

MORTGAGE LENDING WORK GROUP

June 23, 2008

10:00 a.m. – 12:00 p.m.

Conference Room 260, Labor & Industries Building
350 Winter Street NE, Salem, Oregon

Meeting Summary

Lou Savage, Senior Policy Advisor, Department of Consumer and Business Services (DCBS), and work group facilitator called the meeting to order at 10:08 a.m.

Mr. Savage asked members to please limit comments to a minute and do not repeat what others have said. He asked members to please keep comments constructive and concise.

Subcommittee #1 Report – Benefits to the Borrower if a Loan is Refinanced

Mr. Savage presented the reasonable tangible benefit discussion draft refined by the subcommittee. Participants questioned and discussed the subcommittee's recommendations including the following:

- Any form produced by the subcommittee should be described in the administrative rules.
- Representative Paul Holvey asked if Oregon adopts federal forms will they cover everything that the State of Oregon wants? He said there is the ability to adopt federal elements into the Oregon form by rule.
- Oregon Association of Mortgage Professionals support the form data elements being in statute.
- The originator should be responsible for accurately presenting reasonable available information regarding the borrower's prior loan. Otherwise, the originator can rely on public record or the information the borrower can provide.
- The side-by-side comparison form may not work depending on the new and old loan; the form may need to be flexible enough to take into account the existing loan compared to the new loan. Creating an "other" section on the form could resolve the issue in the complex situations. The format of the form would have to allow for the terms of different loans.
- Advocates wish to have the form available in other languages; some work group participants did not agree with providing the form in multiple languages; a few industry participants said they would not sign the form in another language if they could not read it themselves. Some believed that certain key disclosures should be available in other languages.
- Representative Mike Schaufler said he did not want the complicated loan documents to be lost in translation and would prefer they stay in English.
- Cory Streisinger, Director, DCBS, recommended the work group wait until all of the ideas are flushed out in the work group before revisiting the multiple languages topic.
- Senator Suzanne Bonamici would like to know if any other states, besides California, have other language disclosures. If so, how is it working and how much does this cost?
- Instead of using certification, work group members recommended acknowledgement.

- Take out #5 on the draft or state it in the affirmative; look at federal rules on transactions.
- Regarding timing – borrowers are less likely to be alert if they are just given forms. So it is very important for the loan originator to have a conversation with the borrower.
- Consumer education requirements were suggested for borrowers – even at the high school level. A participant said it is the job of the originator to explain and educate the borrower about the loan.
- Some participants believe the form is not useful and in terms of enforcement they recommended DCBS look for patterns of complaints. DCBS staff mentioned there have been serious problems with hardly any documented complaints.
- There was discussion regarding enforcement – where can enforcement be added in section #7 for an individual loan originator who does not have a license? Also, include private right of action, which can possibly be limited to failure to disclose.
- ORS 59.925 for fraudulent misrepresentation seeing private right of action, which includes attorney fees; 925 is limited to ascertainable loss.

Subcommittee #2 Report – Obligations of licensees to borrowers / Best loan for borrower's circumstances / Clear disclosure of all fees, terms, and costs / Compensation, fees, and terms / Use of prepayment penalties

Senator Suzanne Bonamici presented the refined discussion draft for subcommittee #2. The subcommittee discussed the good faith and fair dealing requirement during the two subcommittee meetings since the last full work group meeting. The subcommittee listed items on the discussion draft without specific agreement.

In general, there was agreement there are minimum standards of conduct for mortgage lenders. The subcommittee will work on defining “mortgage lenders” so it is clear who this applies to. The point is for the lenders to work with the borrowers to help them make fair decisions. Senator Bonamici went over the discussion draft explaining the subcommittee’s reasoning for each section.

Participants questioned and discussed the subcommittee’s ideas including the following:

- There was a recommendation to take out ‘all’ from #2 a. The concern is there are so many products a borrower might qualify for that it might be impossible to comply with this requirement of ‘all’
- A participant pointed out the Good Faith Estimate form has several columns for comparison.
- There was discussion regarding recommending all types of loans the borrower qualifies for including products offered by other lenders. The work group members generally agreed the lender should recommend products they have available.
- Some brokers are not licensed to offer FHA loans and they do not know the guidelines.

- A participant said the subcommittee might consider disclosures for loan types the originator does not provide but the borrower might be eligible for. Some borrowers might not be sophisticated enough to realize they can comparison shop.
- One member was concerned there is an assumption that there is always a fixed rate alternative. This effects home equity lines of credit (HELOC) – most all HELOCs are not fixed rate.
- The work group discussed reasonable efforts to secure a mortgage loan from lenders whom the broker regularly does business to prevent steering.
- There was concern that calculating all loan estimates to close on the same day of the month violates RESPA.

Mr. Savage said the ‘borrowers ability to make loan payments’ will be discussed at the next work group meeting. The subcommittees will meet to discuss the drafts further.

Mr. Savage said there is a group putting together an education piece and information will be emailed out if anyone is interested in participating.

The next Mortgage Lending Work Group meeting will be July 14, 2008, at 1:30 p.m.