Student Learning Objectives

After completing this course you should be able to

- understand the impact of the Dodd-Frank Law
- understand the role of appraisal management companies
- understand the new RESPA and GFE rules
- understand the extend and type of mortgage fraud in Florida and the U.S.
- recite the four flood zone categories and discuss FEMA construction and insurance requirements.

The Federal Dodd-Frank Law of 2010

This Act, formally known as “Wall Street Reform and Consumer Protection Act” attempted to resolve many of the abuses that brought about the 2008 financial meltdown in the United States. Many of the Act’s provisions were implemented during calendar years 2010 and 2011. The impact of these requirements began to be felt in the marketplace soon after and continue to be evaluated as to their effectiveness.

To quote from the law, the purpose of this Act is to “Promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

One change mandated by this legislation is the requirement for federally-regulated lenders to once again utilize appropriate underwriting of residential loans, a practice largely ignored during the housing bubble that burst in 2007. This change eliminated the use of so-called “liar loans” and “no doc loans”. Lenders are required to assess a borrower’s ability to repay the loan applied for and use prudent judgment in assessing the quality of the collateral offered.

After the financial crash in 2007, the federal 2009 Home Valuation Code of Conduct prohibited lenders from dealing directly with appraisers. In response, the market created a new business: appraisal management companies. Lenders must place an appraisal order through an appraisal management company (AMC) who in turn hires a local appraiser to perform the appraisal. In theory, at least, this prevents the lender from influencing the appraiser, creating appraiser independence, and preventing the lender from influencing the value opinion. The pressure to “hit the number” has always plagued the appraisal profession. The Dodd-Frank Law requires the individual states to regulate appraisal management companies. Florida has enacted such regulation.
A huge loophole in the law has allowed this well-intentioned provision to be by-passed: lenders have purchased appraisal management companies. And, federally regulated lenders are exempt from state registration.

Subsequent to passage of the Dodd-Frank Law, other state and federal laws have been enacted to implement individual portions of the Act. The manner in which each of these areas has been dealt with will be discussed in separate sections of this text.

**Appraisal Management Companies**

A portion of the Dodd-Frank Act amended the Truth in Lending Act by addition of the following requirements designed to afford appraiser independence in a real estate transaction. Some portions of the Rule not considered relevant for purposes of this discussion have been deleted. Licensees may wish to carefully review sections (e) and (k).

(a) IN GENERAL.—It shall be unlawful, in extending credit or in providing any services for a consumer credit transaction secured by the principal dwelling of the consumer, to engage in any act or practice that violates appraisal independence as described in or pursuant to regulations prescribed under this section.

(b) APPRAISAL INDEPENDENCE.—For purposes of subsection (a), acts or practices that violate appraisal independence shall include—

(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, firm, or other entity conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit;

(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

(4) withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered when the appraisal report or services are provided for in accordance with the contract between the parties.

(c) EXCEPTIONS.—The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to undertake 1 or more of the following:
(1) Consider additional appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

(2) Provide further detail, substantiation, or explanation for the appraiser’s value conclusion.

(3) Correct errors in the appraisal report.

(d) PROHIBITIONS ON CONFLICTS OF INTEREST.—No certified or licensed appraiser conducting, and no appraisal management company procuring or facilitating, an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal.

(e) MANDATORY REPORTING.—Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.

(f) NO EXTENSION OF CREDIT.—In connection with a consumer credit transaction secured by a consumer’s principal dwelling, a creditor who knows, at or before loan consummation, of a violation of the appraisal independence standards established in subsections (b) or (d) shall not extend credit based on such appraisal unless the creditor documents that the creditor has acted with reasonable diligence to determine that the appraisal does not materially misstate or misrepresent the value of such dwelling.

(g) RULES AND INTERPRETIVE GUIDELINES.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau may jointly issue rules, interpretive guidelines, and general statements of policy with respect to acts or practices that violate appraisal independence in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), (c), (d), (e), (f), (h), and (i).

(2) INTERIM FINAL REGULATIONS.—The Board shall, for purposes of this section, prescribe interim final regulations no later than 90 days after the date of enactment of this section defining with specificity acts or practices that violate appraisal independence in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction and defining any terms in this section or such regulations. Rules prescribed by the Board under this paragraph shall be deemed to be rules prescribed by the agencies jointly under paragraph (1).
(h) APPRAISAL REPORT PORTABILITY.—Consistent with the requirements of this section, the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau may jointly issue regulations that address the issue of appraisal report portability, including regulations that ensure the portability of the appraisal report between lenders for a consumer credit transaction secured by a 1-4 unit single family residence that is the principal dwelling of the consumer, or mortgage brokerage services for such a transaction.

(i) CUSTOMARY AND REASONABLE FEE.—

(1) IN GENERAL.—Lenders and their agents shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised. Evidence for such fees may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by known appraisal management companies.

(2) FEE APPRAISER DEFINITION.—For purposes of this section, the term ‘fee appraiser’ means a person who is not an employee of the mortgage loan originator or appraisal management company engaging the appraiser and is

(A) a State licensed or certified appraiser who receives a fee for performing an appraisal and certifies that the appraisal has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice; or

(B) a company not subject to the requirements of section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) that utilizes the services of State licensed or certified appraisers and receives a fee for performing appraisals in accordance with the Uniform Standards of Professional Appraisal Practice.

(3) EXCEPTION FOR COMPLEX ASSIGNMENTS.—In the case of an appraisal involving a complex assignment, the customary and reasonable fee may reflect the increased time, difficulty, scope of the work required for such an appraisal, and include an amount over and above the customary and reasonable fee for non-complex assignments.

(k) PENALTIES.—

(1) FIRST VIOLATION.—Each person who violates this section shall forfeit and pay a civil penalty of not more than $10,000 for each day any such violation continues.

(2) SUBSEQUENT VIOLATIONS.—In the case of any person on whom a civil penalty has been imposed under paragraph (1), the penalty imposed shall not be more than ‘$20,000’ for each day any such violation continues.
Florida Regulation of Appraisal Management Companies

Since appraisal is critical to the success or failure of the majority of real estate sales contracts, licensees will find this law informative.

