**National Association of Mortgage Brokers**

August 15, 2006

Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

To Whom It May Concern:

The National Association of Mortgage Brokers ("NAMB")[1] appreciates the opportunity to submit the following written comments in response to the notice and request for comment published by the Board of Governors of the Federal Reserve System ("Board") on the home equity lending market and the efficacy of existing federal and state laws and regulations in protecting consumers against abusive lending tactics (Docket No. OP-1253). NAMB commends the Board in holding hearings to address issues surrounding, and examine developments involving, federal and state predatory lending initiatives, nontraditional and reverse mortgages, and consumer education and choice in the sub prime market.

Today, mortgage brokers originate the majority of mortgage loans. Our members are independent, small business men and women that adhere to a strict code of ethics and best lending practices when guiding consumers through the loan process. We typically maintain business relationships with various lenders to provide consumers with numerous financing options. These partnerships allow our members to offer consumers the most competitive mortgage products available. Mortgage brokers serve as the principal conduit for bringing an array of innovative loan products developed by both federally- and state-regulated lenders directly to the consumers. Thus, NAMB has a vested interest in commenting on each of the topics addressed by the Board during the hearings held this past June and July.

As an organization that has a longstanding commitment to a professional and ethical industry that serves the consumer, we too are troubled by the actions of the few bad actors that inhabit every single segment of our marketplace – be it a broker, mortgage banker, lender, or depository

[1] As the voice of the mortgage brokers, NAMB speaks on behalf of more than 25,000 members in all 50 states. NAMB offers educational courses and certification programs to mortgage professionals to maintain their expertise.

banker. But NAMB believes that to truly resolve the issues of today, we *must* have a joint effort from all three components of the marketplace—the industry, the consumer, and the government.

Unfortunately, many industry critics have based all the problems that consumers have with the current shopping process, products and disclosures within one point of this triangle—the industry. In so doing, they have ignored the vital roles that government and consumers have throughout the loan origination process.

NAMB is committed to ensuring that abusive lending practices do not destroy the dream of homeownership for American families. Our comments below reflect our firm belief that for any law, regulation, or other type of proposal to be successful in its mission, it must involve all three points of the triangle—the industry, the consumer, and the government.

## I. The Knowledgeable and Ethical Originator

We have witnessed a great growth in our mortgage finance industry, expanding product choice and distribution channels, adding robust competition and great pricing options. Unfortunately, this expansion has led to a corresponding rise in the number of uneducated and unlicensed originators. While states are increasing requirements for brokers, they continue to exempt officers of banks and lenders from important standards. We make this point because consumers do not know the difference between a broker, mortgage banker, lender, or even a depository banker. There is little substantive difference between them—we are all competing distribution channels.

For this reason, we must ensure that every single mortgage originator is licensed and required to complete both pre-employment and continuing education requirements. Every originator should be knowledgeable about the risks and benefits of the products offered. Consumers deserve a knowledgeable originator regardless of the distribution channel chosen.

### A. *All Customers Should Benefit From Working With a Knowledgeable Mortgage Originator, Regardless of Distribution Channel or Product Complexity*

Education must be the cornerstone of any effort to improve customer knowledge of available loan products and prevent abusive lending practices. The key to a consumer understanding a particular loan product is <u>education</u>—not only for the potential borrower, but also for the mortgage originator that offers the product to the consumer. In its effort to improve customer knowledge as well as prevent abusive lending practices, NAMB has long advocated for uniform licensure, education (including ethics training) and criminal background checks for each and every individual that handles a 1003 application,[2] *i.e.* every mortgage originator.[3]

[2] A Form 1003 is a Uniform Residential Loan Application.

[3] The basic requirements of education, continuing education, ethics training, written exams, and using criminal background checks to "weed out bad actors" can be found in NAMB's ongoing work and commitment on the Model State Statute Initiative (MSSI) that NAMB began in 2002. The MSSI has long focused on licensure, pre-licensure education and continuing education requirements, as well as criminal background checks to bar employment, to protect consumers and ensure originator competency on a state-by-state level. NAMB has consistently believed that these requirements should be applicable to all mortgage originators to help reduce the incidence of abusive lending

All consumers should benefit from receiving timely and useful information about a loan product, whether traditional or nontraditional, and regardless of which distribution channel they use. Education of each and every mortgage originator helps to accomplish the objective of ensuring that consumers are well-educated to make an informed decision about a particular loan product and are adequately protected throughout the mortgage origination process. To better illustrate the need to educate all mortgage originators, as opposed to just one subset, it is useful to understand that the actions of any originator can be divided into two categories: unintentional acts that can result in harm to a borrower and intentional acts that have similar results.

