



Prepared Testimony of
Denise Leonard, Director
National Association of Mortgage Brokers
on
“Ending Mortgage Abuse: Safeguarding Homebuyers”
Before the
Subcommittee on Housing, Transportation, & Community Development
Committee on Banking, Housing, & Urban Affairs
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Good morning Chairman Schumer, Ranking Member Crapo, and Members of the Subcommittee, I am Denise Leonard of the National Association of Mortgage Brokers (“NAMB”). Thank you for inviting NAMB to testify today on safeguarding homebuyers and putting an end to mortgage abuse. We appreciate this opportunity to address the need to combat predatory lending practices while maintaining a strong and competitive housing market.

NAMB is the only national trade association exclusively devoted to representing the mortgage brokerage industry, and as the voice of the mortgage brokers, NAMB speaks on behalf of more than 25,000 members in all 50 states and the District of Columbia. NAMB members are typically small business men and women, who adhere to a strict code of ethics and best lending practices when presenting consumers with an array of mortgage financing options from which they can choose. Mortgage brokers typically maintain business relationships with various lenders so they can offer a variety of loan products for their customers to choose from. Our members play a critical role in helping the American economy and in making the dream of homeownership a reality for American families.

We applaud Chairman Schumer's initiative in introducing The Borrower's Protection Act of 2007 ("S. 1299"); however, we believe the value of an all mortgage originator approach lies in the uniformity of treatment between competing origination channels. Consumers deserve the same level of protection no matter which distribution channel they decide to use. We also commend this Subcommittee for holding this important hearing to specifically address the challenges of protecting homebuyers from abusive and predatory lending practices and ultimately eliminating such practices from our industry altogether.

I. The Mechanics of Today's Mortgage Market

The reality of today is that any regulatory, governmental or legislative effort must take into account how the mortgage market has evolved in relation to the burgeoning growth of the secondary market for mortgages. The problems facing the mortgage market are not exclusively attributable to one distribution channel and are the result of a combination of factors including: origination, underwriting, servicing, debt collection, the secondary market, securitization, and the bond rating system.

The *Watters v. Wachovia* Supreme Court decision has created a bifurcated regulatory landscape in the mortgage industry. Two separate mortgage camps now exist: those operating solely under federal regulation, *versus* those in the 'non-bank camp,' which are subject to both federal and state oversight. The 'non-bank camp,' which is subject to this layered oversight, includes mortgage bankers, mortgage lenders, mortgage brokers, in-house or affiliated lenders, state-chartered banks or savings institutions that are not FDIC-insured and state-chartered credit unions, and creditors. The *Watters* decision has created an imbalance in the mortgage industry oversight scheme that regulates a market vastly different from the one that existed 20 years ago, at the advent of the secondary mortgage market.

Today, mortgage originator entities and individuals operate in one of three ways, or sometimes in multiple capacities:

- As lenders;
- As correspondent lenders; or
- As mortgage brokers.

It is important to note at the outset that States license people and businesses, while federal mortgage-related statutes generally define and regulate mortgage transactions (*i.e.*, the Real Estate Settlement Procedures Act of 1974 ("RESPA") and the Truth in Lending Act ("TILA")). So, irrespective of how a business or individual is treated by the governing state or federal authority, the federal statutes, by nature, will define the mortgage transaction. It is this treatment that gives rise to originator entities and individuals acting in various capacities, either in a true creditor capacity (lender), in a correspondent lender capacity,¹ in a table funding capacity,² or in a broker capacity (despite the fact that their business license may say "mortgage lender").

¹ When a lender is engaging in any one of these types of transactions and is offering multiple product lines of other lenders, that lender is acting as a correspondent lender.

² A correspondent lender can also engage in a table-funded transaction. Table funding is the origination of a loan by a correspondent lender with a simultaneous transfer or sale of the loan at the time of funding to a lender. In a table-

Historically a lender was an entity that used its own money to originate and fund transactions. The loan was not sold and was serviced by the originating lender. This lender maintained a direct relationship with the borrower from the time of origination through funding and collection of the loan. Today, this is no longer the case. Lenders typically originate loans using the secondary market's underwriting guidelines and standards. Lenders routinely contract with multiple secondary market participants to offer their product lines to consumers. While some lenders operate under a traditional model, an overwhelming number of lenders originate loans with the intention or practice of selling them either as whole loans or through securitization.

A correspondent lender is a mortgage banker or mortgage lender that does not typically offer its own product line. Rather, a correspondent lender is a mortgage banker or mortgage lender that has entered into multiple contracts with various other banks or lenders to offer their product lines to consumers. The multiple contracts enable the correspondent lender to offer an array of products and remain competitive in today's market.

Typically, a correspondent lender will close the loan in its own name and fund the loan through its warehouse line of credit. However, a correspondent lender knows in advance that they *do not* want to permanently fund, service or hold the loan, and therefore they act as an intermediary between the consumer and one of the bankers or lenders with whom they have contracted to sell the loan. A correspondent lender will, within one to ten business days after closing, sell the loan to the appropriate bank or lender and be compensated through a servicing release premium ("SRP").

Because correspondent lenders enter into multiple contracts, offer the loan products of various lenders and banks, and sell the loan in exchange for a SRP, they are functionally acting as brokers. The primary difference between a correspondent lender and a broker is that the correspondent lender *temporarily* funds the loan at closing and then, within one to ten business days, releases its interest in that loan and *does not* have to disclose all of the compensation (*i.e.*, SRP) earned on the transaction. Thus, the interest that the correspondent lender represents is wholly dependent on whose loan product the consumer qualifies for and chooses (*i.e.*, the correspondent lender represents the interests of any one of the multiple banks or lenders with whom it has contracted). In a correspondent relationship, the consumer generally does not know until days or sometimes weeks afterward whether they are receiving a loan from Bank A, Bank B or Bank C.

With respect to licensing and compensation, a mortgage banker can be licensed in a state so that it can act as *both* a mortgage banker and mortgage broker. This does not require the entity to obtain multiple licenses. Because an entity can act as both a mortgage banker and a mortgage broker, it can choose, transaction by transaction, whether it wants to originate a loan as a correspondent lender (requiring no disclosure of SRP) or a mortgage broker (requiring disclosure

funded transaction, the originating company is a creditor for purposes of TILA and therefore, state and federal agencies treat them as lenders. However, The Department of Housing and Urban Development ("HUD") has determined that table-funded transactions are mortgage broker transactions for purposes of the RESPA, subjecting these transactions to the YSP disclosure requirement. Therefore, the correspondent lender who table funds is essentially both a lender and a broker.

of YSP). Thus, the consumer is not able to easily discern whether the mortgage originator is operating as a mortgage banker or a mortgage broker.

Mortgage brokers generally contract with several wholesale lenders to offer a variety of product options, which their customers may then choose from. Every mortgage provider – whether broker, banker or lender – offers a different set of product choices to borrowers. It is the borrower’s responsibility to shop around to different mortgage brokers, as well as banks and mortgage lenders, until they find a loan product they are comfortable with. Although mortgage brokers typically offer a wider array of products to choose from, they do not act on behalf of their customers or shop around to find them the best loan product available.

Consumers Cannot Tell the Difference Between Brokers, Bankers and Correspondent Lenders

Most consumers enter the origination process through a retail branch. Retail branches allow banks, non-banks, and broker entities to offer their products directly to the consumer through loan officers working in brick-and-mortar retail shops. Retail origination can also occur on the phone or via the internet. In addition to retail branches, bank and non-bank entities can also offer products through their correspondent lending divisions or through their wholesale lending division (*i.e.*, broker division).

It is important to note that the bank and non-bank entities themselves can and do also engage in correspondent lending with other banks and non-banks through their retail shops. These entities choose to act as correspondent lenders when they know that they do not want to own, service or hold the loan on their books. The bank or non-bank entity ‘pre-sells’ the loan to another lender and so they know prior to and at closing that they must meet this other lender’s criteria.

For example, Bank A can close a loan product in its own name and at closing know that they are almost instantly selling the loan to Bank B. At the time of closing, the consumer has no idea that the loan officer owes their interest not to Bank A, but to Bank B.

Another example is the non-bank national residential mortgage company licensed in multiple states (“Mortgage Co. X”). Mortgage Co. X has retail branches, a correspondent lending division, and a mortgage broker division. Through its retail channel, Mortgage Co. X can close a loan in the name of Mortgage Co. X or in the name of another bank, such as Mortgage Co. Y. In this fashion, Mortgage Co. X is acting as a mortgage broker for Mortgage Co. Y through Mortgage Co. X’s retail branch.

In each scenario above, the entity has the ability to engage and does engage in the marketplace as an intermediary between the consumer and various other lending or bank parties through whom they obtain loan products for consumers to choose from.

It is important to note that employed loan officers are usually under an employer-employee agency relationship with their respective entities, be it a bank, correspondent lender shop or broker shop. It is the institutions behind the employed loan officers that have varying interests because they have entered into various contracts with banks and lenders.

Below are a few examples of mortgage bankers or lenders that functionally operate as brokers because they enter into multiple contracts to offer a variety of loan products that are not their own, present product choices to consumers and almost immediately after funding the loan sell it to the lender or to the secondary market.

- The in-house mortgage company of a real estate firm.³
- The in-house mortgage company of a builder.
- A bank or non-bank retail branch acting as a correspondent lender.
- Private label mortgage companies.
- Small community banks that act as correspondent lenders.

Consumers do not know the difference between various channels of distribution in retail branches for several reasons:

1. There is no official signage requirement;
2. The branch offices look exactly the same to the consumer, whether the branch is a physical location or a website;
3. The vast majority of mortgage bankers do not take deposits and therefore their operation looks no different than that of a mortgage broker;
4. These entities generally have “mortgage company” in their names and do not use lender, banker, or broker in their title;
5. In most states there is no written agreement or disclosure required to tell the consumer the nature of the relationship; and
6. As discussed above, regardless of the name of their company these entities can act in different ways in different transactions.

Therefore, it is not clear to the consumer whether they have walked into a mortgage banker shop and/or a mortgage broker shop. This is especially true where so many mortgage bankers get state-licensed as a mortgage banker or lender so that they can do correspondent lending as well as act as a mortgage broker. As a result, many consumers work with someone who they *think* is a mortgage broker only to learn later that he or she is in fact a mortgage banker who is not required to disclose their back-end compensation; not required to be licensed; not subject to criminal background checks; and not held to any standard of knowledge or expertise.

No Functional Difference

As discussed above, today the mortgage banker or lender functionally acts as a broker because they (1) have entered into multiple contracts with various banks and lenders to offer an array of products, (2) know at the time of closing they will quickly sell the loan, and (3) generally know how much they will make off the loan when they sell it. Today most lenders quickly sell their

³ Commonplace in the industry today are mortgage companies affiliated with other service providers. It is quite common for a mortgage company to be a subsidiary or be affiliated with a real estate agency firm. This creates an ability of the real estate agency to represent the buyer or the seller, or both, in the real estate transaction while also profiting from the mortgage transaction. Similarly, builders of new homes routinely operate in-house mortgage providers and therefore, act also as a seller and a provider of financing. These companies routinely act as correspondent lenders.

loans onto the secondary market, blurring the line that once divided lenders and brokers, and destroying the risk-reward equilibrium that mortgage lenders claim is so critical to maintain. As a result, mortgage bankers and lenders are exposed to virtually the same risk as mortgage brokers, and significantly less financial risk than they have been exposed to in the past.

Mortgage bankers and lenders that operate as correspondent lenders are simply ‘fronting’ the funds for another bank, lender or secondary market investor, and then are being compensated from the market, in addition to the consumer, for such temporary fronting of funds. Unfortunately, none of this is apparent to the consumer. The consumer has no idea that these entities are getting paid directly as well as indirectly because mortgage bankers operating as correspondent lenders do not need to disclose the SRP they earn from the sale of the loan days after closing.⁴

II. Pressure on Appraisers & Other Service Providers

An integral part of the mortgage and underwriting process is the determination of the value of the collateral being used in the loan application. The determination of property value includes the hiring of an industry professional (an appraiser) or the usage of an automated valuation model. Some mortgage applications waive the requirement for any formal valuation report.

There has been great debate over the independence and the professional standards of individual appraisers hired to do an evaluation. It is alleged by some that the need to obtain workable loan to value (“LTV”) ratios can and does lead some mortgage originators to exert inappropriate pressure on appraisers to achieve a predetermined value that will allow the loan to close. Although it is the responsibility of the appraiser to ensure that their work product complies with the appropriate codes of ethics and professional standards for their industry, NAMB opposes any effort by a mortgage originator to pressure or influence the work of an appraiser. Such practices should not be tolerated.