F.S. 475.6235 requires registration of appraisal management companies. However, an employee of an appraisal management company is not required to obtain a separate registration. An application for registration must be submitted to the department in the format prescribed by the department and must include, at a minimum, the following:

(a) The appraisal management company must notify the department of any change in the firm or business name, on a form provided by the department, within 10 days after such change.
(b) The mailing address, street address, and telephone number of the appraisal management company’s principal business location. The appraisal management company must notify the department of any change in the mailing or street address, on a form provided by the department, within 10 days after such change.
(c) The appraisal management company’s federal employer identification number.
(d) The appraisal management company’s type of business organization, such as a corporation, partnership, limited liability company, or sole proprietorship.
(e) A statement as to whether the appraisal management company, if incorporated, is a domestic or foreign corporation, the company’s date of incorporation, the state in which the company was incorporated, its charter number, and, if it is a foreign corporation, the date that the company first registered with the Department of State to conduct business in this state.
(f) The full name, street address, telephone number, corporate title, and social security number or federal employer identification number of any person who possesses the authority, directly or indirectly, to direct the management or policies of the appraisal management company, whether through ownership, by contract, or otherwise, including, but not limited to:
   1. Each officer and director if the appraisal management company is a corporation.
   2. Each general partner if the appraisal management company is a partnership.
   3. Each manager or managing member if the appraisal management company is a limited liability company.
   4. The owner if the appraisal management company is a sole proprietorship.
   5. Each other person who, directly or indirectly, owns or controls 10 percent or more of an ownership interest in the appraisal management company.
(g) The firm or business name under which any person listed in paragraph (f) conducted business as an appraisal management company within the 5 years preceding the date of the application.
(h) The appraisal management company’s registered agent for service of process in this state.

(3) Appropriate fees, as set forth in the rules of the board pursuant to s. 475.6147, and a complete set of fingerprints for each person listed in paragraph (2)(f) must accompany all applications for registration. The fingerprints shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for purposes of processing the fingerprints to determine whether the person has a criminal history record.
The fingerprints shall also be forwarded to the Federal Bureau of Investigation for purposes of processing the fingerprints to determine whether the person has a criminal history record. The information obtained by the processing of fingerprints by the Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the department for the purpose of determining whether the appraisal management company is statutorily qualified for registration.

(4) At the time of filing an application for registration of an appraisal management company, each person listed in paragraph (2)(f) must sign a pledge to comply with applicable standards of professional practice established by rule of the board, including standards for the development or communication of a real estate appraisal, and must indicate in writing that she or he understands the types of misconduct for which disciplinary proceedings may be initiated. The application expires 1 year after the date received.

(5) Each person listed in paragraph (2)(f) must be competent and qualified to engage in appraisal management services with safety to the general public and those with whom the person may undertake a relationship of trust and confidence. If any person listed in paragraph (2)(f) has been denied registration, licensure, or certification as an appraiser or has been disbarred, or if the person’s registration, license, or certificate to practice or conduct any regulated profession, business, or vocation has been revoked or suspended by this or any other state, any nation, any possession or district of the United States, or any court or lawful agency thereof because of any conduct or practices that would have warranted a like result under this part, or if the person has been guilty of conduct or practices in this state or elsewhere that would have been grounds for disciplining her or his registration, license, or certification under this part had the person then been a registered trainee appraiser or a licensed or certified appraiser, the person shall be deemed not to be qualified unless, because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, it appears to the board that the interest of the public is not likely to be endangered by the granting of registration.

(6) An applicant seeking to become registered under this part as an appraisal management company may not be rejected solely by virtue of membership or lack of membership of any person listed in paragraph (2)(f) or any employee of the company in any particular appraisal organization.

(7) The department shall renew the registration of an appraisal management company upon receipt of the renewal application and the proper fee. The department shall adopt rules establishing a procedure for renewal of the registration of an appraisal management company at least every 4 years.

(8) This section does not apply to:
(a) A financial institution, as defined in s. 655.005, which owns and operates an internal appraisal office, business unit, or department; or
(b) An appraisal management company that is a subsidiary owned and controlled by a financial institution, as defined in s. 655.005, that is regulated by a federal financial institution regulatory agency.
475.6245 Discipline of appraisal management companies.—

(1) The board may deny an application for registration of an appraisal management company; may investigate the actions of any appraisal management company registered under this part; may reprimand or impose an administrative fine not to exceed $5,000 for each count or separate offense against any such appraisal management company; and may revoke or suspend, for a period not to exceed 10 years, the registration of any such appraisal management company, or place any such appraisal management company on probation, if the board finds that the appraisal management company or any person listed in s. 475.6235(2)(f):

(a) Has violated any provision of this part or s. 455.227(1); however, any appraisal management company registered under this part is exempt from s. 455.227(1)(i).

(b) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest conduct, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory; has violated a duty imposed upon her or him by law or by the terms of a contract, whether written, oral, express, or implied, in an appraisal assignment; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt of the appraisal management company that the victim or intended victim of the misconduct has sustained no damage or loss; that the damage or loss has been settled and paid after discovery of the misconduct; or that such victim or intended victim was a customer or a person in confidential relation with the appraisal management company or was an identified member of the general public.

(c) Has advertised services in a manner that is fraudulent, false, deceptive, or misleading in form or content.

(d) Has violated any provision of this part or any lawful order or rule issued under this part or chapter 455.

(e) Has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the activities of an appraisal management company or that involves moral turpitude or fraudulent or dishonest conduct. The record of a conviction certified or authenticated in such form as admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

(f) Has had a registration, license, or certification as an appraiser or a registration as an appraisal management company revoked, suspended, or otherwise acted against; has been disbarred; has had her or his registration, license, or certificate to practice or conduct any regulated profession, business, or vocation revoked or suspended by this or any other state, any nation, or any possession or district of the United States; or has had an application for such registration, licensure, or certification to practice or conduct any regulated profession, business, or vocation denied by this or any other state, any nation, or any possession or district of the United States.

(g) Has become temporarily incapacitated from acting as an appraisal management company with safety to those in a fiduciary relationship with her or him because of drunkenness, use of drugs, or temporary mental derangement; however, suspension of a registration in such cases shall only be for the period of such incapacity.
(h) Is confined in any county jail, postadjudication; is confined in any state or federal
prison or mental institution; or, through mental disease or deterioration, can no longer
safely be entrusted to deal with the public or in a confidential capacity.

(i) Has failed to inform the board in writing within 30 days after pleading guilty or nolo
contendere to, or being convicted or found guilty of, any felony.

(j) Has been found guilty, for a second time, of any misconduct that warrants disciplinary
action, or has been found guilty of a course of conduct or practice that shows that she
or he is incompetent, negligent, dishonest, or untruthful to an extent that those with
whom she or he may sustain a confidential relationship may not safely do so.