<u>Unintentional Acts</u>

Unintentional acts include those mistakes made by a mortgage originator that result from lack of knowledge about a loan product, the mortgage process or relevant laws and regulations. These are mistakes that any mortgage originator can make, even those employed by banks and other non-depository entities.

<u>Intentional Acts</u>

An example of an intentional act is a mortgage originator using personal financial information provided by the consumer during the mortgage loan process illegally—in other words, using such information to commit identity theft.

B. *All Mortgage Originators, Not Just Mortgage Brokers*

1. <u>Educated Mortgage Originators Are Less Likely to Commit Unintentional Acts That Can Harm a Borrower</u>.

NAMB believes that the best solution to *unintentional* mistakes on the part of mortgage originators is to require pre-licensure education and continuing education for every mortgage originator. Pre-licensure and continuing education requirements are effective measures in protecting consumers throughout the mortgage origination process. To ensure the existence of a minimal level of expertise, all mortgage originators should receive pre-licensure education. Mortgage originators should not only understand the features of the loan products they sell and be able to communicate such information to a borrower, but also have sufficient knowledge of the laws and regulations that govern the loan origination industry. To maintain this competency and enhance the expertise of the industry, all mortgage originators should also be required to comply with continuing education requirements. Pre-licensure and continuing education courses should also include studies on State laws, federal statutes, and ethics.

The mortgage industry is a dynamic industry that has evolved over the years. Innovations in mortgage lending have increased the number and type of loan products available to consumers dramatically. We no longer live in a world of only a 30-year fixed or 5/1 adjustable rate

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practices and improve the overall expertise of the industry. A copy of the MSSI model state statute is attached hereto as Appendix A for further reference on the proposed requirements for pre-licensure and continuing education requirements.

mortgage ("ARM"). Today, loan products range from a 40-year fixed to the nontraditional loan products, such as interest-only and pay option that were a principal focus of Board's hearings. As recognized by the Board and other market participants, it is imperative that all mortgage originators possess up-to-date knowledge about the full range of loan products and relevant laws as the industry continues to evolve.

For this reason, any individual that signs a 1003 form should be subject to uniform licensing and education standards, regardless of whether such person is employed by a mortgage broker, a mortgage banker, an internet mortgage originator, a consumer finance company, a mortgage lender, an entity with no net worth, or an entity with significant financial assets. It also should not matter if there is a parent corporation, a subsidiary corporation, a domestic company, an international owner, or any variation of the foregoing. Creating a uniform licensing and education standard means that it applies equally and fairly to all distribution channels in the mortgage industry; that one channel is not treated differently than another; that no competitor is better or worse, no bigger or smaller; and that size and financial worth is not an accurate indicator of either honesty or integrity. There should be no channel bias that leads consumers to believe that one competitor is 'better' or 'worse' than another.

NAMB continues its commitment to ensuring that our members are knowledgeable about the range of loan products available in the marketplace and understand the features, risks and benefits of any loan type. For example, as part of NAMB's commitment to mortgage origination education, we have taken steps to add to our already extensive array of available education courses, a course focused solely on nontraditional loan products. NAMB believes that the Board should support efforts that would ensure all mortgage originators are licensed and benefit from pre-licensure and continuing education requirements.

2. <u>Criminal Background Checks of Every Mortgage Originator, in Addition to Education Requirements, Will Weed Out the Bad Actors That Commit Intentional Acts</u>.

Intentional acts are certainly the most grievous acts committed by mortgage originators against consumers. While pre-licensure and continuing education requirements further ensure that a consumer works with a knowledgeable originator, the consumer also deserves to know he or she is not working with an individual who has been convicted of a financial crime, such as fraud. If an originator has been convicted of a financial crime, he or she should not be dealing with consumers and taking mortgage applications.