Roughly one year ago, NAMB amended its code of ethics to include language prohibiting NAMB members from pressuring any provider of services, goods or facilities to circumvent industry professional standards, or to respond or succumb to such pressure from others. Just last week at the 2007 NAMB Annual Convention in Seattle, WA, a representative from the Appraisal Institute gave a major presentation at both our Government Affairs Committee meeting and a special break-out session for convention attendees. NAMB and representatives from the Appraisal Institute have each extended offers to cooperate and have both expressed significant interest in working collaboratively to improve the appraisal process for brokers, lenders, appraisers, and most importantly consumers.

III. The Role of Wall Street

While we appreciate and understand the focus of this hearing is on the origination process, we do not believe one can get a full picture of what has occurred in the subprime mortgage market

⁴ Brokers are still the *only* mortgage origination distribution channel that can claim *full* transparency of *all* fees – both direct (on the GFE through points) and indirect (on the GFE as required by RESPA Regulation X).

without hearing from the ones who actually fund, underwrite and invest in these loans. Indeed, it has been reported, that a “growing number of Wall Street investment banks and other active issuers of mortgage-backed securities are becoming direct owners of mortgage originators,” some as long ago as 2002.⁵ This “vertical integration” strategy – firms specializing in securitizations, purchasing originators so as to have a “steady supply” of loans and access to the income streams those loans generate – has become more and more important to Wall Street firms and their fixed income divisions who have come to rely on the revenues from mortgage underwriting and securitizations.⁶ As a result of this rationalization of an efficient marketplace, it is becoming apparent that certain intermediary market participants, in this case lenders who provide only temporary funding for loans before quickly selling them on the secondary market, will be phased-out of the industry entirely.

As reported by Gretchen Morgenson in *The New York Times*, “While commercial banks and savings banks had long been the biggest lenders to home buyers, by 2006, Wall Street had a commanding share – 60 percent – of the mortgage financing market, Federal Reserve data show. The profits from packaging these securities and trading them for customers and their own accounts have been phenomenal.”⁷

The involvement of these firms in the process became apparent two weeks ago when several of the firms reported earnings. Many of these firms reported decreases in their fixed income operations and stocks have lagged as a result of concern over the “sustainability of revenue from the subprime mortgage lending and trading.”⁸

The reason all of this is relevant is because no originator can originate any loan without it being underwritten and funded by a lender. The lender often will not fund the loan unless they know ahead of time that they can sell the loan to Wall Street in a pool of mortgages. Wall Street then packages the loans into mortgage backed securities (“MBS”) and sells those securities to the ultimate investor. This investor – whether it is a pension fund, insurance firm, Japanese bank, European hedge fund, etc. – is the one ultimately holding the credit risk because he or she is the one actually lending the money. In the end, the investors ultimately determine the risk profile of any particular loan because the investors tell Wall Street what vehicles they are willing to put their money into. Wall Street, in turn, tells the mortgage lender what they would like to securitize, particularly in terms of credit ratings, LTV ratios, etc. The mortgage lender, in turn communicates these risk profiles to its loan officers, correspondent lenders, and mortgage brokers. In short, what can be originated and funded is determined by the investors actually lending the money.

⁵ “Under Wall Street Ownership,” McGarity, Mary, *Mortgage Banking*, December 1, 2006.

⁶ Ibid; and, “The Vertical-Integration Strategy, Levine, Jeffrey M., *Mortgage Banking*, February 1, 2007.

⁷ “Crisis Looms in Mortgages,” Morgenson, Gretchen, *The New York Times*, March 11, 2007.

⁸ “Wall Street to Report Smallest Profit Gain in 2 Years (Update1), Onaran, Yalman, June 11, 2007 (Bloomberg) <http://www.bloomberg.com/apps/news?pid=20601103&sid=aAbjqUCrG7xA&refer=us>; and “Goldman is Hit by Sub-prime Problems,” Litterick, David, *The Daily Telegraph*, June 15, 2007.

Main Street and Wall Street: From Application to Securitization

After receiving the application and other documentation from the loan originator, lenders utilize underwriters, or underwriting programs, to decide whether an applicant falls within certain pre-set risk parameters that the lender or secondary market purchaser is willing to accept. It is important to note that today the secondary market is dominated by Wall Street participants and hedge funds.

Once the lender decides to fund and close the loan, the originator is notified that the loan is approved and therefore, moves forward with the closing. The lender can either hold this loan in its portfolio and service it, or sell the loan. It used to be, some 10 or 15 years ago, that the majority of lenders retained and serviced these loans. This was largely because there was no effective mechanism available for lenders to systematically remove the loans from their books and “free-up” their capital. However, the emergence and rapid development of the mortgage securitization market (Wall Street) has changed the way most lenders do business.

Today, the bulk of these loans are sold almost instantaneously to an investment bank and securitized for market investors. This is because the majority of non-depository lenders rely on lines of credit to finance closed loans, and they tend not to want to tie up their capital in existing loans and restrict origination volume. Thus, these lenders typically sell their loans as quickly as possible to the secondary market to avoid the risk and interest costs associated with carrying the loan. Most residential mortgage loans – some estimate nearly 85% – are quickly sold to Wall Street investors to avoid the risks associated with holding the loans in portfolio.

As a result, much of the current mortgage market is driven ultimately by Wall Street investors and the credit agencies charged with rating the risks associated with these pools of loans. These market players establish the risk tolerances acceptable for the pooled loans. This, in turn, informs the design of loan products and borrower risk profiles deemed acceptable by the lenders’ underwriting criteria. In the end, Wall Street creates a demand for particular mortgage products and sets underwriting criteria designed to meet the demand for these products. It is the underwriting criteria, not the mortgage originator, which dictates whether a consumer qualifies for a particular loan product.

We believe it is important to note that the market is and has been adjusting to the increased level of defaults and late payments:

- Investment banks who securitize subprime have tightened their wholesale lending requirements and started enforcing buyback agreements;
- Many of the leading subprime lenders have closed their doors or gone bankrupt – largely due to margin calls and credit tightening by Wall Street;
- Contracts between mortgage lenders and mortgage brokers continue to require strong buyback commitments from the broker for originating nonperforming loans;
- Fair Isaac is making changes to its FICO scoring system to improve its “predictive strength by 5 to 15 percent.”⁹ Some believe this is to take into account the practice of

⁹ “Fair Isaac Combats Credit Manipulation,” Elphinstone, J.W., Associated Press, June 5, 2007; and Fair Isaac Press Release, May 17, 2007.

piggy-backing – where companies like Instant Credit Builders (<http://instantcreditbuilders.com/>) promise to increase a person’s credit score, by allowing a person with bad credit to add his/her name as an authorized user of the credit score of the individual with good credit (for a fee of course).¹⁰

In the end, we believe the effects of poor underwriting of mortgage loans in 2005 and 2006 have not been fully felt or appreciated and hope Congress does not rush to judgment in this area until everyone has a better idea of exactly what happened, how it happened and why it happened.

IV. Mortgage Brokers’ Responsibility to Lenders

Mortgage brokers originate loans; they do not set the qualifications or underwriting guidelines for the loans. The secondary market designs and underwrites loan products, which determines the qualifications under which originators operate.

Contrary to some notions of a mortgage broker’s business, brokers remain vested in the long term success of the loans they originate. Mortgage brokers enter into binding contracts with various lenders to deliver loan products to the marketplace. In those contracts, mortgage brokers are required to make certain representations and warranties regarding the origination and likely future performance of the loans they originate. Mortgage broker contracts with lenders also typically contain buyback provisions, mandating that the broker repurchase any loan that defaults within a certain period of time. Mortgage lenders also maintain “score cards” on the mortgage brokers they engage in business with, which includes information relating to the performance of the loan. If a mortgage broker continues to deliver loans to the contract lender that do not perform, the lender will cease doing business with that broker.

Additionally, since most mortgage brokers operate small retail shops in the communities in which they live, brokers rely heavily on repeat and referral business from customers they call neighbors, friends, and family. The success of a mortgage broker’s business hinges on the broker’s ability to offer loan products that ultimately meet the financial needs and goals of their customers. A mortgage broker cannot and will not remain in business if his or her customers are not satisfied with the selection of products, pricing, and level of service that broker offers.

V. Mortgage Brokers Are Regulated at Both the State & Federal Level

Today, all 50 states and the District of Columbia have passed legislation regulating mortgage loan origination. This legislation requires mortgage brokers to obtain a license and/or register with the state agency charged with enforcing financial regulations. A growing majority of states also require the individual loan originators employed by or contracting with mortgage brokers to be licensed or registered.

Although every state licensing and registration law is different, each state’s licensing or registration law involves some combination of testing, education, criminal background checks, compliance audits, and surety bond requirements for mortgage brokers. Additionally, mortgage brokers must comply with state and federal fair lending laws, RESPA, TILA, the Home

¹⁰ “Piggyback Credit Worries Loan Industry,” Elphinstone, J.W., *The Cincinnati Post*, June 4, 2007, p. B7.

Ownership and Equity Protection Act (“HOEPA”), the Fair Credit Reporting Act (“FCRA”), the Equal Credit Opportunity Act (“ECOA”), the Gramm-Leach-Bliley Act (“GLBA”), and the Federal Trade Commission Act (“FTC Act”), as well as various other state and federal regulations.

In most states, every mortgage broker, banker, and lender that is not exempt from state regulation by the Office of the Comptroller of the Currency (“OCC”), or by a specific provision in the state statute, is held to substantially similar standards. The growing problem, in the wake of the Supreme Court’s *Watters v. Wachovia* decision, is that more and more industry participants are being exempted from state regulation that is designed to safeguard homebuyers and curb abusive lending practices. In fact, over the past five years, many states’ regulation and oversight of mortgage brokers has eclipsed that of mortgage bankers and lenders, due in large part to the exemptions those entities have lobbied for and received at both the state and federal level.

VI. Key Principles

The impetus for today’s hearing is to explore and evaluate ways in which we can safeguard homebuyers, curb predatory and abusive lending practices, and expel unscrupulous actors from the mortgage industry.

There are undeniable differences that exist between depository institutions, credit unions, mortgage lenders, and mortgage brokers, both in terms of their business models and how they are regulated, primarily because some of these entities are involved in other businesses, namely banking. However, when it comes to the origination of mortgage loans, these entities are virtually indistinguishable in the eyes of consumers.

Since 2002, NAMB is the only industry trade group that has consistently advocated for more stringent standards for all loan originators, in order to protect consumers and curb abusive and predatory lending practices in the mortgage industry. We urge Congress to adopt uniform national standards for education, testing, and criminal background checks for *all* mortgage originators, and we support the creation of a national registry that would include every individual mortgage originator, including loan officers at banks, lenders, and brokerages.

A primary example of why *all* mortgage originators should be subject to uniform minimum standards is best articulated by South Carolina Attorney General, Henry McMaster, in a March 2007 mortgage fraud report. Attorney General McMaster states that South Carolina has “directly and disproportionately been targeted for this type [mortgage] of fraud.”¹¹ While both the mortgage broker and mortgage broker’s company are required to be licensed in the state of South Carolina, “mortgage lenders [mortgage bankers] and their originators [loan officers] are basically unregulated. There is no oversight by the State.”¹² Not coincidentally, the FBI has identified South Carolina as one of the top ten “hot spots” for mortgage fraud in the United States.¹³

¹¹ See, Appendix A, “Mortgage Fraud Report,” South Carolina Department of Consumer Affairs, March 2007, p.1.

¹² Ibid, p.4.

¹³ Ibid, p.1.

Increasing professional standards for all mortgage originators is important, but is only one component of any larger effort to safeguard homebuyers and curb abusive and predatory lending practices. It is also imperative that consumers understand and embrace their role and responsibility as the decision-maker in mortgage transactions. We must not risk “turning back the clock” to a pre-Fair Housing Act era where certain segments of the population were unfairly and unreasonably denied access to mortgage financing. For this reason, improved consumer financial literacy and simplified consumer disclosures are two critical elements that should also be present in any reform effort.

Finally, we must exercise caution when contemplating sweeping legislative or regulatory reform of our industry. We urge Congress to consider the potential for unintended consequences that may result from the establishment of vague standards or arbitrarily imposed liability that affects only a small segment of the market and provides consumers with the illusion of protection, as opposed to the real safeguards borrowers should be afforded.