(k) Has made or filed a report or record, either written or oral, that the appraisal
management company knows to be false; has willfully failed to file a report or record
required by state or federal law; has willfully impeded or obstructed such filing; or has
induced another person to impede or obstruct such filing. However, such reports or
records shall include only those that are signed or presented in the capacity of an
appraisal management company.

(l) Has obtained or attempted to obtain a registration, license, or certification by means of
knowingly making a false statement, submitting false information, refusing to provide
complete information in response to an application question, or engaging in fraud,
misrepresentation, or concealment.

(m) Has paid money or other valuable consideration, except as required by this section, to
any member or employee of the board to obtain a registration, license, or certification
under this section.

(n) Has instructed an appraiser to violate any standard of professional practice established
by rule of the board, including standards for the development or communication of a
real estate appraisal or other provision of the Uniform Standards of Professional
Appraisal Practice.

(o) Has engaged in the development of an appraisal or the preparation of an appraisal
report, unless the appraisal management company is owned or controlled by certified
appraisers.

(p) Has failed to communicate an appraisal without good cause.

(q) Has accepted an appraisal assignment if the employment itself is contingent upon the
appraisal management company reporting a predetermined result, analysis, or opinion
or if the fee to be paid for the performance of the appraisal assignment is contingent
upon the opinion, conclusion, or valuation reached upon the consequences resulting
from the appraisal assignment.

(r) Has failed to timely notify the department of any change in principal business location
as an appraisal management company.

(s) Has influenced or attempted to influence the development, reporting, or review of an
appraisal through coercion, extortion, collusion, compensation, inducement,
inimidation, bribery, or any other means, including, but not limited to:

1. Withholding or threatening to withhold timely payment for an appraisal, unless such
nonpayment is based upon specific quality or other service issues that constitute
noncompliance with the appraisal engagement agreement.

2. Withholding or threatening to withhold future business from an appraiser.

3. Promising future business, promotions, or increased compensation for an appraiser,
whether the promise is express or implied.

4. Conditioning a request for appraisal services or the payment of an appraisal fee,
salary, or bonus upon the opinion, conclusion, or valuation to be reached or upon a
preliminary estimate or opinion requested from an appraiser.
5. Requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report or provide estimated values or comparable sales at any time before the appraiser’s completion of appraisal services.

6. Providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided.

7. Providing to an appraiser, or any person related to the appraiser, stock or other financial or nonfinancial benefits.

8. Allowing the removal of an appraiser from an appraiser panel without prior written notice to the appraiser.

9. Obtaining, using, or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is issued pursuant to a bona fide prefunding or postfunding appraisal review or quality control process.

10. Any other act or practice that impairs or attempts to impair an appraiser’s independence, objectivity, or impartiality.

(t) Has altered, modified, or otherwise changed a completed appraisal report submitted by an appraiser to an appraisal management company.

(w) Has employed, contracted with, or otherwise retained an appraiser whose registration, license, or certification is suspended or revoked to perform appraisal services or appraisal management services.

(x) Has required or attempted to require an appraiser to sign any indemnification agreement that would require the appraiser to hold harmless the appraisal management company or its owners, agents, employees, or independent contractors from any liability, damage, loss, or claim arising from the services performed by the appraisal management company or its owners, agents, employees, or independent contractors and not the services performed by the appraiser.

(2) The board may reprimand an appraisal management company, conditionally or unconditionally suspend or revoke any registration of an appraisal management company issued under this part, or impose administrative fines not to exceed $5,000 for each count or separate offense against any such appraisal management company if the board determines that the appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following acts:

(a) Committing any act in violation of this part.

(b) Violating any rule adopted by the board under this part.

(c) Obtaining a registration of an appraisal management company by fraud, misrepresentation, or deceit.

(3) This section does not prohibit an appraisal management company from requesting an appraiser to:

(a) Provide additional information about the basis of a valuation, including consideration of additional comparable data; or

(b) Correct objective factual errors in an appraisal report.
**RESPA - Real Estate Settlement Procedures Act**

RESPA is a HUD consumer protection statute designed to help homebuyers be better shoppers in the home buying process. RESPA requires that consumers receive disclosures at various times in the transaction and outlaws kickbacks that increase the cost of settlement services. RESPA rules were revised to make obtaining mortgage financing clearer and, ultimately, cheaper for consumers. The rules include a required, standardized Good Faith Estimate (GFE) to facilitate shopping among settlement service providers and to improve disclosure of settlement costs and interest rate-related terms. The HUD-1 was improved to help consumers determine if their actual closing costs were within established tolerance requirements.

The Real Estate Settlement Procedures Act (RESPA) insures that consumers are provided with helpful information about the cost of mortgage settlement and protected from unnecessarily high settlement charges caused by certain abusive practices. In the past, borrowers were often frustrated by closing costs that were significantly different than those provided in estimates provided by lenders at the time of loan application. In many cases this resulted in borrowers being unable to conclude transactions and losing funds paid up front for application fees, appraisals, credit reports, etc. The revised Good Faith Estimate and HUD-1 Settlement Statement place a burden on lenders to provide accurate estimates while limiting up front fees.

New rules were enacted effective July 21, 2011 bringing the Real Estate Settlement Procedures Act (RESPA) under administration and enforcement by the Consumer Financial Protection Bureau (CFPB). The Good Faith Estimate and the HUD-1 Settlement Statement were both revised.

**The Good Faith Estimate**

Key points in the new rules include:

- The borrower must be given a good faith estimate of closing costs within 3 business days after the consumer applies for a loan.
- The lender may not collect any fees before the good faith estimate has been provided, except for a reasonable fee for obtaining a credit report.
- The lender cannot request supplemental information from the borrower before providing the GFE.
- The closing may not take place until expiration of a 7-day waiting period after the consumer receives the disclosure.
- If the APR increases by more than 0.125 percent, the lender must provide a corrected disclosure to the borrower and wait an additional 3 business days before closing the loan.
- Any changes in the good faith estimate require an additional 7-day wait time before the loan can be closed.
- The borrower may modify or waive both the waiting periods for a documented personal financial emergency, but must receive the disclosure no later than the time of the modification or waiver.
The new GFE format is designed to allow consumers to make an easy side-by-side comparison of the good faith estimate and actual closing costs on the HUD-1 at closing.

These changes could extend the time between contract signing and closing.

