Prepared Testimony of

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on

"Legislative and Regulatory Options for

Minimizing and Mitigating Mortgage Foreclosures"

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Good morning Chairman Frank, Ranking Member Bachus, and Members of the Committee, I am Harry Dinham of the National Association of Mortgage Brokers ("NAMB"). Thank you for inviting NAMB to testify today on "Legislative and Regulatory Options for Minimizing and Mitigating Mortgage Foreclosures." We appreciate this opportunity to address recent events in the mortgage market, particularly the rise in defaults and foreclosures, and their effect on the housing industry, U.S. consumers, and the global economy.

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 to choose from. Mortgage brokers typically maintain business relationships with various lenders so they can offer a variety of loan products to their customers. Our members play a critical role in helping the American economy and in making the dream of homeownership a reality for American families.

I. Introduction

Today's mortgage market is under significant stress. For the first time, problems in the American mortgage market have had far-reaching global ramifications and a number of consumers have been impacted. Foreclosure filings reported in the U.S. more than doubled last month, versus August 2006, and jumped 36 percent from July.[1] The effects of loose underwriting standards, historically low interest rates, originators trying to compete in a booming housing market, and Wall Street's eagerness to purchase mortgage loans and repackage them as securities, are now being fully felt by consumers.

The reality is that a multitude of factors likely contributed to the steadily rising number of foreclosures. Recognizing this fact, the Chairman and Ranking Member of this Committee requested the U.S. Government Accountability Office ("GAO") to undertake a comprehensive study of the causes of the recent surge in foreclosures. To date, the GAO has yet to release any findings. Because we believe it is important that any legislative or regulatory effort be undertaken in a thorough and deliberate manner, we urge the GAO to conclude their study and publish the results as soon as possible; giving legislators and regulators the tools they need to take the necessary and appropriate action to minimize foreclosures now and into the future.

When profits began to decline and the word "risk" returned to vogue, everyone started to zero-in on who is responsible for the current crisis. Investors began looking to the hedge funds and the secondary market; the secondary market looked to the banks responsible for creating and underwriting the loans; and the banks turned toward those who sold these products to consumers. Also intertwined is the role of the rating agencies, which were responsible for evaluating and rating the risks of pools of loans being sold onto the secondary market; and the regulators responsible for overseeing and evolving oversight mechanisms to keep pace with a growing mortgage industry. In the end, everyone played a role in creating or compounding the market and foreclosure problems we are faced with today.

The Mortgage Market's Reaction to Increased Foreclosures

The market is and has been adjusting to the increase in defaults and late payments on subprime loans. The guidance[2] issued by the Federal Banking Agencies[3] is working and the mortgage industry is adopting and implementing the necessary changes. NAMB supports these efforts, as well as the parallel guidance issued by the Conference of State Bank Supervisors ("CSBS"), the American Association of Residential Mortgage Regulators ("AARMR"), and the National Association of Consumer Credit Administrators ("NACCA"), which is applicable to state-chartered mortgage lenders and mortgage brokers.

Investment banks that securitize subprime mortgage products have tightened their wholesale lending requirements and have started enforcing buyback agreements against lenders; while mortgage lenders continue to require strong buyback commitments for nonperforming loans in their contracts with mortgage brokers. Fair Isaac is making changes to its FICO scoring system to improve its "predictive

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[1] "U.S. Home Foreclosures Soar in August," Veiga, Alex, Sept. 18, 2007.
[2] Interagency Guidance on Nontraditional Mortgage Products, 71 Fed. Reg. 58609 (Nov. 4, 2006); Interagency Statement on Subprime Mortgage Lending, 72 Fed. Reg. 37569 (July 10, 2007).
[3] The Federal Financial Institutions Examination Council includes the Federal Reserve Board ("FRB"), the Federal Deposit Insurance Corporation ("FDIC"), the Office of Thrift Supervision ("OTS"), the Office of the Comptroller of the Currency ("OCC"), and the National Credit Union Administration ("NCUA") (together, the "Federal Banking Agencies").

strength by 5 to 15 percent."[4] Some believe this is an effort to account for the practice of 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)).[5] Moreover, many leading subprime lenders have been forced to declare bankruptcy, eliminate certain lines of credit, or close their doors altogether – largely due to margin calls and credit tightening by Wall Street. As these lenders continue to downsize and shut-down mortgage operations, countless loan officers are being terminated, and these individuals are now receiving job offers from federally-chartered institutions that are marketing themselves by saying how easy it is for their loan officers to make loans and avoid state licensing requirements designed to protect consumers.[6] We fear this dynamic will continue and even accelerate should Congress take action that artificially favors one distribution channel over another.[7]

All of this recent activity has laid the foundation for stabilization of the mortgage market. However, these measures are also making it increasingly difficult for many honest, hard working Americans to obtain the credit they need to build wealth through the purchase of a home or refinance their existing adjustable-rate mortgage ("ARM") before it resets to a higher rate.

Today, small mortgage lenders and brokers face the prospect of losing their businesses because investors, hedge funds, pension funds, foreign banks, and others are no longer funding mortgage transactions. Additionally, wholesale lenders and banks are discontinuing their warehouse credit facilities to small mortgage companies. As a result, consumers are suffering the consequences of fewer product choices and mortgage providers in the marketplace. Current homeowners are finding it extremely difficult to refinance their loans and many who want to purchase a home are also struggling to secure financing. The turmoil that was once confined to the subprime market has now spread into the non-conforming and prime markets and is beginning to impact corollary financial services industries as well (*i.e.*, personal loans, auto loans, credit cards). As minimum credit scores increase and underwriting standards tighten, consumers unable to secure home equity lines of credit or other personal loans are now turning to their credit cards and facing steadily increasing interest rates.[8] In short, we are experiencing a very serious credit contraction that has left consumers reeling.

Underwriting standards, once too loose, have now become unnecessarily restrictive. The pricing of risk on the secondary market has gone from unrealistically low to unreasonably high. The re-pricing of risk has almost become irrational. Liquidity is drying-up and credit is becoming unavailable to consumers who have few assets and anything less than perfect credit. Earlier this month, in an informal survey of NAMB members, over half of those responding indicated that they have seen an increase of twenty or more points in the required credit score for conforming loans within the past month. As interest rates continue to rise, even on prime loans, and more loan products become unavailable everyday, borrowers who just a few weeks or months ago might have been able to easily purchase or refinance their home are today being turned away by lenders who are still more focused on earning a profit than working with homeowners to maintain some stability within their communities.

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[4] "Fair Isaac Combats Credit Manipulation," Elphinstone, J.W., Associated Press, June 5, 2007; and Fair Isaac Press Release, May 17, 2007.
[5] "Piggyback Credit Worries Loan Industry," Elphinstone, J.W., *The Cincinnati Post*, June 4, 2007, p. B7.
[6] *See*, Appendices A and B.
[7] For example, IndyMac Bancorp, Inc. is on a hiring spree of loan officers in an effort to build up their retail divisions that are facing a significant increase in business. "Mortgage Lender Hires 600," Wei, Lingling, *The Wall Street* Journal, Aug. 29, 2007, A3.
[8] "Credit Crunch Moves Beyond Mortgages," Kim, Jane J., *The Wall Street Journal*, Aug. 22, 2007, p. D1.

A Return to Normalcy in the Mortgage Market

Sadly, conditions are likely to get worse before they get better for anyone who hopes to refinance their adjustable-rate mortgage (“ARM”) in the coming months. Large national banks and lenders who flooded the market when the industry was booming are now shutting-down their mortgage operations or closing-up shop altogether, leaving borrowers with few places to turn for home financing options.

