

# MORTGAGE LENDING WORK GROUP

November 14, 2007

9:00 a.m. to 11:00 a.m.

## Meeting Summary

Amy Cleary started the meeting and asked newcomers and telephone participants to introduce themselves.

Chris Ambrose, representing the Mortgage Rescue subcommittee, clarified what the handouts were and their purpose. He went over the Mortgage Rescue Fraud Protection Act and explained to the attendees the changes that had been made to it.

Some of the comments made in re the Act were:

- The "Definitions" section of the document is approved by consensus;
- "Surplus Purchaser" language has been added back to document;
- "Foreclosure Reconveyance" language is unclear ("Equity Purchase" is better);
- Realtors are concerned about "scope of duties" language;
- Banks repossessing property are exempt;
- Non-Profit Organizations must be in business for at least five years to be considered exempt;
- Foreclosure Consultants and Equity Purchasers should be in two separate sections of the Act as to avoid confusion.
- All "reconveyance" language should be changed to "purchase";

There were concerns that the ability of the borrower to rescind the agreement with the foreclosure consultant/equity purchaser could lead to the recorded deed having to be pulled back.

It was suggested that a formal process for settlement be explored in subcommittee and that the statute be reviewed to see if Foreclosure Consultants could be licensed in the same manner as credit counselors.

It was also pointed out as important to preserve the right of the borrower to seek civil action against wrongdoer.

The concept of "Equitable Mortgage" was brought up and it was argued that nothing in the statute should allow someone to circumvent the law by calling a deed by some other name. The term should be defined or added to the act as an exemption.

In behalf of the Foreclosure Law Subcommittee, Lou Savage introduced the final draft of the Foreclosure Notice, adding that the language in re Legal Aid and Oregon Housing and Community Development Department is still in research.

It was mentioned that an affidavit of service should be required as part of the process of foreclosure. The additional language will be worked on in subcommittee.

Also, it was mentioned that, on the third paragraph of the notice, the trustee and the lender have different phone numbers, and that including a brochure with the notice would be useful to the borrower.

Lou Savage presented information in behalf of the Enforcement Subcommittee, which had been unable to meet prior to the meeting.

However, it was established that DCBS does have the authority to bar bad loan originators from practicing in Oregon. The subcommittee will work to edit the statute language to the satisfaction of the group, and the changes will be discussed in further meetings before consensus is reached.

Also, it was established that Foreclosure Consultants will have the right to appeal via administrative law.

If loan reporting to the department is required, the information:

- Will serve for tracking Oregon numbers;
- Will allow the division to inspect those who engage in risky behaviors;
- Will not be released to the general public (unfair competition issues), though aggregate data may be available for information purposes only;
- May contain duplicate data so close tracking may be needed.

Non-payment of appraisal services was brought up as an issue, but although recognized as a problem, it is outside of DCBS's jurisdiction to enforce against such practices.

In a future meeting, the Enforcement Subcommittee will explore the issue and come up with a solution, whether that is to modify the statutory language or refer the matter to appropriate agency.

The matter of unscrupulous lenders using insider information to profit off a borrower was brought up (Oregonian story).

Whether loan originators should be required to provide to DCBS individual bonding proof was discussed. The argument was:

- That bonding is a barrier to entry;
- Moreover, that bonding helps the employer – background check may not be enough;
- Bonding is easy to verify (information is readily available by phone, Web site);
- \$200 fee is not prohibitive to someone who wants to register as a LO;
- Bonding, in serving as a deterrent to bad behavior, serves as a prevention, not a prosecution, measure.

More questions to answer at the subcommittee level:

- Where would the money recovered from the bonds go?

- Who will be required to be bonded?
- What will the bond cover?

Subcommittee meetings will take place at times to be agreed upon later in the week. Members of the different subcommittees will provide information to each other via e-mail.

The next full group meeting will take place on December 12, 2007 at 1:00 p.m.