A. A National Registry, Governed by a Federal Agency

NAMB supports the creation of a national registry, provided: (1) it is governed by a federal agency such as the FTC, the Federal Reserve Board, or HUD; (2) the federal government requires every individual mortgage originator, including individual mortgage originators working for federal and state chartered banks and lenders, credit unions, mortgage brokers, and their loan officers to register; (3) every individual pays a fee to be in the registry, and the fee is used to cover operational costs for the registry, create funds earmarked for additional enforcement of mortgage laws, and assist ongoing consumer financial literacy programs.

We believe individuals who choose to work in our industry should be held accountable for their actions. If any mortgage originator is found guilty of improper conduct, he or she should be kicked out of the industry permanently. This national registry will stop bad actors from remaining in the mortgage industry, but only if it includes every individual mortgage originator at every state and federally-regulated entity. Without universal inclusion in the registry, bad actors will remain free to move, unchecked, from one entity to another and one community to another without any interference.

B. Increased Professional Standards for All Mortgage Originators

Unfortunately, the growth that has occurred in the mortgage finance industry has led to a corresponding rise in the number of uneducated and unlicensed mortgage originators. We must be careful however, not to allow ourselves to be blinded by the notion that these unlicensed and uneducated bad actors have found a home exclusively in one segment of the industry. There are unprofessional and unscrupulous originators working throughout the mortgage industry, including at banks, credit unions, brokerages, and loan companies. If we really want to safeguard homebuyers from abusive and predatory lending practices and provide them with more than the illusion of protection, professional standards must be established for *all* mortgage originators and enforced across *every* distribution channel.

As we mentioned above, when consumers are sitting across the table from a mortgage originator, they generally cannot distinguish one distribution channel from another. From the perspective of the consumer, there is essentially no difference between banks, lenders, and brokers when it comes to originating mortgage loans. Moreover, there is no reason to distinguish one distribution channel from another when each is engaged in essentially the same activity. It is not in the consumers' best interest to draw artificial lines between entities based upon their size, structure, or place in the federal-state regulatory dichotomy. Regulating only small segments of a larger industry leaves cracks for bad actors to continually slip through.

Require Minimum Education, Testing, and Criminal Background Checks for All Mortgage Originators

We believe more can and should be done to increase professional standards for all mortgage originators. NAMB believes that part of the solution to successfully combating abusive and predatory lending practices is requiring a minimum level of education for all mortgage originators, regardless of where they are employed. Education of each and every mortgage originator helps to ensure that consumers will receive accurate and consistent product information in order to make an informed decision about different loan financing options available in the market. NAMB also believes that all mortgage originators should be subject to a federal criminal background check to prevent bad actors from entering or remaining in the mortgage origination industry. Additionally, to ensure all mortgage originators remain knowledgeable and competent to address customer concerns, NAMB supports periodic testing, continuing education, and ethics training.

The application of these minimum professional standards to *all* originators will create a mortgage market where consumers are free to shop and compare mortgage products and pricing across distribution channels without fear or confusion. We believe a federal effort must be undertaken to establish and implement minimum national standards that would function as the floor for all state and federal regulation, as well as internal corporate policies and procedures.

It has been suggested by some that requiring minimum standards for all loan originators is unnecessary, but we strongly disagree. The creation and implementation of a national minimum standard for every mortgage originator, which functions as a baseline for all regulation and corporate policy is neither burdensome nor duplicative. Such a standard, when implemented across every distribution channel, will raise the bar for anyone currently failing to meet it, and impose no greater restrictions on any state or entity whose requirements already surpass it.

C. Consumers' Role and Responsibility as Decision-Maker

It is imperative, regardless of what measures are ultimately pursued, that we ensure that the integrity of the consumer decision-making process remains intact. Consumers are and must remain the ultimate decision makers regarding the product, price, and services purchased in conjunction with mortgage financing. Selecting a mortgage is a very personal choice, and *only* the consumer can determine whether a particular loan product is "suitable" for his or her financial needs and goals, or if it might be in his or her "best" interest to continue shopping. No

mortgage originator, company, bank, investor, or government agency should ever superimpose or be required to superimpose its own judgment for that of the consumer.

Consumers currently enjoy the freedom and responsibility to choose their own mortgage products, take advantage of the competitive marketplace, shop, compare, ask questions, and expect answers. No law or regulation should ever take away consumers' freedom to decide for themselves what is or is not a valuable loan product. NAMB remains opposed to any contemplated law, regulation or other measure that attempts to impose a fiduciary duty upon mortgage originators and strip consumers of their ability to freely choose the product, pricing, and services that meet their individual financial needs and goals.

Because of the proliferation of affiliated business arrangements and the blurring of once clear lines of delineation between distribution channels, consumers are finding it more difficult than ever to choose a mortgage originator and understand the role that the originator will play in their loan transaction. We believe consumers would benefit from a clear, upfront, and uniform disclosure of the role of the mortgage originator in a given transaction. To enhance consumers' ability to comparison shop, this uniform disclosure should be required to be given by every single mortgage originator (whether state or federally-chartered or supervised) at the onset of the consumer's mortgage shopping experience. In 1998, NAMB urged HUD to adopt this disclosure as part of the required disclosures under RESPA. In 2002 and in 2005, NAMB again requested HUD to adopt this disclosure. To date, HUD has not responded.

This disclosure must clearly communicate to the consumer one of the following:

- Your mortgage originator has a fiduciary obligation to the bank, lending source, or other entity and therefore cannot act exclusively in your best interests in this transaction;
- Your mortgage originator does not owe any obligation or duty to you or any other entity involved in this transaction (*i.e.*, the bank, lending source, or other entity), and is acting as an intermediary only;
- Your mortgage originator is willing to enter into an agency relationship with you, the consumer, through a binding contract that will make the originator your "agent."

We strongly believe that this simple, straight-forward, and universally required disclosure of the mortgage originator's role in specific transactions would eliminate any confusion on the part of consumers and strengthen consumers' bargaining position when shopping for a mortgage. Requiring all originators to clearly and accurately inform consumers of their role in the transaction will level the playing field and enhance consumers' ability and perhaps desire to comparison shop and find a loan product and originator they are comfortable with.

D. Simplified & Modernized Mortgage Disclosures

NAMB supports clear, consistent, and uniform communication with borrowers from the mortgage shopping stage, through consummation and afterwards, throughout the life of the loan. When designed and used appropriately, in conjunction with originator education and consumer

financial literacy efforts, disclosures alert potential borrowers to the risks and benefits presented by particular loan products and support meaningful comparison shopping. Although disclosures alone are not enough, proper disclosure of critical information can aid the consumer in making an informed choice of loan product.

Current disclosures have failed to keep pace with market innovations. Consumers are not being given the tools needed to effectively shop for a mortgage in a market that is offering increasingly innovative and complex options. This is why NAMB believes it is necessary to create a revised GFE and a new, loan-specific payment disclosure that will: (1) educate consumers about the specific loan product being considered and/or chosen, and (2) enable consumers to comparison shop and ultimately exercise an informed and independent choice regarding a particular loan product.

1. Revised Good Faith Estimate (“GFE”)

In 2005, NAMB proposed a one-page GFE in response to a series of roundtables conducted jointly by HUD and the Small Business Administration.¹⁴ This one-page GFE mirrors the HUD-1 consumers receive at settlement, communicates the loan features and costs, and fully discloses the role of the loan originator in the mortgage transaction. Most important, the revised GFE provides specific information that is most valued by consumers – meaningful closing costs and monthly payment.

This one-page GFE can help curb abusive and predatory lending tactics, such as bait-and-switch schemes, and safeguard homebuyers by clearly and objectively informing them of the role of the loan originator in the transaction, and granting them a private right of action against their loan originator.

2. Loan-Specific Payment Disclosure

There is currently no loan-specific disclosure given to borrowers that effectively communicates the variability of the interest rate and monthly payments for specific loan products. As a result, some borrowers are choosing mortgages without really understanding how much or how often their interest rate and payments can fluctuate. This leaves consumers open to confusion, unable to meaningfully comparison shop, and susceptible to “payment shock.”

NAMB recognizes that there is a critical need for a uniform loan-specific disclosure, and that such a disclosure must be required across *all* distribution channels if it is to be effective. A model loan-specific disclosure form should clearly and concisely outline the material terms (*i.e.*, actual rate and payment adjustments under a “worst case scenario”) of the specific products that a consumer is considering. We believe this information, when clearly and accurately disclosed to the borrower, minimizes the risk of consumer surprise or “payment shock” at subsequent interest rate adjustments.

NAMB strongly encourages Congress to urge the Federal Banking Agencies to adopt a model loan-specific disclosure form and require *all* loan originators to provide this form to consumers,

¹⁴ See, Appendix B, “NAMB Proposed GFE.”

regardless of loan-product type. We believe such a mandate can and should be accomplished through regulation, in order to speed its implementation and ensure its application across all distribution channels. Specifically, we believe a loan-specific disclosure can be required early in the loan shopping stage through RESPA, Regulation X (*e.g.*, it can accompany the initial GFE); and an additional loan-specific disclosure can be required at closing through the TILA, Regulation Z. As with any disclosure, NAMB strongly believes that a loan-specific disclosure should be consumer tested by an independent third-party or government agency prior to requiring that all mortgage originators provide this form to their customers.

A uniform and straight-forward disclosure, such as the one proposed here, will aid in the comparison shopping process for consumers and will provide a simple and clear explanation of the “worst-case-scenario” for various loan products.

E. Consumer Financial Literacy

NAMB believes consumers should possess the necessary financial knowledge to carefully evaluate the risks and rewards of different loan products. Financial literacy is the tool that consumers need to make an informed decision as to whether a particular product meets their individual needs. Financial literacy can also be valuable in helping consumers avoid default and foreclosure. If a consumer understands the risks and rewards of the product they choose, they will be more likely to understand their obligations under that product and the ramifications of any failure to satisfy those obligations.

Regardless of how knowledgeable a mortgage originator is or becomes, an educated consumer is always in a better position to make an informed decision when selecting a loan product to match his or her financial needs and goals. Borrowers must possess a certain financial acumen to properly evaluate the risks and benefits of different mortgage products that have been highlighted and communicated by an educated mortgage originator. NAMB urges Congress to allocate funds for financial literacy programs at the middle and high school level so that consumers are educated about the financial decisions they make and retain their decision-making ability. NAMB also supports utilizing funds raised from the national mortgage originator registry, discussed above, to support ongoing financial literacy programs in the states.

NAMB has always been a staunch supporter and advocate for consumer financial literacy. Our firm belief that an educated borrower is significantly less likely to fall victim to abusive lending practices or face foreclosure is demonstrated by our active involvement in various consumer education efforts. For example, NAMB initiated a pilot consumer credit education program using Freddie Mac’s CreditSmart® and CreditSmart® Español financial literacy curricula. The pilot is currently managed by NAMB state affiliates in California, Florida and Texas. In 2003, NAMB partnered with United Guaranty to create a consumer information presentation – “Are You Prepared to Head Down the Road to Homeownership?®” – to help educate minorities, immigrants and low and moderate income households on the home-buying process. The presentation covers common home mortgage terminology, important steps in the home-buying process, fair housing laws, credit reports and more. Recently, NAMB introduced a pamphlet entitled “What Happens When Your Credit Report is Requested – Stop the Calls; Stop the Junk Mail; Protect Your Credit; Protect Your Identity.” This consumer-oriented piece offers tips to avoid identity theft and provides valuable information about what to watch out for in prescreened

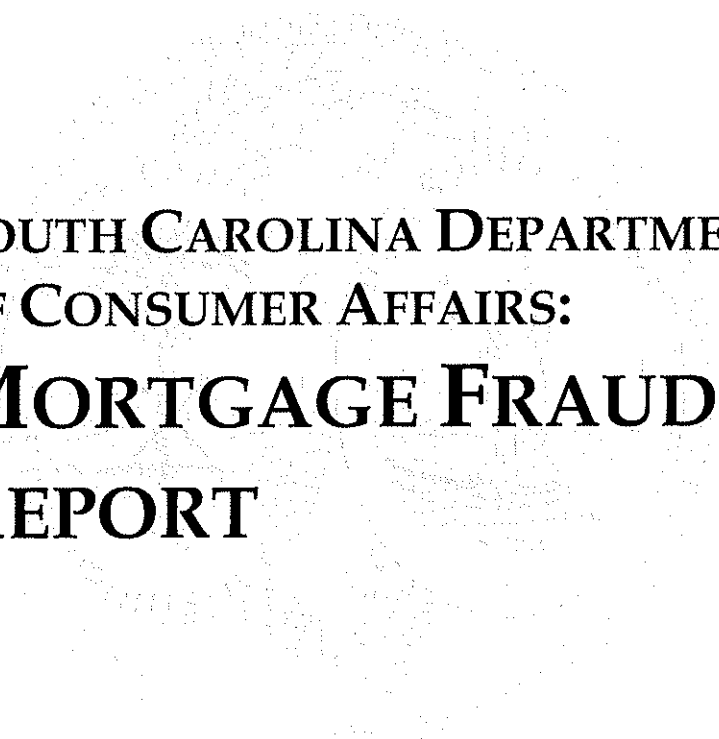
credit solicitations. NAMB is also preparing to finalize a new consumer brochure that offers some basic tips for first-time homebuyers and defines a number of key mortgage shopping terms.