Over the past several months, we have heard from NAMB members from across the country whose customers discovered, sometimes at the closing table, that their mortgage loan would not be funded because a lender was bankrupt, going out of business, or eliminating a particular line of credit. Thankfully, our members were able to work with these customers to ensure that they found and secured funding from an alternative source. However, this is further evidence that today, more than ever, the small mortgage companies and local banks that remain invested in their communities have a vital role to play in preserving the integrity of neighborhoods and helping consumers stay in their homes.

Congress has an opportunity to restore confidence and stability in the mortgage market and help countless homeowners facing the prospect of losing their home to foreclosure. We believe that this rising tide of foreclosures may be stemmed by swift and appropriate legislative action, but we urge Congress to remain cautious, thoughtful, and deliberate when contemplating changes that will have an effect on consumers’ ability to obtain affordable credit and remain in their homes for years to come.

Today, we urge Congress to take the necessary steps to enable Fannie Mae, Freddie Mac, and the Federal Housing Administration (“FHA”) to further their respective missions and provide much-needed assistance to homeowners facing eminent default or foreclosure. Temporarily lifting Fannie Mae and Freddie Mac’s (together “the GSEs”) portfolio caps will inject necessary liquidity into a distressed market and help make financing more available and affordable for countless homeowners, especially those living in high-cost areas. Moreover, increasing the limits for GSE conforming loans and FHA loans in high-cost areas, coupled with elimination of the FHA down payment requirement, will greatly expand the opportunities for these entities to reach the first-time, minority, and low to moderate-income borrowers their respective programs are intended to serve.

While there are a number of concrete steps that Congress can take to help struggling consumers today, there is an even greater opportunity for lawmakers to lay a strong foundation of consumer protection that will help safeguard generations of future borrowers. We outline in greater detail below our recommendations and proposals for minimizing and mitigating mortgage foreclosures both today and in the future.

II. Recommendations for Reducing the Number of Foreclosures Today

A. Lift the GSEs’ Portfolio Caps & Increase Their Conforming Loan Limits

Recent events in the mortgage and credit markets have placed many homeowners in the untenable position of facing resets on their ARMs with little or no hope of being able to refinance or afford the higher monthly payments. However, in times of market stress, the GSEs have proven to be a reliable source of strength to the housing market. While others may have exited or severely curtailed their participation in the residential mortgage market, we believe the GSEs have the potential to step up, promote stabilization, and infuse much-needed liquidity into the market, thus providing borrowers looking to buy or refinance a home with greater options.

Those who reside in certain high-cost areas of the country should not be penalized simply because of where they choose to live. Homebuyers living in these areas should be able to avail themselves of the same assistance and benefits that the GSEs offer to other borrowers throughout the country. For this reason, NAMB supports setting regional conforming loan limits at levels designed to better serve those families living in high-cost areas where the median price of a home often exceeds the current conforming loan limits. Increasing the conforming loan limits in high-cost areas was an essential component to the Federal Housing Finance Reform Act of 2007 ("H.R. 1427"), which was passed by the House earlier this year. We applaud this committee for its work on H.R. 1427, and we strongly urge the Senate to pass companion legislation as quickly as possible.

Moreover, NAMB supports injecting liquidity and stability into the mortgage market by lifting the caps currently placed on the GSEs' mortgage portfolios. Temporarily lifting the caps would enable the GSEs to purchase additional mortgages thereby easing, in part, the current credit crunch and giving consumers who are in loans about to reset an opportunity to refinance and avoid possible default and foreclosure. We urge the Office of Federal Housing Enterprise Oversight ("OFHEO") to restore confidence in our mortgage markets for both current and future homeowners, by lifting the portfolio caps and injecting much-needed liquidity into the mortgage market.

B. Create a Stronger and More Viable FHA Loan Program

1. H.R. 1852: The Expanding American Homeownership Act of 2007

In this environment of rising interest rates and shrinking liquidity, many first-time, minority, and low to moderate-income homebuyers need the safer and less-expensive financing options that the FHA program can provide. This is especially true for those consumers living in high-cost areas. For example, in California, twenty-nine of the fifty-eight counties are currently at the FHA ceiling of $362,790, with another six counties approaching that ceiling. Approximately eighty-five percent of California's population resides in these twenty-nine counties, and many of these Californians are struggling to become or remain homeowners in areas where the median home price is $534,470.

California is not alone. High-cost areas exist in many states, including New York, Massachusetts, Pennsylvania, Connecticut, New Jersey, and Maryland. In Maryland, twenty-four counties are currently at the $362,790 ceiling for FHA, while another seven counties are within $1,885 of that limit. As in California, these counties represent the great majority of Maryland's population. Therefore, FHA has been driven from those parts of the country where consumers are most in need of affordable financing, forcing millions of borrowers to turn to high-cost financing and other non-traditional loan products.

A stated objective of the Federal Housing Administration ("FHA") loan program is to increase origination of FHA loan products and expand homeownership opportunities for first-time, minority and low to moderate-income families. NAMB believes that the benefits of the FHA program should be available to all taxpayers; including those residing in high-cost areas, where borrowers are most often in need of affordable mortgage financing options.

We applaud the amendment to the FHA reform bill, offered by Chairman Frank (D-MA) and Reps. Gary Miller (R-CA) and Dennis Cardoza (D-CA) and approved by the House earlier this week, which increases FHA loan limits on single-family homes from $417,000 to $500,000, to better accommodate more borrowers living in high-cost areas of the country.

We urge the Senate to act to revitalize this valuable program and ensure that FHA remains capable of fulfilling its stated objectives and helping more Americans purchase and remain in their homes. A recent survey conducted by The Mellman Group of Washington, D.C. revealed that eight out of ten Americans favor FHA modernization that would make it easier for FHA to offer mortgage loans to first-time and moderate-income homeowners.[9] In passing H.R. 1852 earlier this week, the House has responded swiftly to the current market crisis, and paved the way for a stronger more vital FHA that is capable of meeting the needs of qualified borrowers.

We applaud the House for passing H.R. 1852 and helping to once again make FHA loans a real choice for borrowers.

2. The FHASecure Initiative

FHASecure is a temporary program (loan applications must be signed no later than December 31, 2008) designed to provide refinancing opportunities to homeowners whose payments on conventional ARMs are expected to increase. Under FHASecure, homeowners who are delinquent under their existing mortgage following the reset of the interest rate, but have demonstrated their ability to repay, are eligible to refinance into a prime-rate FHA-insured mortgage.[10]

While NAMB supports the FHASecure initiative, its reach is limited. We are also concerned that lenders have been slow to adopt this new refinancing alternative, preventing this program from having its desired effect in the marketplace. To respond to the needs of thousands of subprime borrowers facing resets and trying to keep their homes, Congress must pass FHA reform legislation that allows for greater, long-term access to FHA loan products for all qualifying consumers.

C. Provide Temporary Federal Income Tax Relief for Cancelled or Forgiven Mortgage Debt

Industry participants are beginning to do what they can to assist borrowers struggling to avoid defaulting on their mortgages and stave off foreclosure. However, legislative and/or regulatory options for minimizing foreclosures and defaults are needed in some areas. For example, the current tax law counts any forgiven or otherwise cancelled mortgage debt on primary residences as "unearned income." This means that it is taxable income. So, if a homeowner's mortgage is refinanced, modified or they are able to arrange a work-out with a lender, the homeowner is penalized at tax time for the amount of the forgiven or cancelled mortgage debt. President Bush has encouraged instituting temporary tax relief for forgiven or cancelled mortgage debt on primary residences, and bipartisan bills have been introduced in both the House and Senate that address these changes. NAMB supports these initiatives so that more borrowers can work with their lenders in an effort to preserve their homes.