A valuable tool for protecting consumers from such intentional bad acts of mortgage originators is the criminal background check. Criminal background checks create a barrier to entry into the mortgage origination system by those convicted of financial and other crimes. Criminal background checks conducted periodically throughout employment also ensure that an originator who has unfettered access to sensitive financial information of consumers continues to be licensed, educated and ethical. In short, criminal background checks should be required of all mortgage originators and be a barrier to employment, in certain circumstances, to help weed out the bad actors that engage in abusive lending practices. Moreover, criminal background checks ensure that bad actors can not move freely from one segment of the mortgage origination market to another unchecked.

In sum, to address the mistakes and consequences that arise from both intentional and unintentional acts adequately, all mortgage originators must receive education, ethics training, and submit to a criminal background check. These three precepts form the foundation upon which adequate and effective consumer protection measures against abusive lending can be built.

## II. Financial Literacy

Regardless of how knowledgeable a mortgage originator is or becomes, an educated consumer is always in a better position to make an informed decision when selecting a loan product that suits his or her financial needs. Borrowers must possess the financial literacy tools to properly evaluate the risks and benefits of loan products that have been presented by the "educated mortgage originator." For this reason, NAMB believes we must allocate funds for financial literacy programs at the middle and high school level so that consumers are educated about the financial decisions they make and retain their decision-making ability.

Before discussing the need for financial literacy efforts, we must address an important issue. Some have proposed that mortgage brokers and loan officers should act as a fiduciary to the consumers, *i.e.* in the "best interests" of the consumer. NAMB takes this opportunity to express its opposition to any proposed law, regulation or other measure that attempts to impose a fiduciary duty upon a mortgage broker or any other originator.

Simply put, a mortgage broker should not, and can not, owe a fiduciary duty to a borrower.[4] The consumer is the decision maker, *not the mortgage broker*. Mortgage brokers do not represent every loan product available in the marketplace, nor do we have the "best" loan available. Rather, the mortgage broker enters into contracts with various lenders and is then able to offer such lenders' loan products directly to the consumer. This is a critical point because there is no "best" result. What is "best" depends upon three concepts: product availability, price, and service. Focusing solely on a price of a product may not yield the "best" result for a consumer. Only the consumer can determine the "best" combination of factors that fit their needs. For these reasons, no law or regulation should ever require a mortgage broker, or any mortgage originator, to supplant the consumer's ability to decide for him or herself what is or is not an appropriate loan product. As the decision-maker, the role of the consumer is to acquire the financial acumen necessary and take advantage of the competitive market place, shop, compare, ask questions and expect answers. Financial education and inform disclosure of information are the tools that will help consumers take these steps and make sound and informed financial decisions.

NAMB has always been a staunch supporter and advocate for consumer financial literacy. Our firm belief that an educated borrower is significantly less likely to fall victim to any abusive lending practice is demonstrated by our active involvement in various consumer education efforts. For example, NAMB initiated a pilot consumer credit education program using Freddie Mac's CreditSmart® and CreditSmart® Español financial literacy curricula. The pilot is currently being managed by NAMB state affiliates in California, Florida and Texas. NAMB partnered with United Guaranty in 2003 to create a consumer information presentation – "Are

[4] *See* Attached Appendix B, *Relationship of the Mortgage Broker to It's Customer*.

You Prepared to Head Down the Road to Homeownership?®" – to help educate minorities, immigrants and low-to-moderate income households on the home-buying process. The presentation covers common home mortgage terminology, important steps in the home-buying process, fair housing laws, credit reports and more.

We implore the Board to put forth measures and explore those avenues that outreach to borrowers and provide meaningful education to them in a timely fashion rather than just at the time of application or at the closing table. Possessing a fundamental understanding of the mortgage lending marketplace and the loan product types available will empower borrowers to comparison shop, ask meaningful questions and make financial decisions that advance their personal life objectives. Again, NAMB strongly believes that because financial education is the key to choosing the right loan product and protecting oneself against fraud, the consumer education process should begin at a young age. To this end, NAMB supports any effort that calls for federal funding to support consumer financial literacy efforts and outreach programs during the school years.