According to HUD, a borrower has the right to:

- Shop for the best loan and compare the charges of different mortgage brokers and lenders.
- Be informed about the total cost of the loan including the interest rate, points and other fees.
- Ask for a Good Faith Estimate of all loan and settlement charges before agreeing to the loan and pay any fees.
- Know what fees are not refundable if the borrower decides to cancel the loan agreement.
- Ask the mortgage broker to explain exactly what services the mortgage broker will provide.
- Know how much the mortgage broker is getting paid by you and the lender for your loan.
- Ask questions about charges and loan terms that the borrower does not understand.
- A credit decision not based on the borrower’s race, color, religion, national origin, sex, marital status, age, or whether any income is from public assistance.
- Know the reason if the loan was turned down.
- Ask for the HUD settlement cost booklet "Shopping for Your Home Loan".

The Good Faith Estimate has 3 pages. Page 1 summarizes the loan applied for and provides information for the borrower concerning:

- The initial loan amount;
- The term of the loan;
- The amount of the initial monthly payment for principal and interest;
- Whether or not the interest rate can increase, and if so, by how much;
- Whether the loan balance can increase or not if payments are made on time;
- If there is a prepayment penalty or not, and if so, the maximum amount;
- Whether or not there is a balloon payment, and if so, the amount and due date, and
- Any requirement for escrowing taxes, property insurance and mortgage insurance.

In addition, a summary of loan origination charges and all other costs for settlement are included.

Page 2 has two sections, “A” and “B”. The “A” section indicates the origination charge and the effect of points being charged in connection with the loan. Section “B” itemizes all other settlement charges in the transaction.

Page 3 has three sections. The first section itemizes those charges that cannot increase at settlement, charges that can increase by no more than 10% at settlement and those that can change at settlement. The second section is referred to as a “tradeoff table”. It shows the borrower how his/her settlement charges will compare, either up or down from those originally estimated, should the borrower wish to increase or decrease the settlement charges (this could be accomplished by changing the number of points charged). The third section is the “shopping cart” where the borrower can compare the loan applied for with 3 other loans obtained either from the same lender or a competitor.

The revised form may be seen in the pages that follow.
## Good Faith Estimate (GFE)

<table>
<thead>
<tr>
<th>Name of Originator</th>
<th>Borrower</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator Address</td>
<td>Property Address</td>
</tr>
<tr>
<td>Originator Phone Number</td>
<td>Date of GFE</td>
</tr>
</tbody>
</table>

### Purpose

This GFE gives you an estimate of your settlement charges and loan terms if you are approved for this loan. For more information, see HUD's Special Information Booklet on settlement charges, your Truth-in-Lending Disclosures, and other consumer information at www.hud.gov/respa. If you decide you would like to proceed with this loan, contact us.

### Shopping for your loan

Only you can shop for the best loan for you. Compare this GFE with other loan offers, so you can find the best loan. Use the shopping chart on page 3 to compare all the offers you receive.

### Important dates

1. The interest rate for this GFE is available through ____________. After this time, the interest rate, some of your loan Origination Charges, and the monthly payment shown below can change until you lock your interest rate.

2. This estimate for all other settlement charges is available through ____________.

3. After you lock your interest rate, you must go to settlement within __________ days (your rate lock period) to receive the locked interest rate.

4. You must lock the interest rate at least __________ days before settlement.

### Summary of your loan

| Your initial loan amount is $ | $ | years |
| Your loan term is _______ | % |
| Your initial interest rate is _______ | $ per month |
| Your initial monthly amount owed for principal, interest, and any mortgage insurance is $ | |
| Can your interest rate rise? ( ) No  ( ) Yes, it can rise to a maximum of ________%.
| The first change will be in ________ years. |
| Even if you make payments on time, can your loan balance rise? ( ) No  ( ) Yes, it can rise to $ ________.
| Even if you make payments on time, can your monthly amount owed for principal, interest, and any mortgage insurance rise? ( ) No  ( ) Yes, the maximum it can ever rise to is $ ________.
| Does your loan have a prepayment penalty? ( ) No  ( ) Yes, your maximum prepayment penalty is $ ________.
| ( ) No  ( ) Yes, you have a balloon payment of $ ________ due in ________ years. |

### Escrow account information

Some lenders require an escrow account to hold funds for paying property taxes or other property-related charges in addition to your monthly amount owed of $ ________.

Do we require you to have an escrow account for your loan? ( ) No, you do not have an escrow account. You must pay these charges directly when due. ( ) Yes, you have an escrow account. It may or may not cover all of these charges. Ask us.

### Summary of your settlement charges

| A | Your Adjusted Origination Charges (See page 2) $ |
| B | Your Charges for All Other Settlement Services (See page 2) $ |
| **A + B** | Total Estimated Settlement Charges $ |

Good Faith Estimate (HUD-GFE)
# Understanding your estimated settlement charges

### Your Adjusted Origination Charges

1. **Our origination charge**
   - This charge is for getting this loan for you.

2. **Your credit or charge (points) for the specific interest rate chosen**
   - [ ] The credit or charge for the interest rate of ___% is included in
     “Our origination charge.” (See item 1 above.)
   - [ ] You receive a credit of $[_____] for this interest rate of ___%.
   - This credit reduces your settlement charges.
   - [ ] You pay a charge of $[_____] for this interest rate of ___%.
   - This charge (points) increases your total settlement charges.

   The tradeoff table on page 3 shows that you can change your total settlement charges by choosing a different interest rate for this loan.

### Your Charges for All Other Settlement Services

3. **Required services that we select**
   - These charges are for services we require to complete your settlement.
   - We will choose the providers of these services.
   - **Service** | **Charge**

4. **Title services and lender’s title insurance**
   - This charge includes the services of a title or settlement agent, for example, and title insurance to protect the lender, if required.

5. **Owner’s title insurance**
   - You may purchase an owner’s title insurance policy to protect your interest in the property.

6. **Required services that you can shop for**
   - These charges are for other services that are required to complete your settlement. We can identify providers of these services or you can shop for them yourself. Our estimates for providing these services are below.
   - **Service** | **Charge**

7. **Government recording charges**
   - These charges are for state and local fees to record your loan and title documents.

8. **Transfer taxes**
   - These charges are for state and local fees on mortgages and home sales.

9. **Initial deposit for your escrow account**
   - This charge is held in an escrow account to pay future recurring charges on your property and includes [ ] all property taxes, [ ] all insurance, and [ ] other.

