Notification of Foreclosure-Prevention Options:** Your servicer must try to contact you at least 30 days before starting the foreclosure process to discuss your financial situation and explore your options to avoid foreclosure. Your servicer can then start the foreclosure process by recording a notice of default in the county where your home is located, and will then send you a copy within 10 business days. Within 5 days of recording a notice of default, your servicer must generally give you information about options to avoid foreclosure that may be available.[157]

2. **Guaranteed Single Point of Contact:** If you ask for a loan modification or other foreclosure-prevention option, your servicer must assign you a specific person or team who can walk you through application requirements and deadlines, knows the facts and status of your application, including missing documents needed to complete your application, and can get you a decision on your application.[158]

[157] *Civil Code sections 2923.55, 2924.9*
[158] *Civil Code section 2923.7*

3. **Acknowledgment of Application:** If you apply for a loan modification, your servicer must notify you within five business days of any missing information, other errors, and deadlines for completing your application.[159]

4. **Restrictions on Fees:** You cannot be charged a fee for applying for a loan modification. You cannot be charged late fees while your servicer is making a decision on your completed loan-modification application, while you are making timely payments under an approved modification, or while a denial is being appealed. Your application is "complete" once you submit all required information within the servicer's reasonable deadlines.[160]

5. **Restrictions on Dual Tracking:** Your servicer must generally pause the foreclosure process while it is making a decision on your completed loan-modification application and until after it gives you time to appeal a denial. It also cannot foreclose on you while you are complying with the terms of an approved loan modification, forbearance, repayment plan, or other foreclosure-prevention option.[161]

6. **Denial Rights:** If your servicer denies your loan-modification application, it must state its reasons and identify other possible foreclosure-prevention options in writing. It must also give you a chance to appeal the denial. You may submit a new loan-modification application if you have had a material change in your financial situation since the last application.[162]

7. **Transfer Rights:** If your servicer approves a loan modification or other foreclosure-prevention alternative and then sells or transfers your loan to another servicer, the new servicer must honor that foreclosure-prevention alternative.[163]

8. **Verification of Documents:** Your servicer must review certain foreclosure documents to make sure they are accurate, complete, and

[159] *Civil Code section 2924.10*
[160] *Civil Code section 2924.11*
[161] *Civil Code sections 2923.6, 2924.11*
[162] *Civil Code section 2923.6*
[163] *Civil Code section 2924.11*

supported by reliable evidence about your loan, your loan's status, and the servicer's right to foreclose.[164]

9. **Tenant Rights:** Purchasers of foreclosed homes must give tenants at least 90 days before starting eviction proceedings. If the tenant has a fixed-term lease that was entered into before the foreclosure sale, the new owner must honor the lease unless certain exceptions apply.[165]

The Homeowner Bill of Rights generally applies to first-lien mortgages on owner-occupied homes that have no more than four units, and the protections above generally apply if your servicer foreclosed on more than 175 homes in the last year.[166]

[164] *Civil Code section 2924.17*
[165] *Code of Civil Procedure section 1161b*
[166] *State of California Department of Justice: California Homeowner Bill of Rights*

CHAPTER 4
REVIEW QUIZ

1) CRMLA is enforced by _____.

2) What was the name of the first agency that regulated lending in CA?

____

3) To qualify for the NMLS National Exam an applicant must complete _____ hours of approved education.

4) The CRMLA became effective in _______.

5) If an applicant fails three consecutive tests, they must wait _____ months to test again?

6) When was the California Homeowner's Bill of Rights last renewed and modified?

FINAL PROJECT

There are two methods to end an NMLS 8 Hour CE Course: Final Exam or Final Project. Our students when surveyed have preferred a Final Project.

All students must participate in the project by reading the information, forming their answers/opinions, and then actively discussing the questions.

The NMLS allows only 20 minutes for this Project so you must read quickly and work quickly so that we can finish in the allotted time. Good luck.

1. LOAN ESTIMATE; The Loan Estimate is an extremely important form. Your clients should understand it. A CFPB form "Loan Estimate Explainer" would be helpful for them. When you get the Loan Estimate, what are some factors you should stress in your explanation? List some questions you might ask them at this time to ascertain their understanding?

   ____

   ____

   ____

   ____

2. KICKBACKS; RESPA does not like kickbacks of any sort. One type regulated is educational courses presented by MLOs, Title Companies, Lenders, etc. The courses must be "normal promotional and educational activities". Two conditions: The activities are not conditioned on referral of business and do not involve defraying expenses that otherwise would be incurred by the referral source.

   Would it be a kickback to give MLOs pens, paper pads, mouse pads, logoed shirts at the end of a meeting?

   ____

   ____

A title company gives required CE courses and waives the fees?

____

____

A Reverse Mortgage Originator presents free classes to the public about Reverse Mortgages and invites any and all Real Estate Licensees plus gives free lunches?

____

____

3. REVERSE MORTGAGES; A consumer has an aged Reverse Mortgage (2012). She and her spouse call you about Refinancing to another Reverse Mortgage. Based on the market and your knowledge of their situation, what would you discuss? Do they need to be counseled?

____

____

____

____

4. TEMPORARY AUTHORITY; You are trying to grow your mortgage brokerage company which is licensed under the California Department of Real Estate. There are several categories of candidates to whom you are speaking. You decide to prepare a document that outlines what each person must do to start work with you.

Works for another DRE licensed company in California? ____________

____

Licensed with a Registered Depository Firm? ______________________

Licensed with a Department of Financial Protection and Innovation Firm?

____

Member of the Public?____

5. DELIVERY OF DISCLOSURES; Disclosures must be delivered on time and in a proper manner. There have been some changes in the definition of business days. They can vary. You must know the differences. Under Regulation Z what are business days for

Loan Estimate:____

Closing Disclosure?____

Thank you for your attendance to our classes and for your attention.

About Duane Gomer Inc.,

DUANE GOMER INC. was founded in 1963 to specialize in Real Estate Commercial Sales, Property Management, Syndication and Receiverships. In 1978 a Real Estate Education Company was established. The Mission Viejo Company has grown to be one of the most prolific and professional education companies in California and the United States. Their materials, procedures, testing and instructors are considered State of the Art. Courses are presented live and on the Internet. Passing rates for DGS students are always the highest.

Duane Gomer has authorized many textbooks and has been a columnist in California newspapers. His academics include UCLA MBA, Indiana University B.S., U.S. Navy Commission, and Certified Property Manager.

OUR "PRODUCT LIST" includes Courses both online and live to:

- Qualify and Quickly Pass the California Real Estate Exams.
- Renew any California Real Estate License with no stress.
- Become an NMLS Approved MLO: 20 Hour Pre-License Course and National Exam Preparation Course.
- MLO CE Courses – Most Live Classes in California
- Obtain or Renew a Notary Public Commission – Test at Site
- Other Real Estate and MLO Courses – Check our Website

Help you become successful! We are approved by the California DRE, Secretary of State, DOC, NMLS and a highest rated by BBB.

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