

NAR and Responsible Lending

Everyone interested in the real estate industry has noticed the recent media coverage on the poor performance of subprime mortgages. The Center for Responsible Lending has estimated that 2.2 million American households have lost or will lose their homes in the next few years, igniting fears that we are facing the worst foreclosure crisis in modern American history.



Subprime loans flourished during the last part of the housing boom providing mortgages to people with poor credit histories, often allowing them to buy homes beyond their means through “Teaser Rates”. Examples of these risky mortgage products are loans with a short term low interest rate for the first 2 or 3 years (known as 2/28s and 3/27s), loans with an initial interest-only period, hybrid adjustable rate mortgages (ARMs), and no down-payment mortgages.

Many of these loans with adjustable rates or interest only payments are now being recalculated with significantly higher monthly payments resulting in unaffordable “payment shock” for the borrower.

Industry figures show the delinquency rate for all mortgages at 4.48% in the first quarter but 13.77% for subprime loans. Foreclosures were taking place at 0.58% of properties but 5.1% for subprime. A number of subprime lenders have already gone out of business raising concerns that existing lenders will drastically tighten standards and curtail mortgages which will lead to fewer buyers and home prices falling further.

NAR has been concerned about abusive lending by some irresponsible lenders and their affect on the housing market. In response, NAR has supported efforts to draft legislation that will set strong underwriting standards that require all mortgage originators to verify the borrower's ability to repay the loan based on all terms, including taxes and insurance without having to refinance or sell the home. NAR supports the general principal that all mortgage originators should act in “good faith and with fair dealings” in a transaction and treat all parties honestly. NAR urges legislators to use such a standard of care as a guiding principal when drafting anti-predatory lending legislation.

Additional information on this issue and other issues that affect the real estate industry can be found on our website at <http://government.ppar.com> and NAR's website www.realtor.org or contact Clarissa Arellano, Government Affairs Director at 633-7718 x 104.

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Company Address _____

City/Zip _____ Home Zip Code _____

Phone _____

Predatory Lending in Colorado

Colorado's response to predatory lending and the unprecedented rate of foreclosures has led to the enactment of legislation to mitigate the problem. The Colorado Association of REALTORS® and the Pikes Peak Association of REALTORS® were heavily involved, either supporting or monitoring the following:

HB 1157- Concerning Real Estate Foreclosures

HB1157 modifies existing law to include provisions related to time deadlines, bid-rescission, bid-modifications and acceptance of redemption funds. The bill adds two fees for new services performed by the Public Trustee:

- 1) \$100 for processing rescission
- 2) \$50 for rescheduling a sale after rescission of sale

HB 1322- Measures to Prevent Mortgage Fraud

This bill expands the existing Mortgage Broker Registration Act by regulating the professional behavior of mortgage brokers and other parties involved in real estate transactions.

SB 085- Consumer Protections Relating to Real Estate Transactions

SB085 addresses the relationship between mortgage brokers and real estate appraisers. This bill prohibits mortgage brokers from trying to influence the real estate appraisal process through coercion, intimidation, or compensation. This bill also modifies the powers and duties of the Director of the Division of Real Estate as follows:

- Director must refuse or revoke registration of brokers who have been prohibited from practicing in any other state in the past five years;
- Director is given rule-making authority; and
- Administrative proceedings finding broker misconduct will result in fines of not less than \$1000 for first offense and between \$1000 and \$2000 for subsequent offenses.

SB 203- Regulation of Persons Participating in Mortgage Loan Transactions and Mortgage Broker Licensing

SB203 amends the existing Mortgage Broker Registration Act to the Mortgage Broker Licensing Act, requires state licensure instead of registration and requires the Division of Real Estate to regulate the professional behavior of mortgage brokers.

This bill requires training, testing and continuing education of mortgage brokers. Mortgage broker license must be revoked if any of the following violations is committed:

- Knowingly misleading a party in a real estate transaction;
- Acting in the interest of more than one party without prior disclosure;
- Mishandling or misusing money belonging to others;
- Failing to keep adequate mortgage brokering and real estate records for a period of four (4) years;
- Attaining licensure after entering a plea of guilty, entering a plea of no contest, or being convicted of certain crimes;
- Violating state or federal fair housing laws;
- Demonstrating incompetency as a mortgage broker; and
- Engaging in fraud or deceit.

SB 216- Consumer Protections in Residential Mortgage Loan Transaction

This bill adds a deceptive trade practice to the Colorado Consumer Protection Act (CCPA). Mortgage brokers must act in good faith and fair dealing in communications and transactions with borrower. Brokers must not influence a borrower into a loan that does not benefit borrower, provide credit predominantly based on the value of consumer credit, or provide a loan that consumer is not likely to repay. SB216 also requires the Banking Board and the Division of Real Estate to adopt rules for marketing of non-traditional loans.

Additional information on these issues or other recently enacted legislation that affects the real estate industry can be found on our website at government.ppar.com or contact Clarissa Arellano, Government Affairs Director at 633-7718 x 104.

References: Information available online at www.leg.state.co.us and www.statebillinfo.com

* *Subscription to statebill info required.

Residential Property Water Disclosure

Discussion of water sustainability is at an all time high. Elected officials, business and community leaders throughout Colorado are seeking solutions to ensure the availability of water for all citizens of the state for years to come. Water as a natural resource and precious commodity is a complex public policy issue. Water delivery, quality, quantity, and access require a great deal of negotiation and cooperation from stakeholders in all communities public and private not to mention the ramifications that the law of water encompasses. One such ramification is the recently enacted HB1156 concerning disclosure of residential water source.

HB 1156- Requires a seller in a residential real estate transaction to provide information regarding the property's source of water and the water provider's contact information. If the source of the water is a well, the following additional information must be provided:

- 1) Well permit number, authorization date, and water court decree;
- 2) The depth of the well and the source of the aquifer; and
- 3) The anticipated life of the well.

The new law specifies that the purchaser may not claim relief against the seller related to the inadequacy of the water supply.

The forms committee of the Colorado Real Estate Commission is currently reviewing the requirements of the law pertinent to its implementation. A new form will likely be added to meet the disclosure requirements. The law becomes effective in January, 2008.

~ Save the Date ~



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Additional details to follow