10. **Daily interest charges**
    - This charge is for the daily interest on your loan from the day of your settlement until the first day of the next month or the first day of your normal mortgage payment cycle. This amount is $[_____] per day for [_____] days (if your settlement is [_____] ).

11. **Homeowner’s insurance**
    - This charge is for the insurance you must buy for the property to protect from a loss, such as fire.
    - **Policy** | **Charge**

### Your Charges for All Other Settlement Services

- **B** Your Charges for All Other Settlement Services $[_____]$

### Total Estimated Settlement Charges

- **A + B** Total Estimated Settlement Charges $[_____]$

---

Good Faith Estimate (HUD-GFE) 2
Instructions

Understanding which charges can change at settlement

This GFE estimates your settlement charges. At your settlement, you will receive a HUD-1, a form that lists your actual costs. Compare the charges on the HUD-1 with the charges on this GFE. Charges can change if you select your own provider and do not use the companies we identify. (See below for details.)

<table>
<thead>
<tr>
<th>These charges</th>
<th>The total of these charges can increase up to 10% at settlement</th>
<th>These charges can change at settlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Our origination charge</td>
<td>Required services that we select</td>
<td>Required services that you can shop for if you do not use companies we identify</td>
</tr>
<tr>
<td>Your credit or charge (points) for the specific interest rate chosen (after you lock in your interest rate)</td>
<td>Required services and lender's title insurance (if we select them or you use companies we identify)</td>
<td>Title services and lender's title insurance (if you do not use companies we identify)</td>
</tr>
<tr>
<td>Your adjusted origination charges (after you lock in your interest rate)</td>
<td>Owner's title insurance (if we use companies we identify)</td>
<td>Owner's title insurance (if you do not use companies we identify)</td>
</tr>
<tr>
<td>Transfer taxes</td>
<td>Required services that you can shop for if you use companies we identify</td>
<td>Initial deposit for your escrow account</td>
</tr>
<tr>
<td></td>
<td>Government recording charges</td>
<td>Daily interest charges</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Homeowner's insurance</td>
</tr>
</tbody>
</table>

Using the tradeoff table

In this GFE, we offered you this loan with a particular interest rate and estimated settlement charges. However:

- If you want to choose this same loan with lower settlement charges, then you will have a higher interest rate.
- If you want to choose this same loan with a lower interest rate, then you will have higher settlement charges.

If you would like to choose an available option, you must ask us for a new GFE.

Loan originators have the option to complete this table. Please ask for additional information if the table is not completed.

<table>
<thead>
<tr>
<th>The loan in this GFE</th>
<th>The same loan with lower settlement charges</th>
<th>The same loan with a lower interest rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Your initial loan amount</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Your initial interest rate</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Your initial monthly amount owed</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Change in the monthly amount owed from this GFE</td>
<td>No change</td>
<td>You will pay more every month</td>
</tr>
<tr>
<td>Change in the amount you will pay at settlement with this interest rate</td>
<td>No change</td>
<td>Your settlement charges will be reduced by</td>
</tr>
<tr>
<td>How much your total estimated settlement charges will be</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

*For an adjustable rate loan, the comparisons above are for the initial interest rate before adjustments are made.*

Using the shopping chart

Use this chart to compare GFEs from different loan originators. Fill in the information by using a different column for each GFE you receive. By comparing loan offers, you can shop for the best loan.

<table>
<thead>
<tr>
<th>Loan originator name</th>
<th>Loan 1</th>
<th>Loan 2</th>
<th>Loan 3</th>
<th>Loan 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial loan amount</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loan term</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial interest rate</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial monthly amount owed</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rate lock period</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Can interest rate rise?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Can loan balance rise?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Can monthly amount owed rise?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prepayment penalty?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balloon payment?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Estimated Settlement Charges</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If your loan is sold in the future

Some lenders may sell your loan after settlement. Any fees lenders receive in the future cannot change the loan you receive or the charges you paid at settlement.
The HUD-1 Settlement Statement

The HUD-1 real estate settlement statement is a three-page document that must be used in all RESPA transactions which include one- to four-family residential properties that are financed by a federally regulated lender. The pages are completed in reverse order: page 3, page 2, and page 1.

Page 1 summarizes the borrower’s and seller’s transactions. All prorated items are accounted for on this page. Section J is the borrower’s summary, including lines 100 through 303. Section K, includes lines 400 through 603, which is the seller’s summary.

Page 2, lines 700 through 1400, must be completed before the buyer’s and seller’s summaries on page 1 can be completed. Page 2 is where all third party costs and charges are entered and totaled. The figures on line 1400 are transferred to Page 1 to complete the summaries.

Page 3 is an information page a buyer can use to compare the Good Faith Estimate received from the lender at the time of loan application to the HUD-1 Settlement Statement which serves as a “bridge” between the two documents. The lender provides the closing agent with a copy of the Good faith Estimate so that appropriate information may be transferred to the HUD-1. This gives the buyer the ability to compare information provided at the time the loan was applied for with actual costs and charges incurred at closing of the transaction.

All three pages of the HUD-1 Settlement Statement have been included on the following pages. Using the preceding information and referring to those pages will help the reader understand how the form is completed.
### A. Settlement Statement (HUD-1)

#### R. Type of Loan

<table>
<thead>
<tr>
<th></th>
<th>FHA</th>
<th></th>
<th>RHS</th>
<th></th>
<th>Conv. Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>VA</td>
<td></td>
<td></td>
<td></td>
<td>Conv. Loan</td>
</tr>
</tbody>
</table>

#### C. Note:
This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "paid out" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