D. Revise the Bankruptcy Code to Allow Homeowners to Restructure their Mortgage Debt and Stave Off Foreclosure

Borrowers whose financial situation has forced them to turn to bankruptcy are facing an even greater obstacle to staying in their homes. Today, bankruptcy courts are unable to extend any relief on mortgage debt after bankruptcy proceedings have been initiated. This is due to a 1978 amendment to the Bankruptcy Code[11] that prohibits the restructuring of primary mortgages for borrowers who have filed for bankruptcy. To complicate matters further, under the 2005 Bankruptcy Code Amendments,[12] a Chapter 7 filing (where a lender can agree to let a borrower keep his house during a bankruptcy proceeding) was made much more difficult, forcing many borrowers to file Chapter 13, where the debtor must receive counseling and establish a repayment plan, and the court is prohibited from modifying any mortgage debt.

[9] PR Newswire, June 14, 2007.
[10] Mortgagee Letter 2007-11, U.S. Department of Housing and Urban Development, September 4, 2007.
[11] PL 95-598, 1978 HR 8200
[12] PL 109-8, 2005 S 256

There have been a number of proposals to eliminate or otherwise limit (either permanently or temporarily) the provisions that exclude home loans from bankruptcy relief and place home mortgage debt on par with other secured and unsecured debt (*i.e*., allow a bankruptcy court to extend relief on mortgage debt). NAMB supports lifting the prohibition on restructuring a primary mortgage and allowing borrowers facing imminent foreclosure to skip the counseling requirement. We believe amending the bankruptcy code could help thousands of subprime borrowers facing unaffordable resets potentially avoid foreclosure and keep their home, despite declaring bankruptcy.

III. Steps Necessary to Protect Future Borrowers and Ensure Market Stability

We reiterate our longstanding view that abusive lending practices relate directly back to how individual loan officers present different loan programs to consumers and how consumers understand the features of the loan product they ultimately choose. Loan products and the pricing of risk are not inherently abusive. Each consumer is unique; each consumer chooses a loan originator and loan product for their own personal reasons and determines what is appropriate for them. For this reason, we support the implementation and enforcement of minimum standards for all loan officers; the creation of a national registry to track and remove bad actors from the industry; improved enforcement of prohibitions against deceptive and misleading advertising of mortgage products; reformed mortgage disclosures; and efforts to improve consumer financial literacy.

A. Require All Originators to be Knowledgeable When Working With Consumers

Since 2002, NAMB has consistently advocated for more stringent standards for all loan originators to protect consumers and curb abusive lending practices in the mortgage industry. Today, we again 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, governed by a federal agency, which would include every individual mortgage loan officer, including those working at banks, lenders, and brokerages. We remain steadfast in our belief that the value of an all originator approach lies in the uniformity of treatment between competing channels of distribution. Consumers deserve the same level of protection no matter where they choose to obtain a mortgage loan.

One primary example of why *all* mortgage originators should be subject to uniform minimum standards was articulated by South Carolina Attorney General, Henry McMaster, in a March 2007 mortgage fraud report.[13] Attorney General McMaster stated that South Carolina has "directly and disproportionately been targeted for this type [mortgage] of fraud." 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."[14] Not coincidentally, the FBI has identified South Carolina as one of the top ten "hot spots" for mortgage fraud in the United States.[15]

Moreover, recent events in the mortgage market offer clear examples of why *all* mortgage originators should be subject to uniform minimum standards. The mortgage market of the 21st century has evolved in conjunction with the burgeoning growth of the secondary market for mortgages, but the laws, regulations and oversight of this market have lagged behind to the severe detriment of consumers. Today, any legislative, regulatory, or other governmental effort should account for the fact that the mortgage market is vastly different from the one that existed 20 years ago.

[13] *See*, Appendix C, "Mortgage Fraud Report," South Carolina Department of Consumer Affairs, March 2007, p.1.
[14] Ibid, p.4.
[15] Ibid, p.1.

The traditional, "bank-centered," model of mortgage credit involved institutions originating, funding and holding the risk of credit in a mortgage portfolio, which was overseen by in-house risk management and monitoring procedures. Credit and market innovations have separated these functions, allowing for greater efficiencies, diversification, spreading of risk, and increased liquidity. This, in turn, opened the doors of the market for mortgage credit to first-time, low-to-moderate income, and minority borrowers that had previously been shut-out of the home market. Accompanying this credit evolution were, of course, corporate structure and operational changes that influenced how customers obtained their loans, as well as how these loans were funded, managed and serviced. Today, the vast majority of loans are "brokered loans" regardless of whether they are obtained through a bank, mortgage lender, correspondent lender or mortgage broker.[16]

We do not deny that differences exist between depository and non-depository institutions, both in terms of their business models and how they are regulated, primarily because some of these entities are involved in businesses other than mortgage lending, namely banking. However, when it comes to the origination of mortgage loans, these entities are virtually indistinguishable, particularly in the eyes of consumers.

Against this backdrop, we address one particular proposal that has been put forward regarding oversight and regulation of market participants. It has been suggested that a minimum net worth and capital requirement should be imposed on all mortgage market participants, regardless of business activities or size, as a measure of stability and accountability in the market. However, we have witnessed first-hand that capital requirements do little to protect either the market or the consumer. Many (large) lending companies that were once viewed as financially solid are bankrupt and gone, proving capital and net worth requirements are ineffective indicators of a mortgage originator's ability to service or make the consumer whole.

<u>Net worth is illusory</u>. A financial statement provides no assurance at all that an originator will *maintain* their net worth requirement; it simply provides a snapshot and can easily disappear. Imposing capital and net worth requirements does not enhance lending standards, but rather merely promotes market shares among competing channels. Capital and net worth requirements succeed in erecting barriers to small businesses entering the market, place an unfair and undue burden on them, and inhibit competition, leaving consumers with fewer choices and increased costs, while failing to offer any real protection to consumers now or in the future.

In short, size and wealth do not automatically equate to honesty and competence. This fact must guide any future legislative or regulatory action, and it is inherent in the current proposal to establish uniform national standards for education, testing and criminal background checks, as well as a national registry, for *all* mortgage originators. The assertion that there is no need to oversee and regulate to some minimum standard the individual loan officers of institutions has proven to be faulty. Stories of "baseball bats," "boiler rooms," and other push-marketing sales tactics paint a clear picture that oversight and regulation of the entity alone is simply not enough.[17]

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[16] *See*, Appendix D, "A Breakdown of the Mortgage Industry and How It Operates," NAMB, June 2007.

[17] "<u>Pressure at Mortgage Firm Led to Mass Approval of Bad Loans</u>*,*" Cho, David, *The Washington Post*, May 7, 2007, A01; "<u>Workers Say Lenders Ran 'Boiler Rooms'</u>," Hudson, Mike and Reckard, Scott E., *Los Angeles Times*, Feb. 4, 2005; "<u>Inside the Countrywide Lending Spree</u>," Morgenson, Gretchen, *The New York Times*, Aug. 26, 2007.

1. *Increase Professional Standards: Require Minimum Education, Testing, and Criminal Background Checks 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.

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. There is absolutely no relationship between the size or structure of a mortgage company and the quality of its loan officers. Regulating only small segments of a larger industry leaves cracks for bad actors to continually slip through, as evidenced by the ease of un-checked movement of loan officers from one employer to another in today's market. As we mentioned above, we are now seeing many of the loan officers that have been terminated by lenders being offered positions at federally-chartered institutions that are marketing the ease with which their loan officers can avoid state licensing requirements and originate loans in all 50 states.

