

Agenda

2009-2010 Mortgage Loan Originator Rulemaking Task Force

**December 16, 2009
9:00 –11:00 a.m.
12th Floor Conference Room – Ste. 1250C
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 – 9:30 a.m.	Mortgage Company Regulation in Colorado	Cary Whitaker
9:30 – 10:00 a.m.	When is an application an application?	Cary Whitaker
10:00 -10:15 a.m.	Break	N/A
10:15 – 10:50 a.m.	Issues surrounding the new Good Faith Estimate requirements in relation to Colorado required disclosures	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. 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.
2. 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:

9:30 – 10:00 a.m.

When is an application an application?

Cary Whitaker

Discussion:

1. Current RESPA definition of an application is as follows:

- 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:

10:00 - 10:15 a.m.	Break	

10:15 – 10:50 a.m.	Issues surrounding the new Good Faith Estimate requirements in relation to Colorado required disclosures	Cary Whitaker
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Discussion:

1. Background:

- a. HUD has created a new Good Faith Estimate form. This new form is required on or after January 1, 2010.
- b. The new form is three pages as opposed to the past one page disclosure
- c. All front end compensation, back end compensation, lender fees and all other fees are categorized as “origination fees” on the new form. There is a zero tolerance level established for variances regarding origination fees.
- d. Third party fees are required to be disclosed. For third party services shopped for by the originator, there is a 10% tolerance level established for variances in these costs.
- e. Originators are required to provide a list of third party services they wish the borrower to shop for during the transaction. In this section, there is no tolerance level established for variances in such fees.
- f. HUD also created a revised HUD-1 settlement statement that is more consistent with the Good Faith Estimate form.

2. How will the new forms affect Colorado required disclosures? Colorado requires the following:

- a. Itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, escrow fee, property tax, insurance, structural or pest inspection and any other third-party service providers;
- b. Disclosure of all compensation on the loan; and
- c. Disclosure of all finance terms.

3. Colorado regulations require that front end compensation and back end compensation be disclosed on the Colorado compensation disclosure form.

- a. If the new Good Faith Estimate does not itemize all origination fees, how will the Division verify actual front and back end compensation?

4. What are the concerns of the task force in regards to this new form and existing disclosures?

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:		