## III. Revamp and Consumer-Test Disclosures

NAMB wholeheartedly supports the concept of clear and consistent communication with the consumer from the shopping stage through consummation and afterwards throughout the life of the loan (*i.e.*, monthly statements). We share the Board's belief that disclosures can aid in the effort to alert potential borrowers of not only the benefits, but also the risks presented by the chosen loan product. Unfortunately, today, consumers are not afforded the tools needed to shop effectively for a mortgage. Many disclosures are laden with legalese and lack uniform information. As a result, consumers are unable to comparison shop loan products.

Before discussing the need for uniform and straight-forward disclosures further, NAMB takes this opportunity to emphasize once more that any disclosure, whether new or existing, can only *aid* in the effort to inform consumers on the risks and benefits of a loan product. As stated above in Part I and II, NAMB firmly believes that an ill informed mortgage originator can not communicate, and a borrower lacking the necessary financial acumen can not understand, complex information provided in any disclosure format, simple or not. A disclosure by itself is insufficient to accomplish the stated objective of ensuring that a borrower is aware of the risks and benefits of the chosen loan product. The inherent complexity of most loan products requires explanations that are too overwhelming and detailed in a written context. For this reason, education of loan officers, in addition to consumers, must operate in <u>tandem</u> with any mandatory disclosure scheme. Once the mortgage originator and the borrower possess the financial literacy tools necessary to understand the information imparted throughout the loan origination process, the disclosure becomes an invaluable communication tool.

### A. *Create Well Designed and Well Tested Consumer Disclosures*

#### 1. <u>Disclosures Must Be Uniform to Be Meaningful</u>

NAMB supports creating and implementing well designed and well tested consumer disclosures that are uniform, consistent and meaningful to the consumers who read them. Regardless of the distribution channel chosen, each consumer should receive the same disclosures in the same format for any particular loan product type or transaction, giving meaning to the ability to "comparison shop."

There are numerous market players in the industry today. A consumer can get a loan from a "mortgage banker type", the "mortgage lender type", "the mortgage broker type", the "credit union type", a "banker type", a "homebuilder type", a "real estate agent type", an "internet type", and the list goes on. Because these market participants compete directly with one another, consumers are best served when all disclosures are the same regardless of the originator "type." Regrettably for consumers, this is not true today.

For example, today, only mortgage brokers disclose on the good faith estimate ("GFE") that they earn indirect compensation when a loan closes. The truth is that ALL originator types – brokers, bankers, lenders, credit unions, etc.—receive direct compensation, indirect compensation or a combination of both.[5] However, with all these other originator types, the back-end compensation that they all earn is not disclosed. This jagged approach creates nothing but consumer confusion.[6] Again, to make comparison shopping meaningful, all channels must provide the same disclosures.

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[5] It has been argued previously that because mortgage lenders hold their loans in portfolio, they absorb a higher level of risk and therefore, function differently than mortgage brokers who do not fund their originated loans. As a result, mortgage lenders assert that they should not be subject to the same requirements placed on mortgage brokers. Some twenty plus years ago—prior to the advent of the secondary market that we have today in America—this may have been true. But today, the line between mortgage brokers and mortgage lenders has been blurred. Today, mortgage lenders operate functionally in the same manner as mortgage brokers—they present an array of available loan products to the consumer, close the loan and then, almost instantaneously sell the loan to the secondary market (*i.e,* Fannie Mae or Freddie Mac). No practical difference exists in the services that many mortgage lenders provide to consumers or in the level of risk retained as compared to mortgage brokers. In fact, industry statistics show that over 69% of residential mortgage loans are originated by a mortgage broker or a lender acting as a mortgage broker for an investor.

[6] The well-documented 2004 study by the Federal Trade Commission on a proposed GFE released by HUD in 2002 clearly demonstrated that many consumers would choose a higher cost loan from a direct lender over a mortgage broker loan because they were confused by the format pf the disclosure which emphasized solely broker's indirect compensation. See The Effect of Mortgage Brokers Compensation Disclosures on Consumers and Competition: A Controlled Experiment, The Federal Trade Commission, Bureau of Economics Staff Report (Feb. 2004), at http://www.ftc.gov/os/2004/01/030123mortgagefullrpt.pdf.