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 and mandatory testing for all loan officers, regardless of where they are employed. Education and testing of each and every mortgage originator helps to ensure that consumers will receive accurate and consistent product information that will allow them to make an informed decision about different loan financing options available in the market. To ensure all mortgage originators remain knowledgeable and competent to address customer concerns, NAMB also supports mandatory continuing education and professional ethics training. 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 industry.

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 a 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.

2. Create 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 loan officers working for federal and state-chartered banks and lenders, credit unions, and mortgage brokers to register; (3) every individual pays a fee to be in the registry; and (4) 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 the mortgage 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.

In a recent *Business Week* article,[18] it was reported that a homebuilder offered to provide a mortgage to a couple seeking to purchase a new home, rather than to send them to a lender or a bank to obtain financing. When it appeared that the couple may not qualify for the loan, the homebuilder inflated the couple's earnings reported in loan application documents by incorrectly stating that they were collecting rental income from the house they would be vacating. This couple now has a very large debt on two dwellings that they are unable to pay and they are nearing foreclosure. This example is just one of many that illustrate why a national registry should include all mortgage originators. A registry that includes only mortgage brokers would not capture this homebuilder's in-house lender.

Ranking Member Spencer Bachus (R-AL) along with several leading members of this Committee have introduced H.R. 3012, the "Fair Mortgage Practices Act of 2007," which mandates all mortgage originators be included in a national registry so that consumers, like the couple in the example above, can track their loan originator. This legislation also requires mandatory licensing, education, testing, and criminal background checks for mortgage originators. We believe this is common-sense legislation that protects consumers regardless of which distribution channel they choose, and we strongly urge the committee to adopt this legislation.

B. Improve Lending Practices: Require Mandatory Escrow Accounts for Taxes and Insurance on All Subprime Loans

There continues to be significant discussion surrounding mandating escrow accounts for taxes and insurance for certain segments of the mortgage market. NAMB supports requiring escrow accounts for taxes and insurance on all subprime, first lien mortgages, regardless of the borrower's loan-to-value ratio.

C. Strengthen Enforcement of Prohibitions Against Deceptive Marketing and Advertising of Mortgage Products

Just last week, the Federal Trade Commission ("FTC") warned mortgage lenders, brokers, and media outlets that some ads appearing in print and online may violate federal law. In letters to more than 200 mortgage advertisers and others, the FTC noted that "many mortgage advertisers are making potentially deceptive claims about incredibly low rates and payments, without telling consumers the whole story – for example, that these low rates and payments apply for a short period only and can go up substantially

[18] "Bonfire of the Builders: By Rushing Into the Mortgage Business Big-time, Homebuilders Helped Fuel the Housing Crisis," Der Hovanesian, *Business Week*, August 13, 2007.

after the loan's introductory period. Homeownership is the American dream, but it can become a nightmare for consumers who don't have the information they need to understand the terms of their mortgage."[19]

NAMB supports the efforts being undertaken by the FTC and urges Congress to encourage all state and federal regulators to strengthen and increase enforcement actions against all parties involved in deceptively advertising or marketing mortgage loan products or services to consumers.

D. Clearly Disclose the Role of the Originator in Mortgage Transactions

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. NAMB believes consumers would benefit from a clear, upfront, and uniform disclosure of the role of the mortgage originator in each transaction. To enhance consumers' ability to comparison shop, this uniform disclosure should be required to be given by each and every mortgage originator (whether state or federally-chartered or supervised) at the onset of the consumer's mortgage shopping experience. In 1998, NAMB urged the U.S. Department of Housing and Urban Development ("HUD") to adopt such a disclosure as part of the required disclosures under the Real Estate Settlement Procedures Act ("RESPA"). In 2002 and in 2005, NAMB again requested that HUD adopt this disclosure. To date, HUD has not responded. Some states have adopted this as a requirement, but it is not enough.

A disclosure of the role of the mortgage originator should outline the nature and extent of the relationship between the consumer and his/her mortgage originator, and clearly communicate one of the following:

- The mortgage originator does not owe any obligation or duty to the consumer or any other party to the transaction (*i.e.*, the bank, lending source, or other entity), and is acting as an intermediary only;

- The mortgage originator has a fiduciary obligation to the bank, lending source, or other entity and therefore cannot act exclusively in the consumer's best interests in this transaction;

- The mortgage originator is willing to enter into an agency relationship with the consumer through a binding contract that will make the originator the "agent" of the consumer.

We strongly believe that this simple, straight-forward disclosure of the mortgage originator's role in specific transactions would, if universally required, eliminate any confusion on the part of consumers and strengthen consumers' bargaining position when shopping for a mortgage.

A direct analogy may be drawn to the real estate brokerage industry, which is also largely state-regulated. Not unlike mortgage originators, real estate brokers and agents deal with different parties to a transaction (buyers and sellers) in a variety of different capacities. Real estate brokers and agents may enter into an agency relationship with either a buyer or a seller; or they may function in a limited agency capacity for both the buyer and the seller. Alternatively, they may elect not to enter into any agency relationship at all and act exclusively as an intermediary. We believe that mortgage originators should operate under a similar model, where they may choose, along with their customers, to enter into an agency relationship with either the lender or the borrower; serve as the limited agent for both the lender and the borrower; or, act as an intermediary only in the mortgage transaction.

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[19] "*FTC Warns Mortgage Advertisers and Media That Ads May Be Deceptive,*" FTC Press Release, September 11, 2007, quoting Lydia Parnes, Director, FTC Bureau of Protection.

Because of the complex and sometimes uncertain nature of the relationship between originators and borrowers, we believe consumers would benefit from a clear, concise, and mandatory disclosure of that relationship early in the mortgage shopping stage. Some states, like Florida, require real estate brokers to provide consumers with a specific Brokerage Relationship Disclosure that outlines the duties of real estate brokers serving in their different capacities (*i.e*., as a single agent, limited dual agent, or intermediary). Florida requires this disclosure to be made in writing.

NAMB believes that the real estate brokerage model in Florida could serve as an appropriate template for a mandatory disclosure of the role of loan originators in the mortgage industry. We take this opportunity to once again urge HUD to use it rulemaking authority to adopt a uniform Role of the Originator Disclosure, and require it to be given to consumers early in the mortgage shopping process.

In addition to choosing the loan product and pricing options that they prefer, consumers should be given the opportunity to make an informed choice of whether to shop around or work with a mortgage originator who is willing and able to act as their agent in the transaction. 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.

E. Create Simplified, Modernized, and Consumer-Tested 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 promote 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.

As reported in a recent Federal Trade Commission ("FTC") Report on Improving Mortgage Disclosures, "choosing the wrong mortgage can cost consumers thousands of dollars in unnecessary up-front costs and larger monthly payments, result in unpleasant surprises and financial difficulties during the course of the loan, and, in some cases, even threaten a consumer's homeownership and financial solvency."[20] The report goes on to say that "consumers can better avoid these problems if they understand the costs and terms of their mortgages. By comparing loan offers from competing lenders, and by understanding the cost and terms of the loans, consumers can make accurate comparisons and identify the least expensive loan that fits their needs."[21]

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 with increasingly innovative and complex options. The FTC study reveals that both prime and subprime borrowers failed to understand key loan terms when viewing current disclosures, and both groups of borrowers benefited when given improved prototype disclosure forms. In addition to showing that current mortgage disclosures are ineffective at conveying key mortgage costs to consumers, the prototype disclosures developed by the FTC and used for this study illuminate the importance of consumer testing and demonstrate the fact that creating a better disclosure form is feasible.[22]

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[20] "Improving Consumer Mortgage Disclosures: An Empirical Assessment of Current and Prototype Disclosure Forms," Federal Trade Commission, Bureau of Economics, June 2007, p. 1.
[21] Id.
[22] Id., Executive Summary.

