

# Minutes

# Mortgage Broker Rule Making Task Force

September 27, 2007  
9:00 a.m. – 12:00 p.m.  
DRE 9<sup>th</sup> floor conference room  
Colorado Division of Real Estate  
1560 Broadway, Suite 925  
Denver CO 80202  
303.894.2166

## Task Force Members Present:

Rick Accomazzo, Bart Bartholomew, Tom Kennedy, Bill Kidwell, Jim Lewis, Anita Padilla, James Spray, Zach Urban, and Cary Whitaker.

## Agenda topics

9:00 – 9:30 a.m.

Mortgage Broker Compensation Disclosure

Cary Whitaker

### Discussion:

1. Review subcommittee's final version of the mortgage broker compensation disclosure form.
  - a. Subcommittee includes:
    - i. Bart Bartholomew
    - ii. James Spray
    - iii. Bill Kidwell
    - iv. Carolyn Carnie
    - v. Jan Zavislan
    - vi. Rick Accomazzo
2. Final comments regarding the compensation disclosure form.

### Conclusions:

1. Subcommittee presented their final version of the mortgage broker compensation disclosure.
  - a. It was noted that Jan Zavislan had not agreed to the proposed compensation form.
  - b. Proposed compensation form was endorsed by Carolyn Carnie, Rick Accomazzo, Bart Bartholomew, James Spray and Bill Kidwell.
2. Final comments were presented to Erin Toll regarding compensation and the disclosure form.

Action items: Finalize Compensation Disclosure	Person responsible: Cary Whitaker	Deadline: October 10, 2007

9:30 – 9:45 a.m.

Mortgage Broker Contracts

Cary Whitaker

Discussion:

1. Final comments draft rule?
2. Do we need to adopt as an emergency or will a permanent rule suffice?

Conclusions:

1. Task force agreed on the language of the mortgage contract rule.
2. Task force agreed that the mortgage broker contract rule should be issued as a permanent rule and not as an emergency.
3. It was agreed the Director would issue a position statement addressing her interpretation of the language in section 12-61-913, C.R.S.

Action items: Create position statement for mortgage broker contracts.

Person responsible:  
Cary Whitaker

Deadline:  
October 10,  
2007

9:45 – 10:30 a.m.

Mortgage Broker Lock-in Agreement

Cary Whitaker

Discussion:

1. Review revised Lock-in agreement created by subcommittee.
  - a. Subcommittee includes:
    - i. Rick Accomazzo
    - ii. Bill Kidwell
    - iii. Jim Lewis
  - b. Any additions or subtractions?
  - c. Task force commentary?

Conclusions:

1. Subcommittee presented the proposed lock-in agreement. Subcommittee presented 2 versions of the lock-in disclosure form.
2. Task force discussed what information should be included in the lock-in agreement form. Specifically, what should be included in the cost, terms, duration and condition of any lock-in agreement?
  - a. Task force agreed that the interest rate should be disclosed to the borrower.
  - b. Task force was undecided regarding whether pre-payment penalties should be disclosed on this form.
  - c. Task force agreed that the date the lock-in agreement is entered and the date the lock-in agreement expires should be disclosed.
  - d. Task force was unable to reach a consensus on the following subjects. As a result,

individual input was sought:

- i. Payment Type – means whether a payment is a principal and interest payment, an interest only payment or a negative amortization payment.
    1. Barth Bartholomew, Anita Padilla, Zach Urban, and Jim Spray voted to include the payment type on the lock-in disclosure.
    2. Bill Kidwell, Rick Accomazzo, Jim Lewis, and Tom Kennedy voted to not include the payment type on the lock-in disclosure.
  - ii. Term of interest rate – means the length of time that an interest rate is fixed.
    1. Bill Kidwell, Jim Lewis, Anita Padilla, Bart Bartholomew, Jim Spray and Zach Urban voted to include the term in the lock-in disclosure.
    2. Tom Kennedy and Rick Accomazzo voted to not include the term in the lock-in disclosure.
  - iii. Index and adjustment caps - means the index that a mortgage product is tied to when adjusting and the adjustment caps means the maximum amount the interest rate may adjust up or down in the first adjustment. Life cap means the total amount the interest rate may adjust up or down over the life of the loan.
    1. Bart Bartholomew, Anita Padilla, Zach Urban, Jim Spray, Bill Kidwell voted to include these terms in the lock-in disclosure.
    2. Jim Lewis, Rick Accomazzo, and Tom Kennedy voted to not include these terms in the lock-in agreement.
  - iv. Multiple payment options – means that all payment options on products be disclosed to the borrower.
    1. Anita Padilla, Bart Bartholomew, Jim Spray and Zach Urban voted to include the multiple payment options on the lock-in disclosure form.
    2. Bill Kidwell, Jim Lewis, Tom Kennedy and Rick Accomazzo voted to not include the multiple payment options on the lock-in disclosure form.
3. Four disclosures have been identified:
- e. Truth in Lending disclosure form pursuant to section 12-61-914(2)(a), C.R.S.
  - f. Good Faith Estimate disclosure form pursuant to section 12-61-914(2)(b), C.R.S.
  - g. Mortgage Broker Compensation disclosure form pursuant to section 12-61-914(2)(c), C.R.S.
  - h. Lock-in Disclosure form pursuant to section 12-61-914(2)(d), (f) and (3), C.R.S.
4. When should these disclosures be provided to the borrower?
- i. It was proposed that mortgage brokers should disclose this information at the beginning of the process and when the mortgage broker has entered into a lock-in agreement.
  - j. It was also proposed that mortgage brokers should disclose this information at the beginning of the process and re-disclose in accordance with RESPA and the Truth in Lending Act.
    - i. Task force unanimously agreed the borrower should be provided all four disclosures at the time of application and in accordance with RESPA and the Truth in Lending Act requirements for re-disclosure.

Action items: Finalize mortgage broker compensation disclosure rule and forms.	Person responsible: Erin Toll & Cary Whitaker	Deadline: October 10, 2007
10:30 a.m. – 11:00 a.m.    Mortgage Broker Errors and Omissions Insurance    Cary Whitaker		
Discussion:		
<ol style="list-style-type: none"> <li>1. Review findings of E&amp;O subcommittee <ol style="list-style-type: none"> <li>a. Subcommittee includes: <ol style="list-style-type: none"> <li>i. Jim Lewis</li> <li>ii. Tom Kennedy</li> </ol> </li> <li>b. Proposed coverage. <ol style="list-style-type: none"> <li>i. Deductible</li> <li>ii. Per incident coverage</li> <li>iii. Aggregate coverage</li> </ol> </li> <li>c. Group or individual coverage.</li> </ol> </li> <li>2. RFP Process for group plans.</li> </ol>		
Conclusion: Unable to address due to time constraints		
Action items:	Person responsible:	Deadline:
11:00 – 11:50 a.m.    Marketing of Non-Traditional Mortgage Products    Cary Whitaker		
Discussion:		
<ol style="list-style-type: none"> <li>1. What abuses are we seeing in the marketplace?</li> <li>2. What types of products does this include: <ol style="list-style-type: none"> <li>a. HELOCS?</li> <li>b. Arms?</li> <li>c. 30 year fixed loans?</li> <li>d. Reverse mortgages?</li> </ol> </li> <li>3. How can we prevent such abuses? <ol style="list-style-type: none"> <li>a. Limit marketing of payment rates?</li> <li>b. Disclosure of applicable credit scores, ltv's, cltv's, assets, etc...?</li> <li>c. Disclosure of initial and life adjustment caps?</li> <li>d. Prohibit the marketing of "no-closing" cost loans?</li> <li>e. Clear disclosure of APR?</li> <li>f. Disclosing mortgage insurance and mortgage insurance payment?</li> <li>g. Prohibit the use of sample minimum payment calculations in advertising?</li> <li>h. Disclosure of teaser rates and their length?</li> </ol> </li> </ol>		

- i. Disclosure of negative amortization?
- 4. Types of advertising:
  - a. Internet;
  - b. Print;
  - c. E-mail; and
  - d. Phone.

Conclusions: Unable to address due to time constraints.

Action items:	Person responsible:	Deadline:

11:50 a.m. – 12:00 p.m.	Public Commentary	Cary Whitaker
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Discussion:

Mike Gartrell – sought clarification regarding Truth in Lending requirement. Is the Truth in Lending disclosure required for mortgage brokers or creditor? Task force addressed his question and stated that the Truth in Lending disclosure form is a requirement of the creditor.

Terry Jones – Advised the task force to address what “at application” means. He stated this is confusing to the industry as there are varying standards. Is this when the 1003 is completed or does this mean when a borrower, mortgage program and a property have been identified?

Ann Coughenour – Stated that she views “at application” when a credit report is pulled for a borrower.

Public Attendees:	Person responsible:	Deadline:
Mike Gartrell – Olympic Mortgage		
Terry Jones – Cherry Creek Mortgage		
Ann Coughenour – Eagle Home Mortgage		