#### D. Name & Address of Borrower:

#### E. Name & Address of Seller:

#### F. Name & Address of Lender:

#### G. Property Location:

#### H. Settlement Agent:

#### I. Settlement Date:

#### J. Summary of Borrower's Transaction

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>109. Gross Amount Due from Borrower</td>
<td>400. Gross Amount Due to Seller</td>
</tr>
<tr>
<td>105. Contract sales price</td>
<td>401. Contract sales price</td>
</tr>
<tr>
<td>102. Personal property</td>
<td>402. Personal property</td>
</tr>
<tr>
<td>103. Settlement charges to borrower (line 1400)</td>
<td>403.</td>
</tr>
<tr>
<td>104.</td>
<td>404.</td>
</tr>
<tr>
<td>105. Adjustment for items paid by seller in advance</td>
<td>406. Adjustment for items paid by seller in advance</td>
</tr>
<tr>
<td>106. City/town taxes</td>
<td>406. City/town taxes</td>
</tr>
<tr>
<td>107. County taxes</td>
<td>407. County taxes</td>
</tr>
<tr>
<td>108. Assessments</td>
<td>408. Assessments</td>
</tr>
<tr>
<td>109.</td>
<td>409.</td>
</tr>
<tr>
<td>110.</td>
<td>410.</td>
</tr>
<tr>
<td>111.</td>
<td>411.</td>
</tr>
<tr>
<td>112.</td>
<td>412.</td>
</tr>
<tr>
<td>120. Gross Amount Due from Borrower</td>
<td>420. Gross Amount Due to Seller</td>
</tr>
<tr>
<td>200. Amount Paid by or in Behalf of Borrower</td>
<td>500. Reductions in Amount Due to Seller</td>
</tr>
<tr>
<td>201. Deposit or earned money</td>
<td>501. Excess deposit (see instructions)</td>
</tr>
<tr>
<td>202. Principal amount of new loan(s)</td>
<td>502. Settlement charges to seller (line 1400)</td>
</tr>
<tr>
<td>203. Existing loan(s) taken subject to</td>
<td>503. Existing loan(s) taken subject to</td>
</tr>
<tr>
<td>204.</td>
<td>504. Payoff of first mortgage loan</td>
</tr>
<tr>
<td>205.</td>
<td>505. Payoff of second mortgage loan</td>
</tr>
<tr>
<td>206.</td>
<td>506.</td>
</tr>
<tr>
<td>207.</td>
<td>507.</td>
</tr>
<tr>
<td>208.</td>
<td>508.</td>
</tr>
<tr>
<td>209. Adjustments for items unpaid by seller</td>
<td>509. Adjustments for items unpaid by seller</td>
</tr>
<tr>
<td>210. City/town taxes</td>
<td>510. City/town taxes</td>
</tr>
<tr>
<td>211. County taxes</td>
<td>511. County taxes</td>
</tr>
<tr>
<td>212. Assessments</td>
<td>512. Assessments</td>
</tr>
<tr>
<td>213.</td>
<td>513.</td>
</tr>
<tr>
<td>214.</td>
<td>514.</td>
</tr>
<tr>
<td>215.</td>
<td>515.</td>
</tr>
<tr>
<td>216.</td>
<td>516.</td>
</tr>
<tr>
<td>217.</td>
<td>517.</td>
</tr>
<tr>
<td>218.</td>
<td>518.</td>
</tr>
<tr>
<td>219.</td>
<td>519.</td>
</tr>
<tr>
<td>220. Total Paid by/lender Borrower</td>
<td>520. Total Reduction Amount Due Seller</td>
</tr>
<tr>
<td>300. Cash at Settlement from/for Borrower</td>
<td>600. Cash at Settlement to/for Seller</td>
</tr>
<tr>
<td>301. Gross amount due from borrower (line 120)</td>
<td>601. Gross amount due to seller (line 420)</td>
</tr>
<tr>
<td>302. Less amounts paid by/lender borrower (line 220)</td>
<td>602. Less reductions in amounts due seller (line 520)</td>
</tr>
<tr>
<td>303. Cash</td>
<td>603. Cash</td>
</tr>
<tr>
<td>From To</td>
<td></td>
</tr>
</tbody>
</table>

The Public Reporting Burden for this collection of information is estimated at 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The confidentiality is assured; this disclosure is mandatory. This is designed to provide the parties to a RESPA-covered transaction with information during the settlement process.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Commission</td>
<td>$123</td>
<td>10%</td>
</tr>
<tr>
<td>2.</td>
<td>Title</td>
<td>$234</td>
<td>20%</td>
</tr>
<tr>
<td>3.</td>
<td>Title</td>
<td>$345</td>
<td>30%</td>
</tr>
<tr>
<td>4.</td>
<td>Commission</td>
<td>$456</td>
<td>40%</td>
</tr>
<tr>
<td>5.</td>
<td>Title</td>
<td>$567</td>
<td>50%</td>
</tr>
</tbody>
</table>

**Total Settlement Charge:**

$123 + $234 + $345 + $456 + $567 = $1,735
### Fourteen Hour Real Estate Continuing Education

<table>
<thead>
<tr>
<th>Charges That Cannot Increase</th>
<th>Good Faith Estimate</th>
<th>HUD-1 Line Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Our origination charge</td>
<td>801</td>
<td></td>
</tr>
<tr>
<td>Your credit or charge (points) for the specific interest rate chosen</td>
<td>802</td>
<td></td>
</tr>
<tr>
<td>Your adjusted origination charges</td>
<td>805</td>
<td></td>
</tr>
<tr>
<td>Transfer fees</td>
<td>1203</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Charges That in Total Cannot Increase More Than 10%</th>
<th>Good Faith Estimate</th>
<th>HUD-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government recording charges</td>
<td># 1301</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$$</td>
<td>or</td>
</tr>
</tbody>
</table>

| Increase between GFE and HUD-1 Charges            | $                   | %     |

<table>
<thead>
<tr>
<th>Charges That Can Change</th>
<th>Good Faith Estimate</th>
<th>HUD-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial deposit for your escrow account</td>
<td># 1001</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Daily interest charges $ / day</td>
<td># 901</td>
<td></td>
</tr>
<tr>
<td>Homeowner's insurance</td>
<td># 903</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Loan Terms</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Your initial loan amount is</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Your loan term is</td>
<td>years</td>
<td></td>
</tr>
<tr>
<td>Your initial interest rate is</td>
<td>%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Your initial monthly amount owed for principal, interest, and any mortgage insurance is</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Can your interest rate rise?</td>
<td>No</td>
<td>Yes, it can rise to a maximum of</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Yes, it can rise to a maximum of</td>
</tr>
<tr>
<td></td>
<td>Yes, the first increase can be on</td>
<td>and the monthly amount owed can rise to</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Yes, your maximum prepayment penalty is</td>
</tr>
<tr>
<td></td>
<td>Yes, you have a balloon payment of</td>
<td>due in</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total monthly amount owed including escrow account payments</th>
<th>Good Faith Estimate</th>
<th>HUD-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>You do not have a monthly escrow payment for items, such as property taxes and homeowner's insurance. You must pay these items directly yourself.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>You have an additional monthly escrow payment of $ which results in a total initial monthly amount owed of $ This includes principal, interest, any mortgage insurance and any items checked below:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property taxes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flood insurance</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: If you have any questions about the Settlement Charges and Loan Terms listed on this form, please contact your lender.
Secure and Fair Enforcement for Mortgage Licensing Act (SAFE)