NAMB believes it is necessary to create and implement a revised Good Faith Estimate ("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. A 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.[23] 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. A 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. The Proposed Illustrations of Consumer Information for Subprime Mortgage Lending ("Proposed Illustrations"), recently issued by the Federal Banking Agencies, is a good first step, but these illustrations do not go far enough. The Proposed Illustrations are not intended as model forms and will not be required by the Agencies. A model loan-specific disclosure form should clearly and concisely outline all of the material terms (*i.e*., actual rate and payment adjustments under a "worst case scenario") of the specific products that a consumer is considering, and should be mandated across all distribution channels. We believe such a disclosure will minimize the risk of consumer surprise or "payment shock" when interest rates reset on ARM loans.

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, 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.

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[23] *See,* Appendix E, "NAMB Proposed GFE."

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.

F. Encourage 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 school and high school levels 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 face default or foreclosure is demonstrated by our active involvement in various consumer education efforts. 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.

NAMB commends President Bush for recently announcing his intentions to create a Presidential Council on Financial Literacy, and we look forward to working with other leaders in the financial services industry to raise awareness of the many important and complex issues facing consumers today. We urge Congress, state and federal regulatory agencies, and our partners 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.

G. Maintain Consumers' Role and Responsibility as Decision-Maker

It is imperative, regardless of what measures are ultimately pursued, that we ensure 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.

IV. Conclusion

The reality of today is that any regulatory, legislative, or other governmental effort to address the rising number of foreclosures and help consumers remain in their homes must be undertaken in a thorough and deliberate manner. It is important to bear in mind that the problems consumers are facing have likely been caused by a multitude of factors, and therefore require multifaceted solutions. We anxiously await the results of the GAO study on foreclosures and we look forward to working with Congress to address the needs of consumers today and to craft meaningful safeguards that will protect borrowers into the future.

Consumers want to get loans they can afford and keep. They 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. Consumers deserve more than merely the illusion of protection. Consumers deserve the same level of protection no matter where or with whom they choose to do business.

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

APPENDIX A

----- Original Message -----
From: Jeff Gantt
To: undisclosed-recipients:
Sent: Tuesday, August 21, 2007 5:33 PM

Dear Valued Customer,

My name is Jeff Gantt and I am the former VP of National Sales & Marketing for PHM Financial Services. Unfortunately PHM decided to withdraw from wholesale operations due to volatile market conditions. My sales team and I have since moved on and have partnered with Horizon Banks, N.A. to create Horizon Banks Wholesale Lending.

Horizon Banks, N.A. is a federally chartered bank based out of Denver, CO. The wholesale lending division is a nationwide wholesaler of Alt-A, Jumbo, Agricultural, Option Arm and Conforming loan programs. We have an extensive product offering with many niche products and unique benefits. One of those unique benefits provides you with the ability to originate loans in **ALL** 50 states with **NO** additional licensing requirements.

Though the current lending market is experiencing radical changes and instability Horizon Banks Wholesale Lending has a wide array of Alt-A and Non Conforming products available.

Feel free to contact me directly or visit our website to obtain product highlights and information.

www.horizonbankswholesale.com

My sales team and I look forward to working with all of you again.

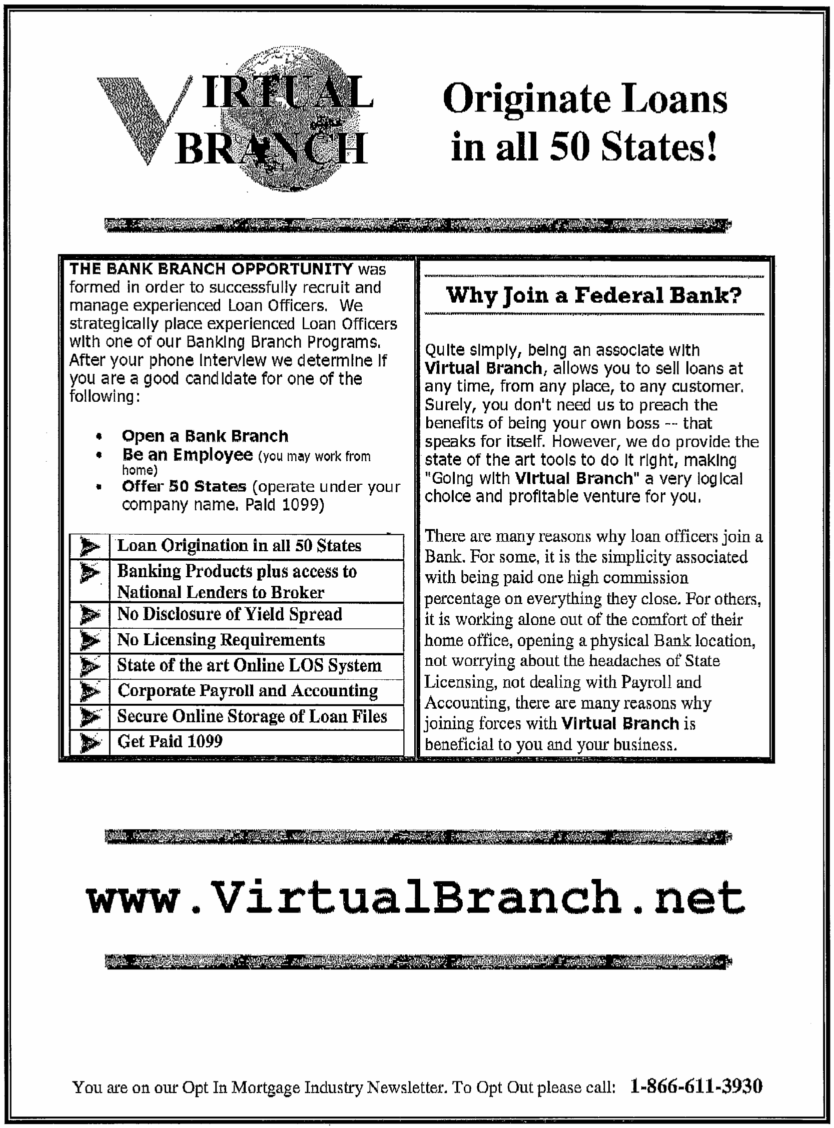
Sincerely,

Jeff Gantt
V.P., National Sales
Horizon Banks Wholesale
Direct: 303.962.0112
Fax: 303.962.0162
www.horizonbankswholesale.com

APPENDIX B

From:
Sent: Sunday, September 09, 2007 9:35 PM
To: governmentaffairs@namb.org
Subject: Another way to avoid state licensing

Am I a sucker to try to comply with state laws when it becomes this easy to avoid them? This is about the fourth offer I've received in recent days to avoid all state licensing requirements. There are probably many more companies with similar offers. I just have not looked for them.



APPENDIX C

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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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
The Honorable Wayne Powell, Gaffney
The Honorable David Campbell, Columbia
The Honorable Carole C. Wells, Woodruff

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Lisa Bussey, South Carolina State Housing Finance and Development Authority

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.