We urge Congress, state and federal regulatory agencies, and others in the industry to continue to explore avenues of outreach to borrowers and work to educate borrowers on financial literacy throughout their lives, rather than just at the time of application or at the closing table.

VII. Conclusion

Consumers want to get loans they can afford and keep. Consumers want to know how much their monthly payment will be, if it will change and how much getting that loan will cost them at the closing table. The mechanics of this industry are complex. The mortgage market has evolved, forcing the distribution channels to become hyper-competitive. As a result, the lines between the distribution channels have blurred. This is why we advocate for an all-originator standard. Consumers deserve the same level of protection no matter who they choose to do business with.

Thank you for the opportunity to appear before this Subcommittee and discuss this timely issue. I am happy to answer any questions that you may have.



**SOUTH CAROLINA DEPARTMENT
OF CONSUMER AFFAIRS:
MORTGAGE FRAUD
REPORT**

March 2007

Written By: Charles M. Knight, Staff Attorney
Brandolyn Thomas Pinkston, Administrator

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Letters from the South Carolina Mortgage Fraud Taskforce:

- South Carolina Attorney General*
- The US Attorney, South Carolina District*
- The FBI, Columbia Division*
- South Carolina Field Office, HUD*
- The Internal Revenue Service, South Carolina Office*
- South Carolina State Housing Finance and Development Authority*

Stop Mortgage Fraud: A Call to Action Brochure

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 The Honorable Mark Hammond, Secretary of State, Columbia
 The Honorable Barbara B. League, Greenville
 The Honorable Louis Mayrant Jr., Pineville
 The Honorable Tony Macomson, Cowpens
 The Honorable Wayne Keith Sims, Columbia
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 The Honorable Carole C. Wells, Woodruff

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<u>Regulatory</u>	<u>Coordinator</u>	Darrell Jackson	Barbara Morris,
<u>Enforcement</u>	Barbara Childress	Maria Audas	Deputy Chief
Danny Collins	<u>Licensing</u>	Charles Ellison	Charles Heyward
<u>Chief Enforcement</u>	<u>Specialists</u>	<u>Administrative</u>	Martha Guinyard
<u>Attorney</u>	Darlene Dinkins	<u>Assistants</u>	Ken Middlebrooks
Helen Fennell	Joanna Brooks	Dorothy Gargis	Bryon Gibbes
	Robin Evans	Patricia Couser	Joni Greene
		Felicia Bannister	
		Dolores Hill	

South Carolina Department of Consumer Affairs Mortgage Broker Advisory Board

Lewis Burns, Chair	Elizabeth Coley	Roy Schneider
Joy Schofield, Vice Chair	Larry Compton	Chris Trimby
Howard Wright	JoLee Gudmundson	Kirk Amerson
LaTasha Gandy Benjamin	David Krahn	Chris Rodgers

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The Honorable Henry McMaster, South Carolina Attorney General
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 Kevin F. McDonald, Chief Assistant US Attorney, South Carolina District
 Marshall Prince, Assistant US Attorney, South Carolina District
 Brian D. Lamkin, Special Agent In Charge, Federal Bureau of Investigation (FBI), Columbia
 Division
 Neal Dolan, Special Agent In Charge, US Secret Service, Columbia, SC
 Bobby J. Kirby, Special Agent, US Secret Service, Columbia, SC
 Thomas A. Sheaffer, Internal Revenue Service, South Carolina Office
 William D. Gregorie, Former Director S C Field Office Department of Housing and Urban
 Development (HUD)
 William J. Snelling, South Carolina Field Office HUD
 Angelo M. Scioscia, SC Field Office HUD
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South Carolina General Assembly and their staff

Mortgage fraud is one of the fastest growing crimes in the United States. In their latest report, the Federal Bureau of Investigation (FBI) identified South Carolina as one of the top ten "hot spots" for mortgage fraud in the United States. **The South Carolina Attorney General further indicates that South Carolina has directly and disproportionately been targeted for this type of fraud.**

WHAT IS MORTGAGE FRAUD?

Mortgage fraud is a material misrepresentation, misstatement or omission that is relied upon by an underwriter or lender to fund, purchase, or insure a loan. Mortgage fraud is insidious, robbing homeowners and seniors of the equity in their homes and preventing first time home buyers from buying a home - the American Dream. Mortgage fraud also hurts the economy, since the housing industry has been its driving force in recent years. Therefore, we all lose. There are generally three motives for mortgage fraud: fraud for profit, fraud for housing and fraud to support or hide other criminal activity.

Fraud for profit is generally perpetrated by those inside the housing and mortgage industry. To be able to perpetrate the fraud requires the insiders to work together, resulting in a conspiracy. The list of those involved includes real estate agents and brokers, loan originators for mortgage brokers and lenders, homebuilders, appraisers, title insurance agents and closing attorneys, as well as others. **Cases in the last three years prosecuted by the United States Attorney's Office in South Carolina have resulted in convictions or plea agreements of over 80 individuals who were insiders as described above.** The fraudulent schemes include property flips, loans based on fictitious properties, misrepresenting investment property as owner-occupied property, misrepresenting or using the personal identity of others (identity theft), using false or forged documents very often through "straw buyers" to obtain a loan, and creating fictitious or nonexistent payees.

Fraud for housing is generally initiated either by a homebuyer or with their assistance so they can purchase or refinance a home. This type of fraud, although assisted by the homebuyer, generally results in huge profits for the insiders. Typically, the borrower will misstate income and/or expenses or forge documents to qualify for a mortgage or lower interest rates.

Fraud to support or hide other criminal activity, usually involves criminals using the mortgage industry to launder money or using the proceeds from a mortgage fraud scheme to fund other criminal activity. The fraudulent schemes include drug traffickers purchasing homes at inflated prices to launder money, terrorists buying safe houses and homes purchased for other criminal

activity, such as drug manufacture, prostitution, "chop shops" or counterfeiting. According to the FBI, criminals see the large sums of money in the mortgage industry as more profitable and less risky than other crimes.

WHAT IS CAUSING THE INCREASE IN MORTGAGE FRAUD?

The following information is excerpted from various reports on the mortgage industry and provides a historical perspective on the changes that are attributable to the increases in mortgage fraud experienced today.

The mortgage industry used to be a highly regulated business. Most mortgages were originated "in house" by banks and savings and loan companies. "In house" means bank employees originated the mortgages and the bank retained and serviced the mortgages. The banks and savings and loan companies were all highly regulated, primarily by federal regulators, however with the collapse of the savings and loan companies, new players entered the market. These new players included mortgage brokers and mortgage bankers. The mortgage brokers essentially took the place of the "in house," employee/originators, and the mortgage bankers provided the funding, wholesale lenders. Mortgage bankers either sell their mortgages in the secondary market or hold them. If they hold the mortgages they will either service them or sell the servicing rights to others. Other new players include joint ventures between banks and others in the housing industry, for example, real estate agents/brokers, homebuilders and others. The mortgage bankers, brokers and joint ventures, in most cases, are only regulated by the individual states. Until recently, most states did not regulate these industries, or if so, only minimally.

The mortgage industry has seen phenomenal growth, grossing approximately \$400 billion in 1999 to between \$2 and \$4 trillion in 2006. Based on recent history, it appears this growth will continue. Additionally, the mortgage industry is very competitive; forcing those in the industry to cut their costs, reduce the time from origination to closing and to introduce new products. Cost cutting has seen a shift from quality control to production. Quality control is where you would expect questionable loans to be identified. Reducing the time to close has taken the human element, the experienced eyes that would detect fraud, out of the process. Additionally, the shift to automated underwriting, again takes quality control out of the equation. In some cases, the new products, such as low documentation and no documentation loans (low doc and no doc) being offered are more prone to fraud. Low doc and no doc loans require less or no verification of the applicant's income or assets.

With these conditions and the possibility of making extraordinary amounts of money, the industry attracts unsavory characters with little or no experience or regulatory oversight.

WHO PAYS FOR MORTGAGE FRAUD?

We all pay, directly or indirectly. Homeowners and homebuyers pay directly through increased costs for mortgages and higher property taxes as fictitious appraisals and property flips increase property values. Indirect costs include taxes and lender costs to fight and/or prevent such crimes. Lenders also pass on their increased costs to consumers.

WHAT IS THE EXTENT OF MORTGAGE FRAUD?

The short answer is we do not know. Primarily because there is not a single repository or clearing house for mortgage fraud information, the extent of mortgage fraud is unknown. This need has been recognized by the FBI, industry and state regulators as a shortfall.

The FBI obtains their information based on Suspicious Activity Reports (SARs), however, only federally regulated entities are required to file SARs. Regardless, there is an increase in the number of SARs filed nationally, from 62,388 in 1996 to 522,655 in 2005. The latest report from the FBI states 279,703 SARs were filed in the first six months of 2006, with the expectation that 2006 will break all records. Also in this report, the FBI indicated South Carolina is one of the "Top Ten Hot Spots" for mortgage fraud. Additionally, the report shows that the foremost occupations for the fraudsters as finance related, including mortgage brokers, lenders and their employees. The types of fraudulent mortgage loan activity reported included falsification of the loan application, identify theft/fraud, misrepresentation of loan purpose or misuse of loan proceeds, appraisal fraud, fraudulent flipping of property and fraud involving multiple loans.

The Mortgage Asset Research Institute (MARI) is another source of information on mortgage fraud. MARI receives information primarily from subscribers, primarily mortgage lenders, therefore the data is not complete, but it paints a bleak picture as well. MARI attributes some of the reported mortgage fraud on the following factors: high origination volumes have strained lenders quality control processes, companies concentrating on production demands, assigning new, less trained staff in production where seasoned employees might detect mortgage fraud and the introduction of non-traditional products with less

quality control. MARI ranks individual states based on a mortgage fraud index. From 2001 through 2004, MARI reported South Carolina in the top ten in the United States in mortgage fraud. However in their latest report South Carolina has moved to number nineteen. An improvement, but we should not be satisfied, last place is our goal. To achieve this goal, we need to move forward with additional measures to further reduce mortgage fraud.

The FBI and MARI both agree that mortgage fraud is on the increase. A concerted effort is necessary to combat mortgage fraud; otherwise it could cripple the industry and prevent every American's dream of home ownership.

WHAT HAVE WE DONE IN SOUTH CAROLINA?

On June 3, 2003, South Carolina's Governor signed the South Carolina High Cost and Consumer Home Loans Act (the Act), with an effective date of January 1, 2004. This historic legislation's purpose was to curb abusive residential mortgage lending practices in South Carolina. Added to the Consumer Protection Code, the Act gave the Department of Consumer Affairs (Department) the primary responsibility for its enforcement. The Act is very similar to the Predatory Lending Act (PLA) in North Carolina. However, North Carolina soon realized that the PLA was not enough. Additional legislation was required to set minimum standards for all elements of the industry - lenders and brokers alike; and to give the State the authority necessary for enforcement. The solution was the Mortgage Lending Act (MLA). The MLA was a collaborative effort of consumer advocates, industry leaders and lawmakers. Without this comprehensive licensing law, authorities were unable to find those in violation of the PLA. In South Carolina, we find ourselves facing the same problem.

On January 13, 2005 Act Number 7, amendment to Title 40 Chapter 58, Licensing Requirements Act of Certain Brokers of Mortgages on Residential Real Property became law. The amendment required the licensing of originators for Mortgage Brokers and established minimum standards to be licensed. These standards provided a threshold for a segment of the industry and the Department enforcement authority. Prior to passage of this legislation no minimum standards, in experience or education, or a mechanism to check even state criminal records for originators employed by mortgage brokers existed. However, this was only the first step necessary for regulation and enforcement in the mortgage industry. **Mortgage lenders and their originators are basically unregulated. There is no oversight by the State. Additionally, first mortgages and junior liens less than 12% have little or no protections for consumers under the Consumer Protection Code. Most mortgages in today's market are funded and in some cases originated by non-depository mortgage bankers,**

who in most cases are only regulated by the individual states. In South Carolina, that regulation is missing.