2. Disclosures Must Be Consumer-Tested

NAMB also strongly recommends that the Board heed the advice of leaders in the regulatory market place[7] and first consumer test any proposed or revised disclosure to better glean the utility and effectiveness of such a disclosure format. As stated by Julie L. Williams, Former Acting Comptroller of the Currency, in a speech before Women in Housing and Finance and The Exchequer Club, "There's a critical element that's been missing from our consumer disclosure rulemaking processes—testing *how consumers interpret* particular disclosures and how to make disclosures *usable* to them."[8] Only consumer input can shed light on whether the information provided is too dense, too complex, insufficient, or in need of further explanation. Without consumer testing, any new or revised disclosure will be just another paper added to a pile of disclosures that is already largely ignored by consumers.

During the consumer testing phase, the Board may wish to consider in particular whether the proposed or revised disclosure: (1) presents information in a "user friendly format"; (2) provides the borrower with sufficient information without being overwhelming, and (3) deters the consumer from reading it in the first place by using complex "legalese." Consumer testing can also provide insight as to whether the current disclosure regime is in need of an update and how technology can be used to improve the disclosure process.

B. *Revise the Current GFE To Match the HUD-1*

Last summer, NAMB proposed a one-page good faith estimate in response to a series of roundtables conducted jointly by the U.S. Department of Housing and Urban Development and the Small Business Administration throughout the summer of 2005. This one-page GFE mirrors the HUD-1 consumers receive at settlement and communicates not only the loan features and costs, but fully discloses the role of the loan originator in the mortgage transaction.[9] Most important, the revised GFE would provide the information most valued by the consumer—meaningful closing costs and monthly payment.

The one-page GFE is a viable solution to the problem of abusive lending because it applies equally to all segments of the mortgage industry; is effective in preventing abusive lending tactics, such as bait-and-switch schemes; is informative because it clearly and objectively informs the borrower of the role of the loan originator in the transaction; and is enforceable, because it grants the consumer a private right of action.

Specifically, the NAMB proposed GFE possesses four distinct attributes:

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[7] Both Julie L. Williams, Former Acting Comptroller of the Currency, and John C. Dugan, Comptroller of the Currency, have made speeches or testified to the importance of consumer testing of disclosures to determine their utility and effectiveness.

[8] *See* Remarks by Julie L. Williams, Acting Comptroller of the Currency Before Women in Housing and Finance and The Exchequer Club, Washington D.C. (January 12, 2005).

[9] *See* Attached Appendix C, NAMB's Proposed GFE and Fact Sheet.

First, it is even-handed. The NAMB proposed GFE would be equally applicable to all originators conducting business in the mortgage marketplace. Of import, the proposed NAMB GFE treats the disclosure of rate, fees, costs and points uniformly regardless of distribution channel, giving meaning to the ability to "comparison shop." As a result, distribution channel bias is eliminated and all consumers are afforded the same level of protection against abusive lending tactics.

Second, it is informative. The NAMB proposed GFE clearly discloses the role of the originator in the mortgage transaction. The borrower is notified that the loan originator does not distribute all of the loans available in the marketplace and therefore, can not guarantee the lowest rate. This aspect of the proposed GFE is significant. For example, as discussed previously, a loan product offering the lowest interest rate may not necessarily be the "best" loan product for the borrower. It is far more effective to disclose the role of the broker, the loan features and costs, and empower the consumer to comparison shop and choose a product that suits his or her needs. Also, requiring that every mortgage originator disclose his or her role and relationship with the borrower will eliminate any confusion on the part of the borrower—this approach actually ensures that a borrower is not operating under a faulty impression that an originator, such as a bank-affiliated mortgage lender, owes him or her a fiduciary duty.

Third, it is effective. The NAMB proposed GFE is effective in combating abusive lending tactics because it provides simplicity, clarity and transparency of the loan costs and features. It is one-page in length; mirrors the HUD-1 settlement statement; requires mandatory re-disclosure if settlement costs increase by more than 10% of the original estimate, or if the proposed interest rate increases.

Fourth, it is enforceable. Consumers are given a private right of action to enforce the GFE tolerance limits of 10% if no timely re-disclosure is given to the consumer.

### C. *Enforcement of Existing Laws*

With respect to achieving stated objectives of borrower knowledge and awareness, we have conveyed the importance of education for the mortgage originator and the consumer. We have also commented on the need for an improved, updated disclosure schematic that is useful and consumer-tested. We would be remiss, however, if we failed to mention that one of the most powerful tools in the arsenal of consumer protection is enforcement of existing laws.