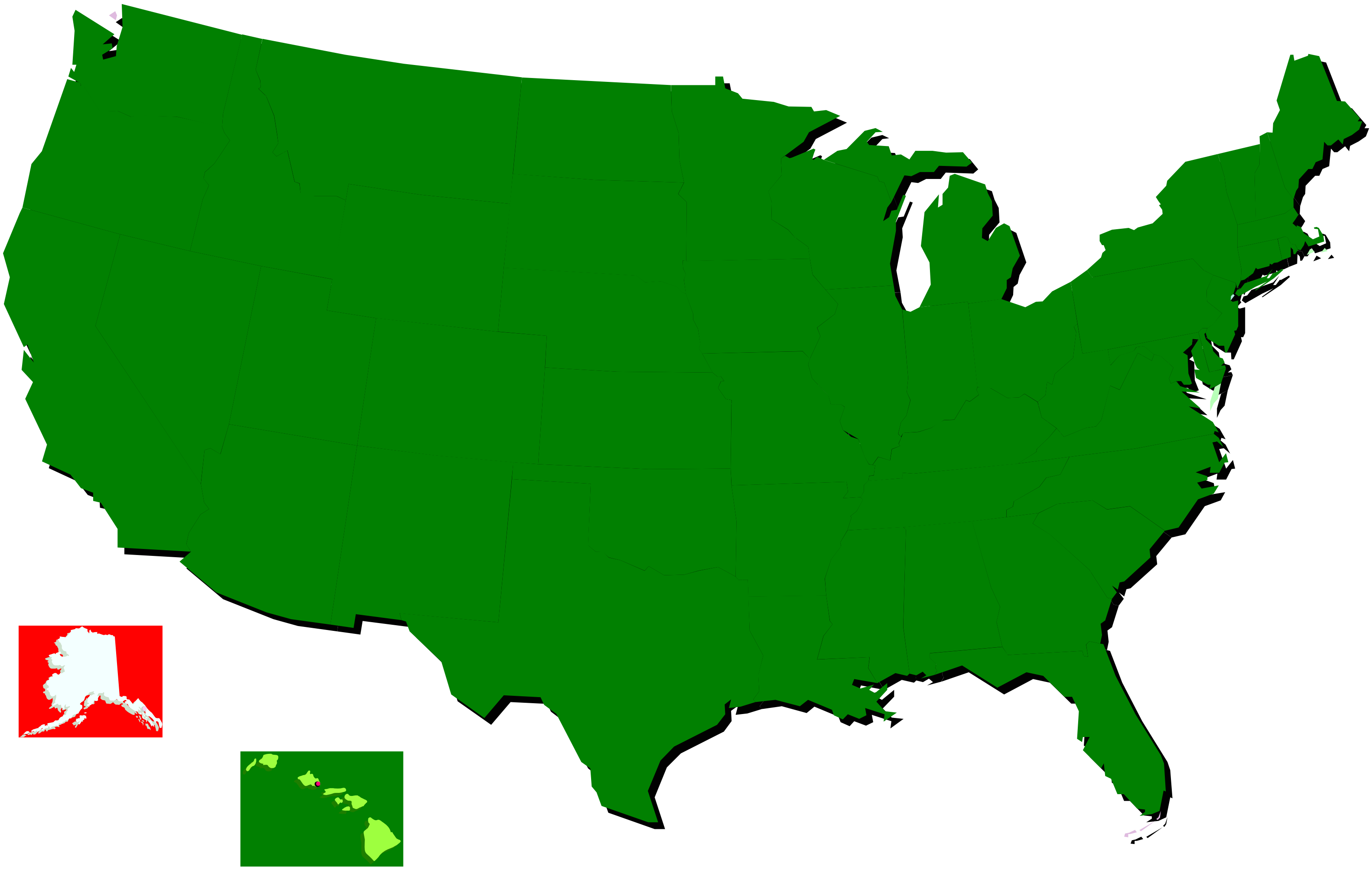
Equity Skimming: An investor may use a straw buyer, false income documents, and false credit reports to obtain a mortgage loan in the straw buyer's name. Subsequent to closing, the straw buyer signs the property over to the investor in a quit claim deed which relinquishes all rights to the property and 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 2nd 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