The South Carolina Department of Consumer Affairs, in coordination with the North Carolina Commissioner of Banks, the Georgia Department of Banking and Finance, the Florida Office of Financial Regulation and the Department of Housing and Urban Development (HUD) (Southeastern Region) sponsored a mortgage fraud conference in Savannah, Georgia on June 22, 2006. The conference, Stop Mortgage Fraud, Spot it! Stop it!, was attended by state and federal regulators and law enforcement, including the sponsors, the FBI, the US Attorney for SC and NC, other law enforcement and regulators, and industry professionals. The conference resulted in increased cooperation and information sharing between all participants to combat mortgage fraud. As an example, the Department has referred several cases to the FBI, IRS and the Secret Service in recent months and routinely shares information with other state regulators.

(SEE ATTACHMENT)

In addition, the Department has sponsored and conducted numerous classes on detecting and preventing mortgage fraud. These classes were given to mortgage professionals in South Carolina. Also the Department participates in other educational events such as the Palmetto Affordable Housing Forum. Lewis Burns, Chair of the Department's Mortgage Broker Advisory Board said, "We still have a lot of work to do and I look forward to working with the Department in making South Carolina a state free of mortgage fraud."

HOW DO WE COMBAT MORTGAGE FRAUD?

We combat mortgage fraud by using a two-pronged approach: First, identify and prohibit known perpetrators from engaging in business, then investigate and prosecute the perpetrators.

To identify and prohibit known perpetrators (fraudsters), requires a licensing process that includes national records checks, including FBI and state criminal records and adjudicated enforcement actions by licensing authorities in other states. Fraudsters are known to be mobile, moving from one state to another, and migrating from one industry to another. For example, an investment adviser in South Carolina lost his securities license as a result of converting an investors funds to his own. This person then changed to the mortgage industry and was recently prosecuted for mortgage fraud. The licensing must include loan originators whether employed by mortgage brokers or lenders, first and second mortgage lenders and mortgage servicing companies. **(See Comparison of SC and NC licensing laws at Attachment)** The mortgage industry has become for the most part, national and even international in scope but regulation and enforcement should remain with the state where the actual

damage is felt. We looked at other states' laws, including North Carolina, and believe that there can be a balance between necessary regulation and any burden to the industry. **(See Attachment that show states that regulate mortgage brokers, lenders and services)**

We have also been working with our national associations, American Association of Residential Mortgage Regulators (AARMR) and the Conference of State Bank Supervisors (CSBS) to develop a National Licensing System. It is intended to be a web-based licensing application system that would be used by all states and make available licensing and adjudicated actions against a licensee to all states in which a license is sought. This will help curb fraudsters and bad actors from moving from one state to another as they do now.

The member states are also working to increase uniformity for licensing and regulation of the mortgage industry. We believe that this initiative will help lessen the burden on the industry as well. HSBC's Presentation to the National Conference of State Legislatures reinforces this concept. Furthermore, another area of concern is mortgage servicing. The Department receives a significant number of consumer complaints related to mortgage servicing, another part of the mortgage industry that is essentially unregulated, but affects our largest investment, our home.

To effectively prosecute requires a clearinghouse for all suspected mortgage fraud and a coordinated effort to investigate and prosecute the perpetrators, including local, state and national authorities. The Department is already working with state and national authorities, including the Attorney General of South Carolina, the FBI, the Secret Service, the IRS, the US Attorney's Office and HUD in this effort. We have formed a mortgage fraud task force and have started sharing information. More needs to be done; we need the assistance of local and state law enforcement and solicitors in the investigation and prosecution of perpetrators. In addition, state and local law enforcement need clear authority and guidance on the crime of mortgage fraud. And finally, the Department needs the law changes previously identified to assist in enforcement actions and identifying the fraudsters.

RECOMMENDATIONS

- Enact a Comprehensive Mortgage Lending Act
- Consider Participation in the National Licensing System
- Continue working with other states to develop uniformity in licensing and regulation of the Mortgage Industry
- Assist in establishing a National Clearinghouse for Reporting suspected mortgage fraud that includes a toll-free number.

TIPS TO PREVENT YOU FROM BECOMING A VICTIM OF MORTGAGE FRAUD*General Tips:*

If it sounds too good to be true – it probably is!

Never sign a blank document or a document containing blanks. This leaves you vulnerable to fraud.

Don't sign anything you don't understand.

Mortgage Fraud Prevention Tips:

Get referrals for real estate and mortgage professionals. Check the licenses of the industry professionals with state, county, or city regulatory agencies.

Be suspicious of outrageous promises of extraordinary profit in a short period of time.

Be wary of strangers and unsolicited contacts, as well as high-pressure sales techniques.

Look at written information to include recent comparable sales in the area and other documents such as tax assessments to verify the value of the property.

Understand what you are signing and agreeing to. If you do not understand, re-read the documents or seek assistance from an attorney.

Make sure the name on your application matches the name on your identification.

Review the title history to determine if the property has been sold multiple times within a short period. It could mean that this property has been "flipped" and the value falsely inflated.

Know and understand the terms of your mortgage. Check your information against the information in the loan documents to ensure they are accurate and complete.

KEY TERMS OF FRAUD SCHEMES

Backward Applications: After identifying a property to purchase, a borrower customizes his/her income to meet the loan criteria.

Air Loans: These are non-existent property loans where there is usually no collateral. An example would be where a broker invents borrowers and properties, establishes accounts for payments and maintains custodial accounts for escrows. They may set up an office with a bank of telephones, each one used as the employer, appraiser, credit agency, etc., for verification purposes.

Silent Seconds: The buyer of a property borrows the down payment from the seller through the issuance of a non-disclosed second mortgage. The primary lender believes the borrower has invested his money in the down payment when, in fact, it is borrowed. The second mortgage may not be recorded to further conceal its status from the primary lender.

Nominee Loans: The identity of the borrower is concealed through the use of a nominee who allows the borrower to use the nominee's name and credit history to apply for a loan.

Property Flips: Property is purchased, falsely appraised at a higher value, and then quickly sold. What makes property flipping illegal is that the appraisal information is fraudulent. The schemes typically involve fraudulent appraisals, doctored loan documents, and inflation of the buyer's income.

Foreclosure schemes: The subject identifies homeowners who are at risk of defaulting on loans or whose houses are already in foreclosure. Subjects mislead the homeowners into believing that they can save their homes in exchange for a transfer of the deed and up-front fees. The subject profits from these schemes by re-mortgaging the property or pocketing the fees paid by the homeowner.

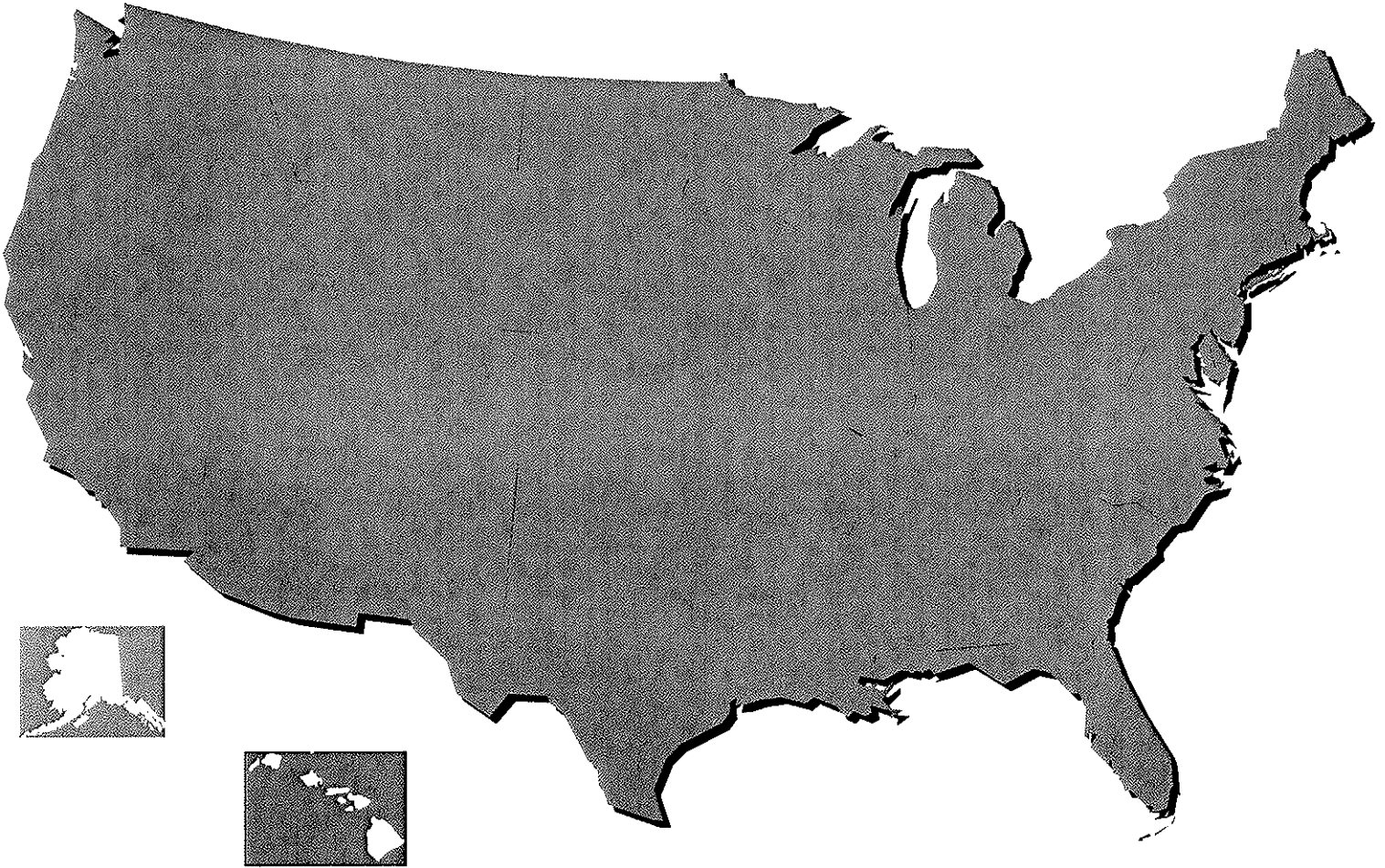
Equity Skimming: An investor may use a straw buyer, false income documents, and false credit reports to obtain a mortgage loan in the straw buyer's name. Subsequent to closing, the straw buyer signs the property over to the investor in a quit claim deed which relinquishes all rights to the property and provides no guaranty to title. The investor does not make any mortgage payments and rents the property until foreclosure takes place several months later.

**COMPARISON OF SOUTH CAROLINA AND NORTH CAROLINA LAWS
RELATED TO THE MORTGAGE INDUSTRY**

Mortgage Brokers	South Carolina	North Carolina
Broker License	Yes	Yes
Originator License	Yes	Yes
Licensee Testing	No	Yes
Prelicensing Education	No	Yes
Continuing Education	Yes	Yes
Criminal records check	SC only, no fingerprints	NC and FBI, requires fingerprints
Surety bond	\$10,000	\$50,000
Registration for exemptions	No	Yes

