

Agenda

2009-2010 Mortgage Loan Originator Rulemaking Task Force

**January 12, 2010
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

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| 9:00 – 9:15 a.m. | HUD's proposed regulation, including definitions of taking an application and offering and negotiating terms of a residential mortgage loan. | Cary Whitaker |
| 9:15 – 10:00 a.m. | Issues surrounding the new Good Faith Estimate requirements in relation to Colorado required disclosures | Cary Whitaker |
| 10:00 -10:15 a.m. | Break | N/A |
| 10:15 – 10:50 a.m. | Loan modifications, forensic audits, find the note trends and other mortgage relating financing cottage industries. | 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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**Task Force
Members Present:**

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| 9:00 – 9:15 a.m. | HUD’s proposed regulation, including clarification regarding taking an application and offering or negotiating terms of a mortgage loan. | Cary Whitaker |
| <p>Discussion:</p> <ol style="list-style-type: none"> 1. In HUD’s proposed rule, Docket No. FR-5271-P-01 & RIN 2502-A170, taking an application and offering or negotiating terms of a mortgage loan are further defined. Such definitions are proposed as the following: <ol style="list-style-type: none"> a. An individual “takes a residential mortgage loan application” if the individual receives a residential mortgage loan application for the purpose of deciding (or influencing or soliciting the decision of another) whether to extend an offer of residential mortgage loan terms to a borrower or prospective borrower in response to a (or to accept the terms offered by a borrower or prospective borrower in response to a solicitation), whether the application is received directly or indirectly from the borrower or prospective borrower. b. An individual “offers or negotiates terms of a residential mortgage loan” if the individual: <ol style="list-style-type: none"> i. Presents for acceptance by a borrower or prospective borrower residential mortgage loan terms; ii. Communicates directly or indirectly with a borrower or prospective borrower for the purpose of reaching an understanding about prospective residential mortgage loan terms; or iii. Recommends, refers, or steers a borrower or prospective borrower to a particular lender or set of residential mortgage loan terms, in accordance with a duty to or incentive from any person other than the borrower or prospective borrower. 2. Similarly to the adoption of HUD’s definition of the term application, should the Director adopt HUD definitions regarding taking a residential loan application and offering or negotiating terms of a residential mortgage loan? 3. Does the task force see any issues or concerns with these proposed definitions? | | |
| Results: | | |
| Action Items: | | |
| Person Responsible: | | |
| Timeline: | | |
| 9:15 – 10:00 a.m. | Issues surrounding the new Good Faith Estimate requirements in relation to Colorado required disclosures | Cary Whitaker |
| <p>Discussion:</p> <ol style="list-style-type: none"> 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:

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| 10:00 - 10:15 a.m. | Break | |
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| 10:15 – 10:50 a.m. | Loan modifications, forensic audits, find the note trends and other mortgage relating financing cottage industries. | Cary Whitaker |
| <p>Discussion:</p> <ol style="list-style-type: none"> 1. In November of 2008, the Director asserted jurisdiction over individuals who perform loan modifications in position statement MLO 1.5. 2. Since the position statement, the Division has become aware of other mortgage related services that are being offered to Colorado consumers. Such services include: <ol style="list-style-type: none"> a. Loan forensic audit companies – These companies solicit borrowers in order to review their files in an attempt to find violations of the Truth in Lending Act, the Real Estate Settlement Procedures Act and other applicable Federal laws. If violations are found, these companies attempt to discredit the mortgage financing or foreclosure proceedings that may be taking place. b. Find the note – These companies look to require the original note from the foreclosing company. If the original note is not or cannot be produced, they attempt to discredit any foreclosure proceedings. 3. Loan modifications, forensic audits and find the note services have caused Colorado consumers harm in that they often collect upfront fees and may often provide false promises or irresponsible advice. 4. What other similar services are task force participants aware of in the market? 5. Should the Director take address these companies by rule? 6. Should all of these types of companies be included? 7. Since these industries are brand new, should the Director develop a contract for individuals and consumers who are participating in these types of services? | | |
| Results: | | |
| Action Items: | | |
| Person Responsible: | | |
| Timeline: | | |

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