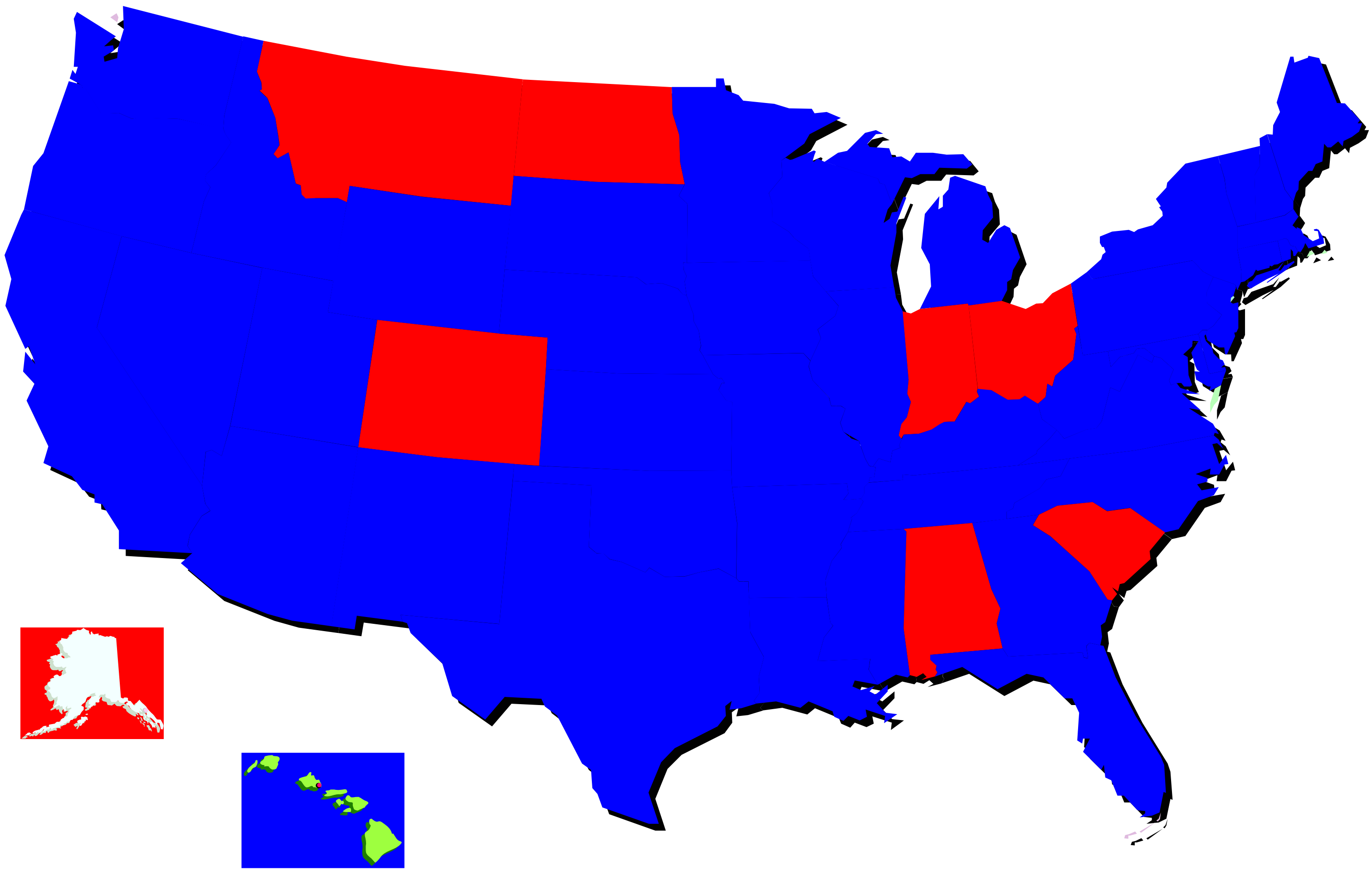
US MAP SHOWING STATES THAT REGULATE MORTGAGE BROKERS



States that regulate Mortgage Brokers are shown in green

States that do not regulate Mortgage Brokers are shown in red

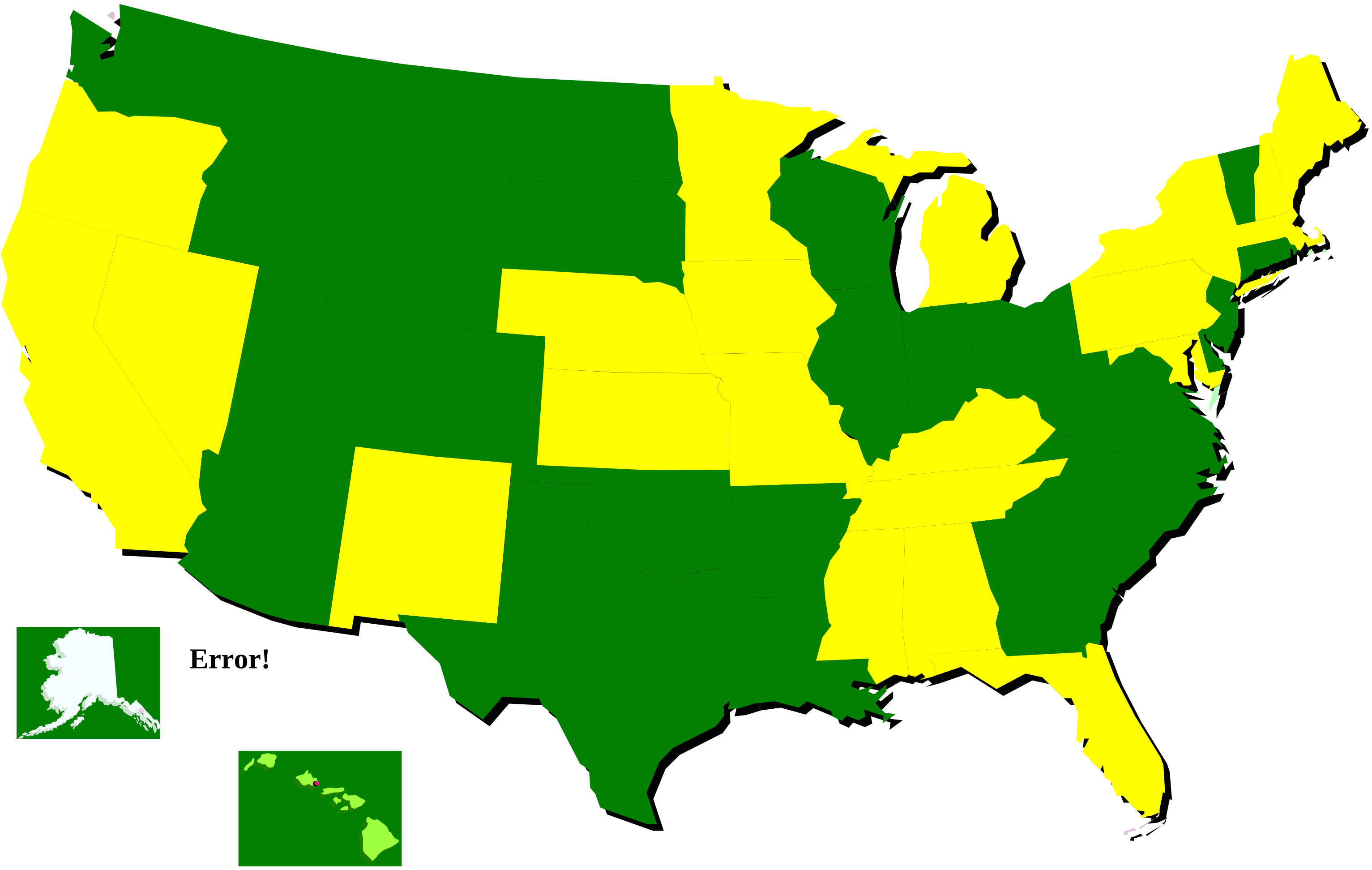
US MAP SHOWING STATES THAT REGULATE MORTGAGE BANKERS/LENDERS



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



Error!

States that regulate Mortgage Servicers are shown in yellow

States that do not regulate Mortgage Servicers are shown in green

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

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Columbia, SC 29201
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Post Office Box 978
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FAX (843) 678-8809

105 N. Spring Street
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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

*** 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.

***Incarceration may include prison time, home confinement, electronic monitoring, or a combination.**

Savannah International Trade and Convention Center

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

Your Door to FHA HOMEOWNERSHIP

EQUAL HOUSING OPPORTUNITY

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

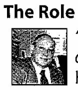
What Expectations are of Market Participants

"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 Invesigation

"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 Mortage 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 D

NAMB
National Association of Mortgage Brokers

A Breakdown of the Mortgage Industry and How It Operates

Introduction and Background

NAMB reiterates our steadfast support for, and urges policymakers to move forward with, legislation that empowers consumers to make informed decisions; allows states to afford their citizens protection against predatory lending practices; uniformly fights mortgage fraud across the board; and enables industry to continue its efforts to increase fair and affordable financing to borrowers seeking to achieve homeownership.

The reality today is that any effort—legislative, regulatory or guidance—must take into account how the mortgage market has evolved in relation to the burgeoning growth of the secondary market for mortgages. Any effort must consider that the problems facing the mortgage market are not exclusively attributable to one distribution channel and rather are the result of a combination of factors. The following factors have contributed to the factors we are facing today: originating, underwriting, servicing, debt collection, secondary market investment, securitization, and the bond rating system.

Additionally, any effort must also bear in mind that, in the wake of Watters v. Wachovia, the mortgage industry landscape is now bifurcated. Two separate mortgage camps now exist: those that operate solely under federal regulation *versus* those mortgage participants in the "non-bank camp" that are subject to both federal and state oversight. The "non-bank camp" that 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. In essence, the Watters decision created an imbalance in the mortgage industry oversight scheme that oversees a mortgage market that is vastly different from what it was 20 years ago at the advent of the secondary market for mortgage financing.

Issue

You have asked us to further address and explain the issue with non-traditional mortgage bankers/originators that we discussed during our meeting on Wednesday, June 20, 2007. Specifically, you requested information on how non-traditional mortgage bankers/originators operate; how they could be confused as brokers; and why a consumer would be under the impression that they are representing the consumer and not the bank.

We address each of these questions below.

A. <u>How do non-traditional mortgage bankers/originators operate?</u>

Today, mortgage originator entities and individuals operate functionally in one of three ways:

- As lenders;
- As correspondent lenders; or

- As mortgage brokers.

All three of these “types” distribute their products in one of three principal ways. Some originators distribute products through a retail branch. Some companies distribute products through their correspondent lending division. Some participants distribute products through their broker division.