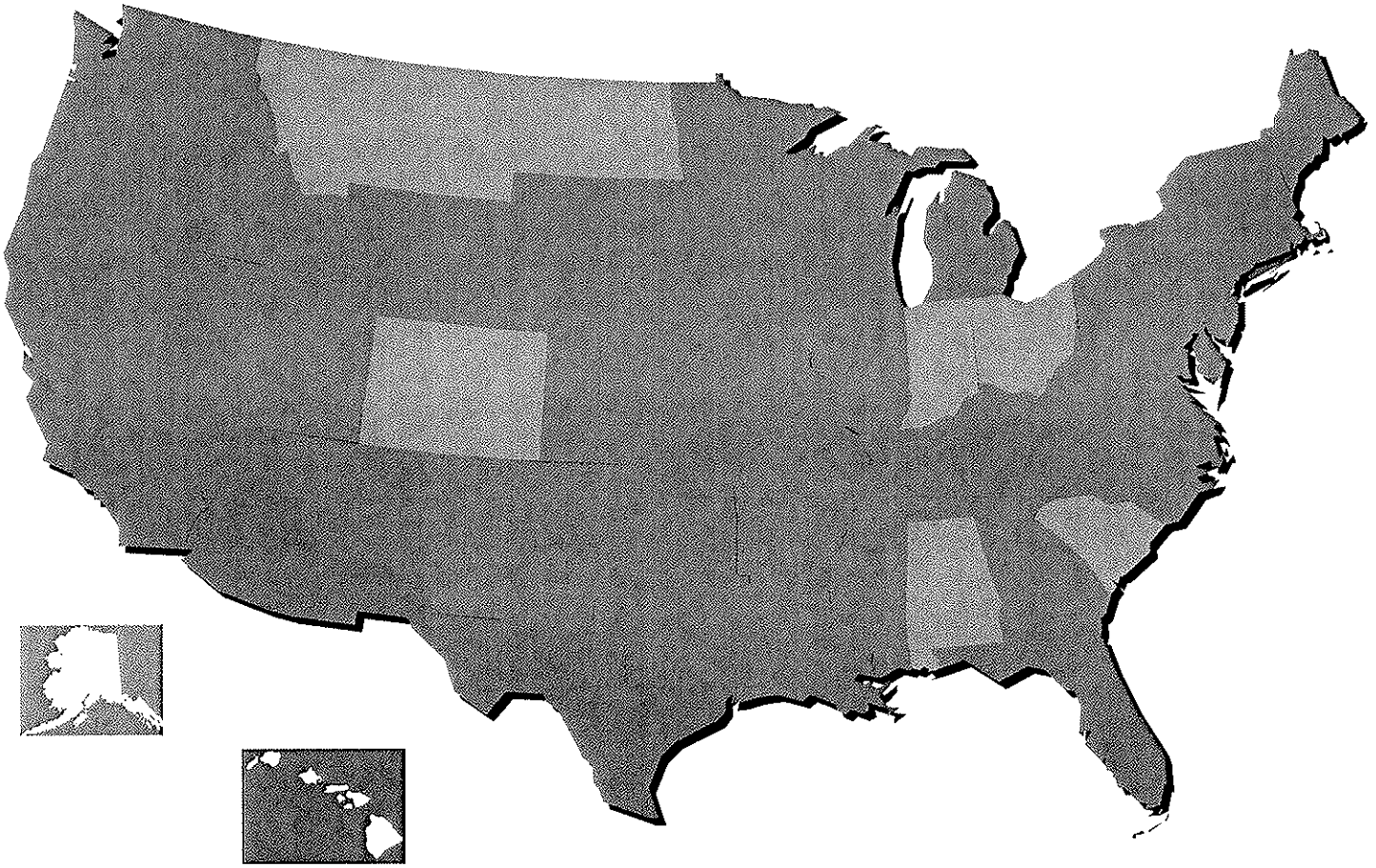
Mortgage Bankers/Lenders	South Carolina	North Carolina
Lender License	Only for 2 nd Mortgages greater than 12% (Supervised Lender)	Yes
Originator License	No	Yes
Licensee Testing	No	Yes
Prelicensing Education	No	Yes
Continuing Education	No	Yes
Criminal records check	No	NC and FBI, requires fingerprints
Surety bond	0	\$150,000
Registration for exemptions	No	Yes



US MAP SHOWING STATES THAT REGULATE MORTGAGE BROKERS



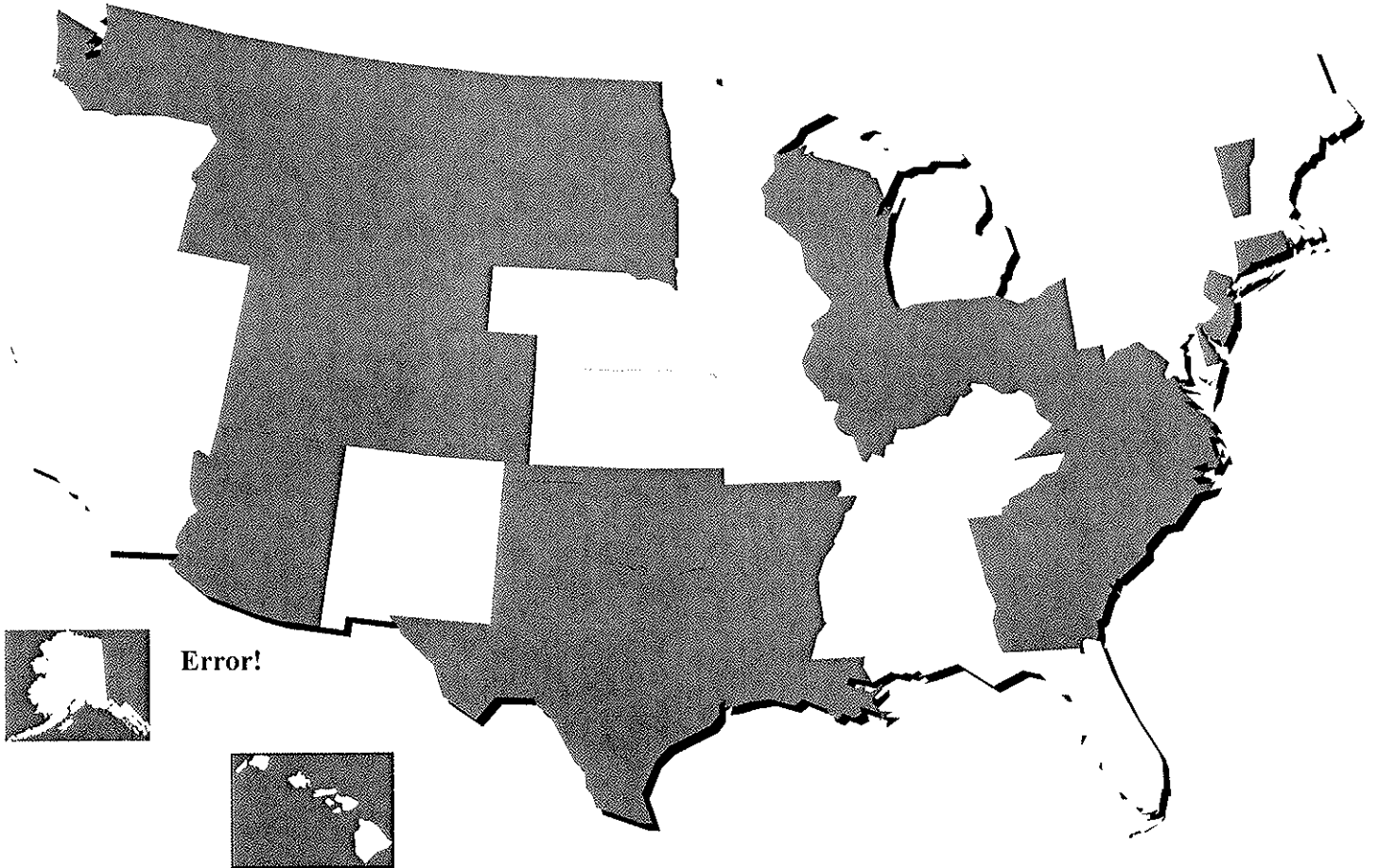
- States that regulate Mortgage Brokers are shown in green
- States that do not regulate Mortgage Brokers are shown in red

US MAP SHOWING STATES THAT REGULATE MORTGAGE BANKERS/LENDERS



-  States that regulate Mortgage Bankers/Lenders are shown in blue
-  States that do not regulate Mortgage Bankers/Lenders are shown in red

US MAP SHOWING STATES THAT REGULATE MORTGAGE SERVICERS





**SOUTH CAROLINA
STATE HOUSING
FINANCE AND DEVELOPMENT AUTHORITY**

Division: Special Projects

Subject: High Cost Home Loan Counseling Program

Calendar Year 2005 Update

The Legislation

On June 3, 2003, Governor Mark Sanford signed into law the South Carolina High Cost and Consumer Home Loans Act (Act No. 42) in an effort to protect consumers from predatory lending practices. Under the new law, borrowers seeking a “high cost home loan” must be advised by the lender that free counseling by an approved counselor is required before securing the loan. Along with definitions and procedures, the law also includes provisions for both enforcement and education. These are key provisions for the success of the law. Subsequently, the South Carolina Department of Consumer Affairs was tasked with enforcement of the law and the South Carolina State Housing Finance and Development Authority was tasked with educating consumers about the law, primarily in the form of consumer counseling.

The Loan

The law addresses loans that include home mortgages, such as first mortgages, mobile home and land, purchase money and home improvements and manufactured homes without land, auto title lenders and mortgage brokers. Aside from traditional loan closing procedures, those loans that are considered “high cost home loans” also have additional requirements specifically related to borrower counseling. That counseling is facilitated by the use of a checklist. The checklist is a list of items each counselor will cover with the borrower including questions regarding the borrower’s individual circumstances, the terms of the loan, the fees of the loan and any other information deemed appropriate.

A High Cost Home Loan has the following components: having a principal amount that does not exceed the Fannie Mae conforming loan size limit for a single-family dwelling; is incurred for primarily personal, family, or household purposes; is secured either by a security interest in a manufactured home or a mortgage on real estate upon which there is or there is to be located a structure designed principally for occupancy for 1-4 families and which will be occupied primarily as a principal dwelling; and meets one of two thresholds. The thresholds are: Interest Threshold, first mortgage – 8% over US Treasury securities, second mortgage and manufactured housing – 10% over US Treasury securities; or, Points and Fees Threshold, loans greater than \$20,000 – 5% of the loan, loans less than \$20,000 – 8% of the loan, non-real estate manufactured homes – 3% of the loan.

The Borrower

The law was enacted to protect South Carolina’s most vulnerable citizens. Typically, “high cost home loan” borrowers fall into one or more of the following categories: poor credit and/or insufficient collateral and either thinks or actually is incapable of being financed by a more traditional lender; good credit, but thinks he/she has bad credit; good credit, but trusts the high cost lender more or is hesitant to use a traditional lender; or, needs money quickly and feels a traditional lender would be too slow. It is because of these perceptions and ‘feelings’ that the role of the counselor becomes so critical. Some may be completely inaccurate and burden the borrower with unnecessary risk.

The Counselor

A High Cost Home Loan Counselor is primarily an educator. According to the law, the counselor is to counsel “...on the advisability of the loan transaction and the appropriate loan for the borrower.” The South Carolina Department of Consumer Affairs has interpreted this to mean that “...the counselor’s role should be that of an educator, facilitating the borrower’s awareness of the loan’s terms and costs.”

The criteria for becoming a counselor is experience in housing counseling, credit or financial counseling, or a background in the mortgage lending industry – although a counselor must not have any current interest or affiliation with any lenders – attendance of a training session and signing of the Counselor’s Assurance, which assures that the counselor will act in the best interest of the borrower, will neither collude with nor act on behalf of any lending institution and will conduct themselves professionally. With tools such as the Truth in Lending Disclosure, a good faith estimate of closing costs and a copy of the borrower’s credit reports, the counselor educates the borrower on the terms of the loan, the importance of credit and other financial implications. It is the end-goal of the counselor, though, that is the most critical: to convey to the borrower the risks associated with high cost home loans.

The Program

The inception of the High Cost Home Loan Counseling Program was January 1, 2004 when the South Carolina High Cost and Consumer Home Loans Act became effective. For the first year, counselors were volunteers and were not compensated for their sessions conducted. In January 2005, The Board of Commissioners of the Authority decided to begin compensating counselors for their efforts. Compensation was set according to a determined schedule. Aside from these actions and the increase in recruitment with corresponding training, no major changes were instituted in the program in 2005.

Following is a review of the program since its inception.

Table 1. Measures of High Cost Home Loan Program Since Inception Presented by Calendar Year

Measure	2004	2005	2006	2007
Number of Sessions for	200	142		

Calendar Year				
Number of Sessions for First Quarter	37	38		
Number of Sessions for Second Quarter	63	35		
Number of Sessions for Third Quarter	54	42		
Number of Sessions for Fourth Quarter	46	27		
Number of Counselors	74	73		
Percent of Counselors Participating	51%	29%		
Number of Counties with Sessions	28	*		
Percent of Loans Less Than \$20,000	69%	63%		
Percent of Loans Greater Than \$50,000	8%	3%		
Percent of Loans for Debt Consolidation	43%	30%		
Percent of Loans for Home Improvement	29%	21%		
Percent of Loans for First Lien	85%	92%		
Percent of Loans for Refinance	32%	32%		
Average Amount Borrowed	\$16,583.00	\$18,741.00		
Highest Amount Borrowed	\$180,000.00	\$258,504.00		
Least Amount Borrowed	\$2,300.00	\$2,907.00		
Cost of Counseling Program**	\$0.00	\$7,590.00		

* Data is not available for the referenced year.

** Cost is based solely on invoices submitted to SCSHFDA by High Cost Home Loan Counselors. In 2004, counselors were volunteers.

