



Bureau of Residential Finance

MEMORANDUM

TO: Mortgage Banking Licensees
FROM: Jay R. Stevenson
DATE: March 18, 2002
SUBJECT: Regulatory Memorandum

This regulatory memorandum, the first issued by the Commissioner, pertains to several violations our examiners have found over the last year and for which we request enhanced compliance to avoid the payment of costly penalties and fines by Illinois Residential Mortgage Licensees.

1. Section 2-4 (w) and (x):

These provisions require a licensee to notify the Commissioner if either a licensee requests the repurchase of a residential loan or a licensee is requested to repurchase a loan. In calendar year 2001 we received approximately twenty-five such notices, a number we believe considerably lower than the actual number of repurchase requests actually made. Thus far this year, we have received none. The purpose of these provisions is to ensure that entities which engage in substandard underwriting practices are brought to the attention of this regulator.

2. Section 1050.1010 (c) and Section 1050.1110 (d):

These provisions of the Rules require a licensee to provide a good faith estimate of costs incurred in connection with the origination of the residential loan. We have found in recent examinations that some licensees are not listing the payment to them resulting from servicing released premiums. The Rules require that all compensation be listed and a separate listing of both yield spread premium and service-released premiums is appropriate.

3. Section 1050.480 and Section 1050.230:

These provisions require a licensee to provide written notice to the Commissioner ten days BEFORE a Change of Ownership. A payment of \$ 500.00 should accompany said notice. In recent months we have received the fee and change of ownership AFTER the transaction has been completed. Please be advised that if we do not receive the notice ten days prior to the contemplated transaction, the Commissioner will not approve the proposed change and the owner of record on the Office of Banks and Real Estate records will be held accountable for any and all regulatory violations.

4. Section 1050.1187:

A provision, found in the recently promulgated predatory lending rules, allows pre-payment penalties under certain circumstances. While we have not found violations of this provision per se, we have found that licensees continually check the box on The Truth and Lending Form that a pre-payment penalty " May exist", when in fact, the wholesaler, lender, or table funder KNOWS that one does exist. We consider this practice unacceptable, even though the federal form does not have a box for identification that a pre-payment penalty exists. **We require all licensees to inform their residential mortgage applicants in writing that a pre-payment penalty exists, if in fact it does.** Statements such as " we did not know the lender at the time of the application " are insufficient. **It is the duty of every licensee to know all costs and potential costs incurred by an applicant with respect to the origination of the loan. The Commissioner will consider it a violation if a pre-payment penalty does exist and is not disclosed in writing at the time of the application.** This provision is important to effectuating the purposes outlined at Section 1-2 of the Act and will be included in the scope of our examinations beginning Monday, April 1, 2002. Violations of this pre-payment sub-section, as well as violations of any provisions of the predatory lending rules by wholesalers, lenders, and table funders for loans originated after April 1, 2002 will incur fines as outlined at Section 4-5 of the Act.

Should you have any questions, please contact Dea Brennan, Director of Mortgage Banking or Stanley Stewart, Assistant General Counsel.