1. What is a correspondent lender?

It is important to note at the outset that States license people and businesses and that federal mortgage-related statutes generally define and regulate the mortgage transaction (under Real Estate Settlement Procedures Act of 1974 (“RESPA”) and 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 will define the mortgage transaction by its nature. This treatment is what gives rise to lenders acting in various capacities, either in a true creditor capacity, in a table funding capacity,[1] or in a broker capacity (despite the fact that their business license may say “mortgage lender”). When a lender is engaging in any one of these types of transactions and is offering multiple product lines of other lenders they are acting as a correspondent lender.

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 the consumer. 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, the 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 and to whom they will be selling the loan. The correspondent lender will, within five 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 the correspondent lender has entered into multiple contracts, is offering the loan products of various lenders and banks, and selling the loan in exchange for a SRP, they are functionally acting as brokers. A difference between the correspondent lender and the broker is that the correspondent lender *temporarily* funds the loan at closing and then within 5 to 10 business days releases all interest in that loan and does **NOT** have to disclose all 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 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 that they are receiving a loan from Banker A, Banker B or Banker 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 as a mortgage broker. This does not require the entity to obtain multiple licenses. As a mortgage broker, the yield spread premium (YSP) earned must be disclosed. However, the

[1] 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-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 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.

entity can choose to act as a correspondent lender under its mortgage banker license and would NOT have to disclose the SRP that is earned on the transaction. Because an entity can act as both a mortgage banker and a mortgage broker in a state, it can choose transaction by transaction whether it wants to originate the loan as a correspondent lender (requiring no disclosure of SRP) or a mortgage broker (requiring disclosure of YSP). Thus, the consumer is not able to discern easily whether the officer is working under the mortgage banker hat or the mortgage broker hat.

2. What is a 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.

Although they are more alike than different, there are a few differences between a broker and a correspondent lender. A broker does not close a loan in its name because they do not temporarily fund the loan. A broker must also disclose all compensation (*i.e.*, YSP) earned on the transaction. In contrast, the correspondent lender closes the loan in its name and is not required to disclose its YSP/SRP. As mentioned above, correspondent lenders typically sell the loan quickly to another larger lender or bank.

3. What is 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 their brick-and-mortar retail shops. Retail is direct from the bank, non-bank or broker to the consumer. Retail origination can also occur on the phone or through 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), the functions of which are discussed above.

It is important to note that the bank and non-bank entities themselves also can functionally engage in and do 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 channel division, and a broker channel 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.

Summary on how non-traditional mortgage bankers/originators operate.

In all three scenarios 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 can obtain a loan product for the consumer.

It is important to note that the employed loan officers are all 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 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 the product choices to the consumer and almost immediately after funding the loan sell it to the lender or to the secondary market.

- An in-house mortgage company of a real estate firm.[2]
- An 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.

B. <u>How non-traditional mortgage bankers/originators could be confused as brokers and why a consumer would be under the impression that they are representing the consumer and not the bank.</u>

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

1. There is no official signage requirement;
2. The branch offices look exactly the same to the consumer, if there is a physical location at all (*i.e.*, internet);
3. In addition, the vast majority of mortgage bankers do not take deposits and their place of operation looks no different than that of a mortgage broker;
4. These entities generally have "mortgage company" in their names and do not have 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 <u>mortgage broker</u> only to learn later that he or she is in fact a <u>mortgage banker</u> 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.

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[2] 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.

Conclusion

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 the sell it. Today, most lenders quickly sell their 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 the secondary market, and then being compensated from the market, in addition to the consumer, for such temporary fronting of funds. Unfortunately, to the consumer none of this is apparent. Plus, the consumer has no idea that these entities are getting paid directly as well as indirectly because mortgage bankers do not need to disclose that they earn SRP when they sell the loan days after closing.[3]

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.

[3] Brokers are still the ONLY mortgage origination distribution channel that can claim FULL transparency of ALL fees – both direct (on the Good Faith Estimate (“GFE”) through points) and indirect (on the GFE as required by RESPA Regulation X).

APPENDIX E

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:☐ Conventional; ☐ FHA; ☐ VA; ☐ Other:____________
	☐ **Fixed Rate Mortgage Loan**, or ☐ **Adjustable Rate Mortgage Loan**
	Prepayment Penalty: ☐May; ☐May Not Balloon Payment: ☐ Yes; ☐ No

Settlement Charges:

800: Items Payable in Connection With The Loan:	
801: Loan Origination Fee (%) to:	
802: Loan Discount Fee (%) to:	
803: Appraisal Fee to:	
804: Credit Report Fee to:	
805: Lender's Inspection Fee to:	
806: Application Fee to:	
807: Flood Certification Fee to:	
808: Mortgage Broker Fee (%)	
809: Tax Service Fee to:	
810: Processing Fee to:	
811: Underwriting/Admin Fee to:	
812: Wire Transfer Fee to:	
813:	
900: Items Required By Lender To Be Paid In Advance	
901: Interest for _____ days at $________ /day	
902: Mortgage Insurance Premium for ____ mos. to _________	
903: Hazard Insurance Premium for _____mos. to __________	
904: Flood Insurance Premium for ______mos. to __________	
905: VA Funding Fee / Mortgage Insurance Premium	
1000: Reserves Deposited with Lender: Waived ☐Yes ☐No	
1001: Hazard Insurance: _____ months @ $_________ per mo.	
1002: Mortgage Insurance: ____ months @ $_________ per mo.	
1003: City Property Taxes: ____ months @ $_________ per mo.	
1004: County Property Taxes: ____ months @ $_______ per mo.	
1005: Annual Assessments: _____ months @ $ ________per mo.	
1006: Flood Insurance: _____ months @ $___________ _per mo.	
1007: months @ $___________ per mo.	
1008:	
1100: Title Charges	
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:)	
1108: Title Insurance Fee to: (Includes above item numbers:)	
1109: Lender's Coverage $	
1110: Owner's Coverage $	
1111: Includes Commitment Fee to:	
1112: Endorsement Fee to:	
1113: Wire Fee to:	
1114: Electronic Doc Fee to:	
1115: Courier Fee to:	
1116:	
1117:	
1118:	
1200: Government Recording and Transfer Charges	
1201: Recording Fees: ☐Deed $ ☐Mortgage $ ☐Release(s)/Reconveyance(s) $	
1202: City/County Tax/Stamps: ☐Deed $ ☐Mortgage$	
1203: State Tax/Stamps: ☐Deed $ ☐ 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**	

Summary of the Borrower's Transaction:

Contract Purchase Price	
Existing Loan Amount to be Paid Off	
Personal Property	
Total Settlement/Closing Cost Charges to Borrower(s): **1400 A**	
Total Pre-Paids/Reserves Charged to Borrower(s): **1400 B**	
Gross Amount Due From Borrower(s):	
<Deposit of Earnest Money>	( )
<Principal Amount of new loan(s)>	( )
<Seller Paid Closing Cost Credit(s)>	( )
<Subordinate Loan Proceeds>	( )
<Other Credit(s)>	( )
Amounts Paid By or In Behalf of Borrower(s):	( )
Cash at Settlement Due From/To Borrower(s):	
Proposed Payment(s):	
1st Mortgage: ☐Principal & Interest pmt ☐ Interest Only pmt	
2nd Mortgage: ☐Principal & Interest pmt ☐ Interest Only pmt	
Property Taxes	
Home Owners Insurance	
Private Mortgage Insurance	
Homeowners Association Dues	
Other	
Other	
Total Proposed Monthly Payment:	

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.

Termination: This agreement will continue until one of the following events occur:

1. The Loan closes
2. The Request is denied.
3. The Borrower withdraws the request.
4. The Borrower decides to use another source for origination.
5. The Borrower is provided a revised Uniform Good Faith Estimate Statement.

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.

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:** _____________________________________

______________________________________ _________________________