In an attempt to minimize the amount of fraud in the lending process, the “SAFE” Act established a Nationwide Mortgage Licensing System & Registry. This legislation, passed in 2008, became fully implemented in Florida as of January 1, 2011. The Act

- provides uniform license applications and reporting requirements for State-licensed loan originators.
- provides a comprehensive licensing and supervisory database.
- aggregates and improves the flow of information to and between regulators.
- provides increased accountability and tracking of loan originators.
- streamlines the licensing process and reduces the regulatory burden.
- enhances consumer protections and supports anti-fraud measures.
- provides consumers with easily accessible information, offered at no charge, utilizing electronic media, including the Internet, regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.
- establishes a means by which residential mortgage loan originators would, to the greatest extent possible, be required to act in the best interests of the consumer.
- facilitates responsible behavior in the subprime mortgage market place and provides comprehensive training and examination requirements related to subprime mortgage lending.
- facilitates the collection and disbursement of consumer complaints on behalf of State and Federal mortgage regulators.

The term “loan originator” defined in the “SAFE” Act means an individual who

1. takes a residential mortgage loan application; and
2. offers or negotiates terms of a residential mortgage loan for compensation or gain.

The term “State-licensed loan originator” means any individual who is licensed by a State and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

An individual may not engage in the business of a loan originator without first obtaining, and maintaining annually a license and registration as a State licensed loan originator and obtaining a unique identifier.

1. Individual residential mortgage loan originators employed by Agency-regulated institutions must:
   - Register with the Registry and maintain their registration.
   - Obtain a unique identifier through the Registry that will remain with that originator, regardless of employment changes. Mortgage loan originators and their employing institutions must provide MLO unique identifiers to consumers.

2. Agency-regulated institutions must:
   - Require their employees who are mortgage loan originators to comply with these requirements.
   - Adopt and follow written policies and procedures to assure compliance with the registration requirements.
Mortgage Fraud

Increased legislative and regulatory requirements like those from the Office of the Comptroller of the Currency, the 2010 Dodd-Frank Act, the 2008 Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act, the Real Estate Settlement & Procedures Act (RESPA) have created a tighter environment for professionals involved in all aspects of the mortgage transaction. These requirements, along with increased vigilance by lenders, appear to be making a difference, as a decreased number of loan origination fraud and misrepresentation cases are being reported nationally.

For the first time in recent history, however, distressed homeowner fraud has displaced loan origination fraud as the number one mortgage fraud threat. In 2011, mortgage fraud rates were down among industry professionals, but evidence of collusion remained higher than it was before the mortgage meltdown of 2009.

Although mortgage fraud rates were down originating from loan originations, reports of mortgage fraud overall were up in 2011, according to research released by LexisNexis. In fiscal year 2011, the FBI collected a total of 93,508 Suspicious Activity Reports from all federally insured financial institutions. That's a 33 percent increase from fiscal year 2010. Florida was in the top ten for incident lists of reported industry fraud and/or misrepresentation for both investigations and originations in 2011.

Reports for loans originated in 2011 have significantly fewer cases of appraisal fraud and misrepresentation than in previous years. This type of misrepresentation, at 17 percent in 2011, is down from a high of 34 percent in 2009.

The highest categories for reported 2011 originations were based on fraud and misrepresentation related to the application and verification of deposit (and other bank-related documentation). Based on industry data, there has been an increase in reported incidents of potential collusion involving multiple professionals.

In 2011, FBI mortgage fraud investigations nationally resulted in 1,223 criminal indictments and 1,082 convictions. Florida ranked first in the nation in 2011 for loan investigations related to mortgage fraud. Florida’s fraud rate is over seven times the expected rate for the state, based on its origination volume.

Florida’s Mortgage Fraud Law

The Florida Fraudulent Practices Act was amended to include mortgage fraud.

A person commits the offense of mortgage fraud if, with the intent to defraud, the person knowingly:
(a) Makes any material misstatement, misrepresentation, or omission during the mortgage lending process with the intention that the misstatement, misrepresentation, or omission will be relied on by a mortgage lender, borrower, or any other person or entity involved in the mortgage lending process; however, omissions on a loan application regarding employment, income, or assets for a loan which does not require this information are not considered a material omission for purposes of this subsection.

(b) Uses or facilitates the use of any material misstatement, misrepresentation, or omission during the mortgage lending process with the intention that the material misstatement, misrepresentation, or omission will be relied on by a mortgage lender, borrower, or any other person or entity involved in the mortgage lending process; however, omissions on a loan application regarding employment, income, or assets for a loan which does not require this information are not considered a material omission for purposes of this subsection.

(c) Receives any proceeds or any other funds in connection with the mortgage lending process that the person knew resulted from a violation of paragraph (a) or paragraph (b).

(d) Files or causes to be filed with the clerk of the circuit court for any county of this state a document involved in the mortgage lending process which contains a material misstatement, misrepresentation, or omission.

For the purpose of venue under this section, any violation of this section is considered to have been committed:

(a) In the county in which the real property is located; or

(b) In any county in which a material act was performed in furtherance of the violation.

A violation of the Act is classified as either a first or second degree felony, depending on circumstances, which could result in both criminal fines and imprisonment. (s. 817.545)

**Flood Hazard Zones**

One remarkable fact becomes obvious when homeowners contact their insurance companies and attempt to file claims for losses suffered due to flooding: a significant number of those that suffered severe losses found, to their dismay, that homeowner insurance does not cover flood or hurricane damage. Obviously, there is a serious lack of understanding in the public about the difference between typical homeowner insurance and federally underwritten flood insurance. The discussion that follows is designed to help further better knowledge with regard to this issue.

_Floodplain designations_ - The Federal Emergency Management Agency (FEMA) was created by the federal Flood Protection Disaster Act to provide directives as to where to build and not to build in coastal and floodplain areas. There are four principal floodplain designations used to identify the potential for flooding in any given area: “V”, “A”, “B” and “X”. These areas, or zones, are divided and labeled on FEMA maps. Each zone has certain characteristics as to the probability or likelihood of flooding.
• Areas designated as “X” are not considered to be flood hazard zones. This does not mean the area will never flood. It merely means there is a low probability it will flood.

• Zone “B” is what is known as the 500-year floodplain. This means the probability of any property flooding in this zone in any given year is one in 500.

• Areas designated as “A” zones constitute the 100-year floodplain, meaning there is a 1% probability a property located in this zone will flood in any given year (1 in 100).