Conclusion

The activity in the High Cost Home Loan Counseling Program seems to have dropped significantly, as has the participation of the counselors. Most of the other indicators for 2005 appear to be of an approximate level with 2004, varying more in the mix of the categories than in the categories themselves. The Authority staff will continue to develop more appropriate measures of the effectiveness of the program, including conducting open sessions for discussing issues that have arisen for counselors in the course of their provision of services, periodic updates to participating counselors and inclusion of information sessions during the Palmetto Affordable Housing Forum. Since the nature of the responsibility of the Authority in this legislation is to provide consumers with adequately trained counselors who can advise them on the appropriateness of the loan, no effort has been made to gather information on the effectiveness of the legislation; merely on the effectiveness of the educational program.



U.S. Department of Justice
United States Attorney
District of South Carolina

Wachovia Building
Suite 500
1441 Main Street
Columbia, SC 29201
(803) 929-3000
FAX (803) 254-2943

151 Meeting Street
Suite 200
Post Office Box 978
Charleston, SC 29402
(843) 727-4381
FAX (843) 727-4443

John L. McMillan Federal
Building, Room 222
401 W. Evans Street
Post Office Box 1567
Florence, SC 29503
(843) 665-6688
FAX (843) 678-8809

105 N. Spring Street
Suite 200
Post Office Box 10067
Greenville, SC 29603
(864) 282-2100
FAX (864) 233-3158

Reply to: Columbia

October 2, 2006

Brandolyn Thomas Pinkston
Administrator
SC Department of Consumer Affairs
P.O. Box 5757
Columbia, SC 29250

Re: Mortgage Fraud Consumer Report

Dear Ms. Pinkston:

As you prepare your report on mortgage fraud to consumers in South Carolina, please consider for inclusion the following from the United States Attorney's Office, District of South Carolina:

The United States Attorney's Office, District of South Carolina, has actively prosecuted individuals involved in mortgage fraud, with approximately 80 convictions obtained over the last three years across the state. Federal law prohibits providing false information to a bank in connection with a mortgage loan, and authorizes sentences of up to 30 years in prison and a fine of \$1,000,000.00. Federal agencies that investigate mortgage fraud include the FBI, Secret Service, IRS, the Postal Inspector, and the Department of Housing and Urban Development (HUD).

Those prosecuted in South Carolina for mortgage fraud include mortgage brokers, loan officers, developers, appraisers, real estate agents, closing attorneys, paralegals, and borrowers. In each case, the individual convicted played a role in misleading the mortgage lender as to the true nature of the transaction at issue, and usually a coordinated effort was undertaken by two or more individuals in the deception. For example, in Columbia last year a developer and appraiser conspired to fraudulently inflate the value of a residence, while in Anderson a mortgage broker and loan officer conspired to hide from the bank a borrower's debts on loan applications. In both cases, the respective lender was misled by the false

information, and those involved were held responsible.


Recent cases handled by the U.S. Attorney's Office included frauds involving: (1) false submissions to lenders concerning the creditworthiness of borrowers; (2) inflated appraisals; (3) illegal flip transactions, in which properties were bought at low prices, then immediately resold at falsely inflated prices; and (4) fraudulent refinancing transactions. In each case, false information was relied upon by the lender in making loans to otherwise unqualified borrowers to purchase or refinance over-valued houses. The illicit proceeds were often taken by the perpetrators as bogus repair or renovation costs, unearned commissions, or false creditor pay-offs. The borrowers victimized by these mortgage frauds found themselves owing more on their houses than they were worth, and saddled with monthly mortgage payments they couldn't afford. They ultimately defaulted on their mortgages and abandoned their homes, which adversely affected the values of neighboring homes.

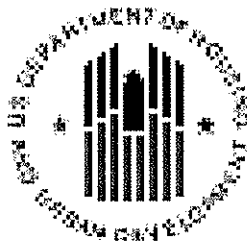
Consumers considering a real estate transaction should be wary of unscrupulous individuals that purport to be working for the consumer, but who in fact are only interested in obtaining a share of the bank's loan proceeds for themselves. These individuals may attempt to convince potential mortgage loan borrowers that there is nothing wrong with omitting poor credit information on loan applications, or providing the lender with documents that misrepresent the condition and value of properties to be purchased. Consumers should realize that such activity is illegal, and can result in federal prosecution for a knowing participation in mortgage fraud. A key point for consumers to remember is that honest real estate professionals will never ask potential borrowers to lie about anything. Should such a request be made, borrowers are urged to contact law enforcement and the S.C. Department of Consumer Affairs immediately.

I hope this submission proves helpful. If you require anything further, please contact me.

Sincerely,

REGINALD I. LLOYD
UNITED STATES ATTORNEY

By 
Kevin F. McDonald
Chief Assistant United States Attorney
General Crimes Section
1441 Main Street, Suite 500
Columbia, South Carolina 29201
(803) 929-3000



Mr. William Dudley Gregorie, Former Field Office Director, US Department of Housing and Urban Development (HUD) stated that “Mortgage fraud was one of the fastest growing crimes in America” with the number of pending cases nearly doubling in the past three years.” One of the most common mortgage fraud schemes is to sell a home at a hugely inflated price, relying on phony appraisals.

A property is acquired at a low or modest price and little or no rehabilitation repairs are performed. The house is then placed on the market at a much higher price of up to several times the acquisition cost. The new price is supported by a bogus appraisal. This type of property flipping is a crime that takes the collusion of several parties to pull off,” Gregorie states. “That’s why when you see cases of flipping mortgage fraud, you’ll usually find some combination of real estate brokers/agents, appraisers, and mortgage brokers involved.

New anti-flipping rules instituted by HUD for FHA mortgages have taken effect that restrict property flipping. Properties must be owned for ninety days before resale and the costs of repairs and improvements must be documented. These changes in policy have reduced mortgage fraud in property flipping resales.” Mr. Gregorie also cited the work of HUD’s approved Housing Counseling Agencies through their homebuyer education programs. “More knowledgeable purchasers have contributed to a reduction of Mortgage Fraud in South Carolina.”

The U.S. Department of Housing and Urban Development, Atlanta Region and its partners including the South Carolina Department Consumer Affairs Office sponsored free symposium for Mortgage Professionals on “Stop Mortgage Fraud”. Recent published and broadcast news reports highlight many cases of mortgage fraud. Georgia, Florida, North Carolina, South Carolina are among the top five states in the Nation where mortgage fraud was most prevalent. The Symposium and the news media increased awareness of fraud by identifying all types of fraud within the single family housing industry, fostered relationships with other industry partners, and raised consumer awareness.

IRS Nationwide Enforcement Actions Real Estate Fraud

Real Estate Fraud: Facts, Figures and Closed Cases

IRS Criminal Investigation (CI)
October 2006

Special agents with IRS Criminal Investigation are uniquely equipped to investigate mortgage fraud and illegal real estate crimes.

When times are booming, you can expect to see increases in frauds and schemes that victimize people and businesses, including struggling low-income families lured into home loans they cannot afford, legitimate lenders saddled with over-inflated mortgages and honest real estate investors fleeced out of their investment dollars.

IRS criminal investigators find common real estate schemes, which include:

- **Property Flipping** — A buyer pays a low price for property, and then resells it quickly for a much higher price. While this may be legal, when it involves false statements to the lender, it is not.
- **Two Sets of Settlement Statements** — One settlement statement is prepared and provided to the seller accurately reflecting the true selling price of the property. A second fraudulent statement is given to the lender showing a highly inflated purported selling price. The lender provides a loan in excess of the property value, and after the loans are settled, the proceeds are divided among the conspirators.
- **Fraudulent Qualifications** — Real estate agents assist buyers who would not otherwise qualify by fabricating their employment history or credit record.

In these real estate fraud cases, the income earned from these schemes is often laundered to hide the proceeds from the government. Money laundering is simply a process of trying to make money earned illegally to look like it was legitimately earned. Many criminal tax investigations focus on money laundering because it is often inseparable from tax evasion.

In addition, the IRS has thousands of returns under audit involving individuals and entities associated with the real-estate business.

As the following statistics indicate, IRS criminal investigations of real estate

fraud continue to be an area of concern.

**IRS Criminal Investigation
Real Estate Fraud Statistics**

	FY 2004	FY2003	FY2002
Investigations Initiated	194	215	194
Prosecution Recommendations	148	117	148
Indictments/Informations	102	94	102
Convictions	89	81	89
Sentenced	78	65	78
Incarceration Rate*	92.3%	87.7%	92.3%
Avg. Months to Serve	41	46	41
<p>* How to Interpret Criminal Investigation Data Since actions on a specific investigation may cross fiscal years, the data shown in cases initiated may not always represent the same universe of cases shown in other actions within the same fiscal year. Therefore, in fiscal year 2004, the data should reflect an increase in convictions and sentenced due to the fiscal year 2003 increase in case initiations, prosecution recommendations and indictments.</p>			
<p>*Incarceration may include prison time, home confinement, electronic monitoring, or a combination.</p>			



Savannah International Trade
and Convention Center

Thursday, June 22, 2006
8:00 a.m. to 5:00 p.m.



STOP MORTGAGE FRAUD: A CALL TO ACTION

Savannah, Georgia

June 22, 2006

8:00-9:00 Registration & Exhibits Open

9:00-9:40  **Opening Session**

Introduction of Mayor Pro-Tem



Pattie Wainwright
President, Mortgage Bankers Association of Georgia, Savannah Chapter

Welcome to Savannah



Edna Jackson
Mayor Pro-Tem, Savannah, Georgia

Welcome



"Everyone pays for mortgage fraud."
Bob Young
Regional Director, Region IV, Department of Housing and Urban Development

Why Are We Here



"You can't stop mortgage fraud if you don't know what it is."
Brandolyn Thomas Pinkston
Administrator, South Carolina Department of Consumer Affairs

9:50-12:10  **Where Fraud Begins**

Moderator



"Mortgage fraud has been rapidly increasing over the last several years, and in North Carolina, we believe that the government and industry must work together to address the problem."
Tami Hinton
Director of Consumer Affairs, NC Office of the Commissioner of Banks

Money Laundering - How to Spot It



"Don't let dirty money ruin your reputation, your business, or your profession."
John Atkinson
Assistant Vice President, Federal Reserve Bank of Atlanta

Mission Possible: Preventing Fraud from a Lender Perspective



"Fraud: The dirty side of our business. Don't be a victim or a participant."
Susan Billings
CTX Mortgage

Recent Interviews: Prevention of Fraud from the Real Estate Agents View



"Zero Tolerance"
Grant Simon
President, First Florida Home Loans

Tainted Transactions



"Because that's where the money is."
Seth Weissman
General Counsel, Georgia Association of REALTORS

Regulatory Compliance Investigation and Inflated Property Values



"The real estate and lending regulatory agencies are at war with an elusive enemy identified as fraud, and currently it is believed by many that fraud is winning."
Larry Disney
President, Association of Appraiser Regulatory Officials

10:50-11:10 Break - Exhibits Open

Prevention from the Victim's View

"Mortgage fraud is a crime that devastates neighborhoods and destroys naive investors. It can only be stopped by the combined efforts of each segment of the industry using every available tool and resource."

Ann Fulmer
Vice President, Industry Relations, Interthinx

Results of Fraud- Who Is the Real Victim

"When interest rates rise, the potential for fraud also rises."

Debbie Kidd
Housing Director, Homeownership Resource Center, Family Services, Inc.

Over Reliance on Technology - What Lenders are Missing

"Because quality loans come from quality lenders."

Arthur Prieston
Chairman, The Prieston Group

ID and Income Fraud Detection

"Although technology intended to improve consumer services, it has also supported a new boldness by perpetrators of misrepresentation. There's a growing selection of powerful tools that lenders can use NOW to detect and protect against loss."

Robert Knuth
President, NCS/ National Credit-reporting System, Inc.

Questions and Answers**12:10 - 1:25 Luncheon - Exhibits Open**

"I firmly believe that one of the best ways to prevent fraud is to have educated consumers. That's why we at FHA are trying very hard to get the word out about FHA products. FHA products are designed to protect the consumer and the more folks know to ask for an FHA loan, the better off they are."

Brian Montgomery
FHA Commissioner, Department of Housing and Urban Development

Mortgage Fraud 2005 Trends

"Mortgage Fraud - Where and What's Hot"

Merle Sharik
Manager, Business Development, Mortgage Asset Research Institute, Inc.

1:25-3:00**How Fraud Gets To Closing - Everyone's Obligations****Moderator**

"Fighting mortgage fraud—government and secondary market expectations"

Alfred Pollard
General Counsel, Office of Federal Housing Enterprise Oversight

What Is Being Done To Resist Mortgage Fraud

"Preventing mortgage fraud takes commitment AND imagination."

