

Agenda

2009-2010 Mortgage Loan Originator Rulemaking Task Force

November 12, 2009
9:00 –11:00 a.m.
DRE 9th floor conference room
Colorado Division of Real Estate
1560 Broadway, Suite 925
Denver CO 80202
303.894.2166

Task Force Members: Alicia Arguello, Bart Bartholomew, Doug Braden, Carolyn H. Carnie, Brad Groves , Terry Jones, Bruce Jordan, Paul Orrell, Steve Peyton, Rod Shuster, Tammy Trucker, Wade Warthen, Libby Wittman and Jan Zavislan.

Agenda topics

9:00 – 10:00 a.m.	Mortgage Company Regulation in Colorado	Cary Whitaker
10:00 - 10:15 a.m.	Break	N/A
10:15 – 10:30 a.m.	Mortgage Company Regulation in Colorado	Cary Whitaker
10:30 – 10:50 a.m.	When is an application an application?	Cary Whitaker
10:50 – 11:00 a.m.	Public Commentary	Cary Whitaker

Minutes

2009-2010 Mortgage Loan Originator Rulemaking Task Force

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9:00 – 11:00 a.m.
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Task Force Members Present:

Discussion:

1. Should there be any standards or requirements to receive a mortgage company registration?
 - a. If so, what are the standards?
 - i. Should standards include:
 1. Legal presence to operate in Colorado through the Secretary of State;
 2. The company has not been enjoined within the last five years to operate in Colorado; or
 3. The company has not violated any provision of the Colorado Consumer Protection Act, article 1 of title 6, C.R.S.
2. If the Director of the Division of Real Estate is able to approve a registration application, should the Director be able to deny, revoke or refuse to renew a registration?
 - a. If so, what grounds should the Director be able to deny, revoke or refuse to renew a registration?
 - i. Should grounds include:
 1. Engaging in any unfair or deceptive practice;
 2. Advertising rates, points, or other financing terms unless the terms are actually available;
 3. Engaging in bait and switch tactics;
 4. Duty to pay third party service providers;
 5. Reasonable supervision standards regarding their loan originators, including, but not limited to not hiring or compensating unlicensed individuals;
 6. Violating RESPA, Gramm Leach Bliley, the Truth in Lending Act, and other applicable federal laws;
 7. Document security and retention standards; or
 8. Duty to provide requested documents to the Division of Real Estate for investigations.
3. If the Director has regulatory oversight regarding mortgage companies, should the Director have any disciplinary tools to enforce any possible standards of conduct?

a. If so, what disciplinary tools are practical and realistic?

i. Should such tools include:

1. Imposition of fines;
2. Cease and Desist Orders;
3. Ability to seek injunctions;
4. Ability to assess restitution or actual damages; or
5. Place registration on a probationary status.

Results:

Action Items:

Person Responsible:

Timeline:

10:00 - 10:15 a.m.

Break

10:15 – 10:30 a.m.	Mortgage Company Regulation in Colorado	Cary Whitaker
Discussion:		
1. Discussion regarding regulation of mortgage companies in Colorado to be continued from previous agenda item.		
Results:		
Action Items:		
Person Responsible:		
Timeline:		
10:30 – 10:50 a.m.	When is an application an application?	Cary Whitaker
Discussion:		
1. Current RESPA definition of an application is as follows:		
<ul style="list-style-type: none"> a. Under the final rule, HUD has also adopted a single application process. An application, in order to trigger the GFE requirement, must have at least the following six pieces of information: 1) the borrower’s name; 2) the borrower’s Social Security Number (for obtaining a credit report); 3) the borrower’s gross monthly income; 4) the property address; 5) an estimate of the value of the property; and 6) the amount of the mortgage loan sought. Under this single application process, the loan originator is prohibited from requiring supplemental documentation to verify the information provided by the borrower as a condition for providing a GFE. The loan originator can, however, require the borrower to provide such verification information after the GFE has been provided in order to complete final underwriting. The information collected by the loan originator as part of the application cannot later become the basis for a “changed circumstance” under which a loan originator may issue a new GFE unless the loan originator can demonstrate that there was a change in the particular information or that it was inaccurate, or that the loan originator did not rely on that particular information in issuing the GFE. A “changed circumstance” can include Acts of God, war, disaster, information provided particular to the borrower or transaction that is inaccurate (including amount of the loan or estimated value of the property). According to HUD, this approach provides the flexibility that loan originators need to properly underwrite loans while limiting the “bait-and-switch” methods sometimes used by loan originators. Loan originators will no longer be able to draw in borrowers with a GFE and then after significant application fees have been paid, or burdensome documentation demands have been made, claim that a material change has resulted in a more expensive loan offering. 		
2. Is this definition adequate?		
3. What, if any, improvements exist?		
Results:		
Action Items:		
Person Responsible:		
Timeline:		

10:50 - 11:00 a.m.	Public Commentary - Public to limit comments to five (5) minutes.	Cary Whitaker
Public Attendees:		
Public Comments:		