One of the most critical responsibilities of the government is to provide rules and regulations and enforce them. Sadly, enforcement is lacking in many areas. The government must commit resources and ensure that the consumer is not exposed to crooks or incompetent people. It is a privilege, not a right, to be in our industry. Again, this is why NAMB advocates for all originators to be licensed, educated and screened for previous bad acts.

## Conclusion

Regardless of what measures are proposed or advanced, we must be careful not to rob this innovative and dynamic industry of the ability to remain a free and capitalist market that brings credit to the underserved markets. We must also be mindful of the fact that no amount of law or regulation will eliminate abusive practices from this or any industry so long as we continue to ignore the avenues available to increase borrower knowledge and decision-making ability.

We must also protect the role of the competitive marketplace because it is competition that drives education, drives choice, and ultimately drives lower prices. A competitive market tells the consumer – shop and compare. If consumers shop, then they will learn about the products and the choices available to them. If consumers shop and *compare*, then they will have questions to ask. Consumers should not, and in a competitive marketplace, do not have to use someone who is not willing, or not able, to answer these questions.

So far, much of what we have heard regarding abusive lending practices has been directed towards protecting the consumer by restricting or eliminating lending practices. But pricing and product does *not* equate to abusive lending, especially in a competitive marketplace like the one we have today. We should be careful in advancing any measure that seeks to use "price-fixing" as a solution to abusive lending practices.

As remarked by the Former Chairman of the Federal Reserve Board, Alan Greenspan, in a 1997 speech on the consumer credit marketplace, "[A]ttempts to regulate [] lenders by some states in the mid- to late 19th century largely failed, primarily because most regulation was based on usury laws that limited interest rates to levels that were uncompetitive, making profitable consumer lending difficult for more legitimate, licensed lenders."[10] Former Chairman Greenspan went on to say that as a result, consumers who needed access to credit were forced to use high-rate lenders. We do not want to repeat history's mistakes – we should not ration credit by price because doing so ultimately will create a lack of available and affordable credit.

NAMB appreciates that there are those who will argue that the above-discussed recommendations are long term solutions that will take time—and NAMB agrees, they are long-term solutions. But we are ***not*** talking about a short term problem that will respond to a band-aid approach. The evolution of consumer finance did not begin in 1994 when the Home Ownership and Equity Protection Act of 1994 (HOEPA) was passed into law. Since the time of barter and trade we have grappled with issues of how to increase fair and equal access to affordable credit for all socio and economic classes, not just an elite few. Laws have been passed, enforced and forgotten as we have turned to new and different laws.

We must focus today on solutions that will stick – solutions that provide proactive consumer protection that prevent harms from occurring, rather than reactive band-aids that attempt to

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[10] *See* Remarks by Chairman Alan Greenspan At the Economic Development Conference of the Greenlining Institute, San Francisco, California (October 11, 1997), http://www.federalreserve.gov/boarddocs/speeches/1997/19971011.htm.

simply resolve the harm that has already occurred. NAMB has attempted to outline a set of recommendations that embodies the "proactive" principle and which endeavor to heighten the professionalism and ethics of the mortgage industry; protect the free capitalist virtues of the finance industry, and retain the decision-making authority that is rightfully placed in the hands of the consumer.

Again, we appreciate the opportunity to participate in all four hearings conducted by the Board this past June and July 2006 and to submit written comments on the same. NAMB looks forward to a continued dialogue with the Board on these and future proposals that are designed to not only combat abusive lending, but also to move forward an industry that has provided the dream of homeownership to millions.

If you have any questions, please feel free to contact Roy DeLoach, Executive Vice President at 703-342-5850 or Nikita Pastor, Senior Counsel, Public Policy and Government Affairs at 703-342-5851.

Sincerely yours,

Harry H. Dinham, CMC
NAMB President 2006-2007

Attachments

Appendix A

NAMB
National Association of Mortgage Brokers

# Model State Statute Initiative

## Licensing, Pre-licensure Education and Continuing Education Requirements for All Originators

*NAMB proposes a state statute initiative to protect consumers and ensure originator competency.*

June 2002
**Amended January 2005**

*The National Association of Mortgage Brokers (NAMB) is the national trade association representing the mortgage broker industry. With 49 state affiliates and more than 27,000 members, NAMB promotes the industry through programs and services such as education, professional certification and government affairs representation. NAMB members subscribe to a code of ethics and best lending practices that foster integrity, professionalism and confidentiality.*



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# *Acknowledgements*[*]

This Model State Statute Initiative is the result of a consensus process involving the Model State Statute Task Force, the NAMB Board of Directors and the NAMB Delegate Council and many internal committees.

