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04.02.09

Legislative Update Report

State Issues – Pending Legislation of Interest

SAFE Act update; Texas House Bills 10, 2774, and 2779

HB 10 is the revision of the Mortgage Broker Licensing bill designed to bring the Texas mortgage industry into compliance with the Federal SAFE Act passed last year. This would change licensing renewal to annual instead of bi-annual, require the broker to be registered with the National Mortgage Licensing System (NMLS), remove the \$25,000 net financial asset requirement with the participation in a recovery fund, add “financial responsibility” evaluation, and defines a “non-traditional” mortgage as any loan other than a 30 year fixed rate loan.

HB 2774 is the companion bill that amends the Finance Code to authorize the TSML Commissioner to participate in the NMLS and update the Mortgage Broker Licensing Act to accommodate the requirements of the SAFE Act.

HB 2779 is the related bill that sets out the regulatory framework for the licensing and regulation of mortgage banker employees who originate residential mortgage loans.

View these bills at:

HB 10: <http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB10>

HB 2774: <http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB2774>

HB 2779: <http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB2779>

More information on the SAFE Act can be found on the website of the Conference of State Bank Supervisors: http://www.csbs.org/AM/Template.cfm?Section=SAFE_Act

HB 2897 - Representative Eddie Rodriguez – Many people are familiar with the advertisements that come out around tax time that offer to file for a homestead exemption for an individual,

often at a significant cost to the homeowner. This legislation is aimed at these individuals and would impose significant notification requirements to let a homeowner know that he/she can do that without assistance and would limit what could be charged for the one offering the service. A copy of the bill may be found at:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB2897>

HB 2840 - Representative Burt Solomons – This legislation adds additional requirements to existing mortgage fraud statutes and would specify that a person commits a criminal offense if the person intentionally or knowingly makes a materially false or misleading written statement in providing an appraisal of real estate for compensation or in providing any other service related to the closing or settlement of a real estate transaction. A copy of the bill may be found at:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB2840>

HB 3179 - Representative Senfronia Thompson – This legislation would require a lender to ascertain there is a "reasonable, tangible net benefit to the borrower considering all of the circumstances, including the terms of the new and refinanced loan and the borrower's stated loan objectives, repayment ability, current and expected income, and current obligations" before a lender can refinance an existing home. A copy of the bill may be found at:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB3179>

Federal Issues

The Mortgage Reform and Anti-Predatory Lending Act of 2009 (H.R. 1728) – Introduced by Reps. Barney Frank (D-Mass.), Brad Miller (D-N.C.) and Melvin Watt (D-N.C.), HR 1728 is a comprehensive plan to reform the home mortgage market. HR 1728 would ban all fees paid to loan officers that are tied to the interest rate or type of mortgage and create a mandatory minimum national quality standard for all mortgages that would impose a new federal "duty of care" and require a "net tangible benefit" on refinance loans. A copy of HR 1728 can be found at: <http://thomas.loc.gov/cgi-bin/query/D?c111:1:./temp/~c111Hel6xx::>

Home Valuation Code of Conduct (HVCC) update

As of May 1st, Brokers and their loan officers will not be able to order the appraisal or talk to the appraisers. On April 2, 2009, NAMB announced that they had withdrawn the lawsuit they filed in February against the Federal Housing Finance Administration (FHFA) in an attempt to block the implementation of the HVCC. A copy of the NAMB press release and original lawsuit may be found at:

<http://www.namb.org/namb/NewsBot.asp?MODE=VIEW&ID=261&SnID=1540040253>

A link to the HVCC can be found at:

http://www.freddiemac.com/singlefamily/home_valuation.html

HUD Mortgagee Letter Addresses Appraising Requirements.

On March 23, Assistant Secretary for Housing Brian D. Montgomery issued mortgagee letter 2009-09 to address appraisal reporting requirements applicable to properties securing an FHA-insured mortgage. According to the letter, FHA roster appraisers are required to complete the "Market Conditions Addendum" in connection with an appraisal that is performed on or after April 1, 2009 of any such property. The letter also sets forth guidance for performing appraisals of such properties that are located in declining markets.

A copy of the HUD Mortgagee letter may be found at:

<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/files/09-09ml.doc>.

A copy of the "Market Condition Addendum" may be found at:

<https://www.efanniemae.com/sf/formsdocs/forms/1004mc.jsp>.

HUD re-opens 'required use' for public comment

The U.S. Department of Housing and Urban Development (HUD) announced on March 6 that it intends to seek further public comment on how it should define the scope of a prohibited practice called required use under RESPA. HUD will delay the planned implementation of RESPA's required use provision for 90 days, or until July 16, as it solicits public comment on whether to withdraw its new definition that would have taken effect in January.

A copy of HUD's request for comments and comments relating to the delay of the final rule can be found at: <http://www.hud.gov/news/requireduserule.pdf>

Treasury Secretary Outlines Plans for Regulatory Reform.

On March 26, the U.S. Department of the Treasury Secretary Timothy Geithner highlighted the steps necessary to achieve reform of the financial system in testimony delivered before Congress. According to Secretary Geithner, lawmakers should provide a comprehensive response to failures in the financial system by (i) addressing systemic risk, (ii) protecting consumers and investors, (iii) eliminating regulatory gaps, and (iv) fostering international coordination. Secretary Geithner advocated several major reforms. A link to the summary of his testimony can be found at <http://www.treasury.gov/press/releases/tg72.htm>.