William Brewster
Director, Anti-Fraud initiatives, Fannie Mae

What Expectations are of Market Participants

"If it sounds too good to be true, it IS too good to be true."

Jenny Brawley
Lead Fraud Investigator, Freddie Mac

Top Ten List: What Brokers Can Do to Stop Mortgage Fraud, "The Buck Stops Here!"

"To combat mortgage fraud, each party to the transaction must adhere to the motto, 'The Buck Stops Here!'"

Loretta Salzano
President, Franzen and Salzano, P.C.

The Role of Closing Attorneys in Mortgage Fraud and Expectations of State Regulators

"In S.C. you cannot have meaningful mortgage fraud without the assistance, whether knowingly or unknowing, of an attorney."

Henry Richardson
Disciplinary Counsel, Office of Disciplinary Counsel, Supreme Court of South Carolina

Fraud Affects All Market Participants*"Mortgage fraud - not a victimless crime."*

Paul Lee

Chief Investigator, Office of Disciplinary Counsel, Supreme Court of South Carolina

"Mortgage Fraud-- Stealing the American Dream & Working Together to Stop It."*"Mortgage fraud is stealing the American Dream."*

Charles Knight

Staff Attorney, South Carolina Department of Consumer Affairs

Questions and Answers

2:55-3:15

Break

3:15- 4:55

**Enforcement- After the Crime****Moderator***"We owe it to the American public to constantly be alert for those who prey on the mortgage industry to illegally enrich themselves. Law enforcement and the industry must cooperate with one another and hold offenders accountable."*

Michael Stephens

Deputy Inspector General, Department of Housing and Urban Development

"Stings by the FBI"*"One of the cornerstones of the American way of life is home ownership. Confronting and prosecuting those who strive to defraud and manipulate this aspect of American life is a priority for the FBI."*

Brian Lamkin

Special Agent in Charge, Columbia Division, Federal Bureau of Investigation

"Shell Companies - Moving Money Off The HUD 1"*"The Shell Saga, a/k/a "scheme du jour:" the current alternative to the Classic Flip where fraudulently inflated loan proceeds are disbursed to shells companies listed on the HUD 1."*

Gale McKenzie

Assistant U.S. Attorney, Northern District of Georgia, U.S. Attorney's Office

"Professionals Making Money Through Fraud"*"We prosecute dishonest brokers, appraisers and lawyers who participate in mortgage fraud because such schemes cannot succeed for long without their help and complicity."*

Michael Savage

Chief, Criminal Division, Western District of North Carolina, U.S. Attorney's Office

"Flipping Schemes"*"Joining Forces and Combining Resources Can Significantly Impact Flipping Fraud."*

Ruth Valdes,

Assistant Special Agent in Charge, Office of Inspector General, Miami Office, Department of Housing and Urban Development

"Crooked Sellers and Builders"*"Sellers, particularly builders, are the newest culpable group to join the ranks of mortgage fraudsters - happily selling homes at grotesquely inflated values and then kicking money back to other fraudsters."*

David McLaughlin

Assistant Attorney General, Office of the Attorney General of Georgia

"Role of State Regulatory Agencies in Preventing Fraud"*"Mortgage Fraud - It can be prevented with your help!"*

Andy Grosmaire

Financial Administrator, Bureau of Finance Regulation, State of Florida

Quality Control*"Mortgage Fraud- is like an infectious disease, if left untreated it will continue to spread."*

Verlon Shannon

Director, Quality Assurance Division, Atlanta Homeownership Center, Department of Housing and Urban Development

Questions and Answers

4:55-

Closing Remarks and Wrap Up

SPONSORS

U.S. Department of Housing and Urban Development
 Florida Office of Financial Regulation
 Georgia Department of Banking and Finance
 North Carolina Commissioner of Banks
 South Carolina Department of Consumer Affairs

CO-SPONSORS

Capstone Institute Foundation
 National Association of Professional Mortgage Women

PLATINUM PARTNERS

Association of Real Estate License Law Officials
 CTX Mortgage Company
 Federal Deposit Insurance Corporation
 North Carolina Real Estate Commission

GOLD PARTNERS

Freddie Mac
 Fannie Mae
 Opteum Mortgage
 Pine State Mortgage

**SILVER PARTNERS**

Georgia Association of Realtors
 Mortgage Bankers Association of Georgia
 Popular Mortgage Corporation
 Putnam Mortgage and Finance, LLC
 South Carolina Mortgage Brokers Association

BRONZE PARTNERS

Atlanta Homeownership Center
 Fulton/Atlanta Community Action Authority
 Georgia Association of Mortgage Brokers
 GREFPAC (Georgia Real Estate Fraud Prevention and Awareness Coalition)
 Federal Deposit Insurance Corporation
 Interthinx
 NAREB
 NeighborWorks
 Verification Bureau, Inc./Prevent Mortgage Fraud
 Quality Mortgage Services
 Rural Development (USDA)
 Iron Stone Bank
 Merchants Credit Bureau
 Fulton County Office of Housing
 Morton Associates
 HomeFree-USA
 Archie Mae
 Charlotte Regional Realtor Association Housing Opportunity Foundation

PARTICIPATING PARTNERS

Albemarle Commission, American Bankers Association, American Home Mortgage Corp., Bank of America, Barrett Burke Wilson Castle Daffin & Frappier, LLP, Charlotte Regional Realtor Association, CCCS of Greater Atlanta, Department of Veterans Affairs, East Athens Development Corporation, Florida Housing Finance Agency, Florida Land Title Association, GA State Trade Assoc. of Non-Profit Developers, Genworth Mortgage Insurance, Georgia Department of Community Affairs, Georgia Insurance Commission, Greenville County Human Relations Commission, Home Builders Association of South Carolina, Independent Community Bankers of America, Mortgage Bankers Association, Mortgage Bankers of the Carolinas, National Credit Union Administration, NC Bar Association, Office of the Attorney General of South Carolina, Pinnacle Financial Corporation, SC Association of Realtors, SC State Housing Finance & Development Authority, South Carolina Mortgage Broker Advisory Board, South Carolina Mortgage Broker Association, SunTrust Mortgage, Inc, United States Representatives, Watson Mortgage Corporation, Wells Fargo Bank NA.

APPENDIX B

US Department of Housing and Urban Development	
Uniform Good Faith Estimate Statement	
Name and Address of Borrower	Originating Company Name and Address: _____ Loan #: _____
Property Address:	Proposed Interest Rate: _____ % Term of the loan: _____ Years Proposed Loan Amount: \$ _____ Program Type: <input type="checkbox"/> Conventional; <input type="checkbox"/> FHA; <input type="checkbox"/> VA; <input type="checkbox"/> Other: _____ <input type="checkbox"/> Fixed Rate Mortgage Loan, or <input type="checkbox"/> Adjustable Rate Mortgage Loan Prepayment Penalty: <input type="checkbox"/> May; <input type="checkbox"/> May Not Balloon Payment: <input type="checkbox"/> Yes; <input type="checkbox"/> No Summary of the Borrower's Transaction:
Settlement Charges:	Summary of the Borrower's Transaction:
800: Items Payable in Connection With The Loan:	Contract Purchase Price
801: Loan Origination Fee (_____ %) to:	Existing Loan Amount to be Paid Off
802: Loan Discount Fee (_____ %) to:	Personal Property
803: Appraisal Fee to:	Total Settlement/Closing Cost Charges to Borrower(s): 1400 A
804: Credit Report Fee to:	Total Pre-Paid/Reserves Charged to Borrower(s): 1400 B
805: Lender's Inspection Fee to:	
806: Application Fee to:	Gross Amount Due From Borrower(s):
807: Flood Certification Fee to:	<Deposit of Earnest Money> (_____)
808: Mortgage Broker Fee (_____ %)	<Principal Amount of new loan(s)> (_____)
809: Tax Service Fee to:	<Seller Paid Closing Cost Credit(s)> (_____)
810: Processing Fee to:	<Subordinate Loan Proceeds> (_____)
811: Underwriting/Admin Fee to:	<Other Credit(s)> (_____)
812: Wire Transfer Fee to:	Amounts Paid By or In Behalf of Borrower(s): (_____)
813:	
900: Items Required By Lender To Be Paid In Advance	Cash at Settlement Due From/To Borrower(s):
901: Interest for _____ days at \$ _____ /day	
902: Mortgage Insurance Premium for _____ mos. to _____	Proposed Payment(s):
903: Hazard Insurance Premium for _____ mos. to _____	1 st Mortgage: <input type="checkbox"/> Principal & Interest pmt <input type="checkbox"/> Interest Only pmt
904: Flood Insurance Premium for _____ mos. to _____	2 nd Mortgage: <input type="checkbox"/> Principal & Interest pmt <input type="checkbox"/> Interest Only pmt
905: VA Funding Fee / Mortgage Insurance Premium	Property Taxes
1000: Reserves Deposited with Lender: Waived <input type="checkbox"/> Yes <input type="checkbox"/> No	Home Owners Insurance
1001: Hazard Insurance: _____ months @ \$ _____ per mo.	Private Mortgage Insurance
1002: Mortgage Insurance: _____ months @ \$ _____ per mo.	Homeowners Association Dues
1003: City Property Taxes: _____ months @ \$ _____ per mo.	Other
1004: County Property Taxes: _____ months @ \$ _____ per mo.	Other
1005: Annual Assessments: _____ months @ \$ _____ per mo.	
1006: Flood Insurance: _____ months @ \$ _____ per mo.	Total Proposed Monthly Payment:
1007: _____ months @ \$ _____ per mo.	
1008:	
1100: Title Charges	Nature of Relationship: In connection with this residential mortgage loan, you the Borrower(s), has/have requested assistance from _____ (Company name) in arranging credit. We do not distribute all products in the marketplace and cannot guarantee the lowest rate.
1101: Settlement or Closing/Escrow Fee to:	
1102: Abstract or Title Search to:	
1103: Title Examination to:	
1104: Title Insurance Binder to:	
1105: Documentation Preparation to:	
1106: Notary Fees to:	
1107: Attorney's Fee to: (Includes above item numbers: _____)	Termination: This agreement will continue until one of the following events occur:
1108: Title Insurance Fee to: (Includes above item numbers: _____)	1. The Loan closes
1109: Lender's Coverage \$ _____	2. The Request is denied.
1110: Owner's Coverage \$ _____	3. The Borrower withdraws the request.
1111: Includes Commitment Fee to:	4. The Borrower decides to use another source for origination.
1112: Endorsement Fee to:	5. The Borrower is provided a revised Uniform Good Faith Estimate Statement.
1113: Wire Fee to:	
1114: Electronic Doc Fee to:	
1115: Courier Fee to:	
1116:	
1117:	
1118:	
1200: Government Recording and Transfer Charges	Notice To Borrower(s): Signing this document does not obligate you to obtain a mortgage loan through this mortgage originator; nor is this a loan commitment or an approval; nor is your interest rate locked at this time unless otherwise disclosed on a separate Rate Lock Disclosure Form. Do not sign this document until you have read and understood the information in it. Fees received under this estimate are legal and permissible under the Real Estate Settlement and Procedures Act. You will receive a re-disclosure of any increase in interest rate or if the total sum of disclosed settlement/closing costs in Section 1400A increase by 10% or more of the original estimate. Should any such increase occur, mandatory re-disclosure must occur prior to the settlement or close of escrow.
1201: Recording Fees: <input type="checkbox"/> Deed \$ _____ <input type="checkbox"/> Mortgage \$ _____	
<input type="checkbox"/> Release(s)/Reconveyance(s) \$ _____	
1202: City/County Tax/Stamp: <input type="checkbox"/> Deed \$ _____ <input type="checkbox"/> Mortgage \$ _____	
1203: State Tax/Stamp: <input type="checkbox"/> Deed \$ _____ <input type="checkbox"/> Mortgage \$ _____	
1204: Assignment Fee to:	
1205: Subordination Fee to:	
1300: Additional Settlement Charges	
1301: Survey to:	
1302: Pest Inspection Fee to:	
1303: General Inspection(s) to:	
1304: Home Warranty Fee to:	
1305: Elevation Certificate Fee to:	
A: Settlement Cost (Sections 800, 1100, 1200, 1300 above)	
B: Prepaid Items (Sections 900 and 1000 above)	
1400: Total Estimated Settlement/Closing Costs	

Applicant(s) hereby acknowledge(s) the receipt of a copy of this Good Faith Estimate and that you/they inquired into real estate mortgage financing with _____ (Company) on _____ (date).

Borrower: _____ Co-Borrower: _____

Originator _____ Date _____ License # (if applicable) _____

GFE Ver. 1.2