

MORTGAGE LENDING

Mortgage Industry

Due to the foreclosure crisis and ailing economy, one of the industries that became the target for our legislators was the mortgage lending industry.

Interim Committee on Housing and Mortgage Issues

Between the 2007 and 2009 Sessions, the Interim Committee on Housing and Mortgage Issues had been working to address concerns with the real estate market and mortgage lending practices. NVAR's Lobbying Team was involved every step of the way, and there were no big surprises when a number of bills originated from the committee.

Foreclosure and Loan Modification Consultants

The spike in foreclosures brought to light a loophole in the definition of a homeowner as it pertains to foreclosure consultants. Individuals will now be required to be licensed if they are providing the services of a foreclosure consultant or a loan modification consultant. The legislation introduced and passed this Session to address both types of consultants will better protect our homeowners and hopefully alleviate the concerns regarding those professions.

This legislation exempts real estate licensees, as long as they are performing the duties they are licensed to do under the supervision of their broker.

Mortgage Broker Licensing

It is now prohibited to release the results of an annual examination to

the public for a period of time in order for the mortgage broker to have the opportunity to make his objections to the results known.

A mortgage broker is prohibited from accepting money to acquire ownership of a loan secured by a lien on real property unless the broker has first obtained a written appraisal of the real property securing the loan. The appraisal is to be made no more than 6 months before the broker's first solicitation for the loan and meet certain standards.

The requirements regarding disciplinary action for certain violation of law relating to the business of a mortgage broker for those brokers who make or offer for sale any investments in promissory notes secured by liens on real property was revised to provide that if such a mortgage broker receives the lowest possible rating on two consecutive examinations, his license will be suspended or revoked.

Unlicensed Escrow and Mortgage Professionals

If a person engages in the escrow business or the business of a mortgage broker, agent or banker without a license, the contract for the transaction in question may be voided by the other parties to the contract (for contracts entered into before, on or after October 1, 2009).

It is also now clear that a mortgage broker or mortgage agent has a fiduciary duty to his client.

As a condition of doing business in Nevada, a mortgage broker must

deposit a corporate surety bond or other security.

The maximum fine imposed on escrow agencies or agents was increased from \$500 to \$10,000 for each occurrence of certain violations.

Educational Requirements for Escrow Agents and Agencies

Educational prerequisites and continuing education requirements for an escrow agent or agency were established will be effective January 1, 2011.

Secure and Fair Enforcement for Mortgage Licensing Act of 2008

This federal Act was implemented, and provisions for the licensing and registration with the nationwide mortgage licensing system and registry of residential mortgage loan originators were established, in compliance with federal law.

For a topic by topic summary or the comprehensive legislative report, please visit www.nvar.org.



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