• The “V” designation indicates the velocity zone, which follows the coastline and into river mouths, bays and estuaries. Properties lying in this zone have the highest probability of flooding. As might be expected, these properties are subject to the highest flood insurance rates.

Flood maps — Flood maps are prepared and distributed by FEMA for every city and county in the United States. City maps must be obtained separately from county maps, as county maps do not include incorporated areas.

Based on experience over the past few years, FEMA is in the process of updating many maps and re-drawing the lines that separate one zone from another.

Each city and each county is required to adopt building codes conforming to FEMA specifications. Each FEMA floodplain designation has certain minimum construction requirements that must be incorporated into local building codes and no permit may be issued for construction not meeting FEMA minimum standards for each zone.

Flood insurance - The federal government underwrites flood insurance through FEMA. Homeowner insurance policies cover windstorm damage, but not flooding. Homeowners may obtain flood insurance through their local insurance carrier. Premiums are related to risk; therefore, premiums will be higher for properties located in “V” zones and lower for those in “X” zones. Flood insurance may be purchased for properties in any designated zone.

Federal lending laws require any federally regulated lender to have a property covered by flood insurance when used as collateral for a loan if the property is located in either a “V” or an “A” zone. Insurance is not required when properties are located in “B” or “X” zones, although lenders may in some cases require insurance for “B” zone properties or for those that may have experienced prior flooding.

Building codes - FEMA establishes minimum construction standards for each flood zone. Each city and county must adopt building codes that conform to these standards and must not permit construction not meeting such minimums. Specifications include base floor elevation requirements and materials that may be used in construction.

Of particular importance are requirements for construction in a “V” zone. FEMA requires properties constructed in such areas to have the living space elevated above ground level, with an open area below the first floor.
The lower open space can be enclosed only with “break-away” materials and may not contain operating electrical equipment, electrical outlets or plumbing fixtures. This area cannot be enclosed with permanent construction.

The Federal Emergency Management Agency makes periodic inspections of the local permitting process to monitor compliance with construction and permitting standards. If a city or county is found to be in violation of FEMA standards it may be in danger of FEMA withdrawing federal flood insurance coverage for all properties in that jurisdiction. Without this insurance, federally backed mortgage loans might be impossible to obtain, and, following a major hurricane, residents may find themselves without federal assistance in rebuilding.

Relevance to real estate licensees - The removal of illegal downstairs enclosures can impose an unexpected major expense for a property owner. This removal often results in a property with a much different functional utility. If an owner had purchased a property and paid a price based on a belief the property was in compliance with all codes, the potential for litigation becomes obvious.

A seller, appraiser, home inspector and/or real estate licensee may find themselves the subject of a lawsuit if an owner is required to remove an illegal downstairs enclosure subsequent to purchase. Both compensatory and punitive damages could be assessed against any party to the transaction.

Flood maps are limited as to the amount of detail they contain. Many streets are not shown, making it difficult in many cases to isolate the exact location of a particular property. Thus, making a determination as to the flood zone in which a property is situated based on these maps is frequently impossible. Flood maps may be unreliable for other reasons. Many maps were prepared several years ago and often based on dated information. Experience has shown they are frequently inaccurate. Consequently, real estate licensees should be aware of these limitations and not make decisions, recommendations or statements based on flood maps. Licensees should never make definitive statements concerning the location of a property within a certain flood zone. Using them in real estate practice for anything other than general information can lead to serious legal consequences.

Construction standards and materials, as previously discussed, are specified for use in certain areas. Unless a licensee has the requisite training, experience and knowledge, they should avoid making statements indicating a property conforms to applicable codes, especially with reference to residences located in what appear to be a “V” zone. Questions posed by potential buyers concerning a property’s conformity should be referred to appropriate authorities.

When listing properties that are believed to be located in “V” zones a good practice would be to determine when the building permit was obtained. If the permit predates the implementation date of the current flood insurance program, the property is probably “grandfathered” and would be allowed to remain as a legally nonconforming use.

If it appears the lower portion of a property constructed subsequent to implementation of the flood insurance program has been enclosed, extreme caution should be used.
No market value can be given to illegal construction! Indicating to a property owner that value results from this type of construction is an open invitation to potential litigation. Representing to buyers that a property conforms to code and giving a value estimate for an illegally nonconforming property may also expose licensees to legal action.

Since many buyers come into Florida from another state or nation and pay cash for their properties, they may not be familiar with flood zones, construction requirements, or the availability and advisability of flood insurance. Licensees that fail to make potential buyers aware of this information may expose themselves to a lawsuit and claim for damages.
Progress Questions: Chapter Nine

1. The Dodd-Frank Law mandates that federally-regulated lenders must
   a. utilize appropriate underwriting of residential loans.
   b. not consider the value of property offered as collateral for a loan.
   c. make “liar loans” available to high-income borrowers.
   d. provide “no doc” loans” to low-income applicants.

2. Identify the correct statement regarding FEMA-designated flood plains.
   a. Areas designated as “X” will never flood.
   b. Zone “B” is what is known as the 100-year floodplain.
   c. Areas designated as “A” zones constitute the 500-year floodplain.
   d. Properties located in “V” zones have the highest probability of flooding.

3. Acts or practices that do NOT violate appraisal independence include
   a. mischaracterizing the appraised value of the property securing the extension of the credit.
   b. agreeing to a fee higher than usual for appraising a complex property.
   c. seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction.
   d. withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered when the appraisal report or services are provided for in accordance with the contract between the parties.

4. Which statement is INCORRECT regarding the new Good Faith Estimate rules enacted under the Real Estate Settlement & Disclosure Act?
   a. The borrower must be given a good faith estimate of closing costs within 3 business days after the consumer applies for a loan.
   b. The lender may not collect any fees before the good faith estimate has been provided, except for a reasonable fee for obtaining a credit report.
   c. The lender cannot request supplemental information from the borrower before providing the GFE.
   d. The closing may not take place until expiration of a 10-day waiting period after the consumer receives the disclosure.

5. With regard the HUD-1 Settlement Statement, which statement is INCORRECT?
   a. The lender provides the closing agent with a copy of the Good faith Estimate so that appropriate information may be transferred to the HUD-1.
   b. Page 1 summarizes the borrower’s and seller’s transactions.
   c. Page 3 is an information page a buyer can use to compare the Good Faith Estimate received from the lender at the time of loan application to the HUD-1 Settlement Statement.
   d. Page 2 is where all prorated items are entered and totaled.