NAMB wishes to thank President Joseph L. Falk, CMC, CRMS, for his leadership and commitment in proposing and promoting this major consumer protection initiative.

The Model State Statute Task Force provided inspirational leadership in developing the concepts and articles to be included in this Initiative. Thank you Mitch Medigovich, CMC, Leo Davenport, CRMS and Kate Crawford for your many hours of service and your clear thinking and thoughtfulness throughout the deliberative process.

Thank you to the Communications Committee, chaired by Al Wood, CRMS, NAMB's public relations firm of Merton G. Silbar Public Relations, Natalie Bachiri, NAMB's Director of Communications, NAMB's management firm, Association Management Group, as well as NAMB's legal counsel Robert Lotstein and staff of the firm of Lotstein Buckman.

The Legislative Committee, chaired by J.J. Sims and the Education Committee, chaired by Carol Gardner, CMC, CRMS, contributed mightily to the end product using their committee structure, committee members and other individuals to add to this national initiative.

We would also like to acknowledge and thank the NAMB Board of Directors and Delegate Council who have endorsed this proposal for protecting mortgage consumers.

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[*] As of June 2002

# Contents

## Model State Statute Initiative

National Association of Mortgage Brokers

June 2002

Dear Mortgage Professional:

Buying or financing a home is one of the largest, most complicated and vitally important decisions facing consumers in the United States. Therefore, residential mortgage loan originators who work directly with the public should be educated, honest and professional.

The National Association of Mortgage Brokers is proud to announce a comprehensive initiative to better serve and protect the public through increased licensure, training and education of all residential mortgage originators. The NAMB Model State Statute Initiative is based on NAMB's firm belief that part of the solution to consumer abuse and predatory lending is mandatory licensing and education of all residential loan originators.

NAMB is taking a proactive stance on consumer protection. This model statute serves as a model for state regulators and legislators whose states do not have such statutes or whose states need to improve their statutes to protect and serve the general public.

*The concept has four basic tenets:*

a) It should apply to all residential mortgage loan originators
b) There should be a state licensing requirement
c) There should be a pre-licensure education requirement
d) There should be a continuing education requirement to maintain competency

Our 44 state affiliates, which comprise NAMB, support this initiative and recommend that specific concepts for licensure and education be considered based on each state's current statute(s). NAMB recognizes that some states have aggressively monitored the industry through licensure and others have made education mandatory; whereas other states have determined different levels of oversight to regulate the mortgage industry.

While each state is different, NAMB believes that this initiative will serve to help reduce the incidence of predatory lending and improve the overall competency of the industry in every state. NAMB urges each state to adopt these concepts in the best interest of the public. NAMB is committed to see this matter through to fruition and will monitor the progress of this initiative in each state.

Our state affiliates will now lead the charge to protect consumers through enhanced licensing, pre-licensure and continuing education proposals to their respective state legislatures and mortgage regulators.

Thank you for your support of this proposal for State Licensure, Pre-licensure Education and Continuing Education for all originators.

Sincerely,

Joseph L. Falk, CMC, CRMS
President

National Association of Mortgage Brokers

# NAMB Model State Statute Initiative

**Goal**: To better serve and protect the public, the residential mortgage loan industry will endeavor to license, train and educate all residential mortgage originators. NAMB firmly believes that part of the solution to consumer abuse and predatory lending is mandatory licensing and education of all residential loan originators.

**Concept**: Buying or financing a home is one of the largest, most complicated and vitally important decisions facing consumers in the United States. Residential mortgage loan originators who work directly with the public should be educated, honest, and professional.

**Overview:** NAMB is taking a proactive stance on consumer protection. NAMB seeks to have individual state statutes enacted that require pre-licensure education and mandate continuing education requirements for all residential loan originators. This model statute would serve as a model for state regulators and legislators whose states do not have such statutes or whose states need to improve their statutes to protect and serve the general public.

*The concept has several basic tenets:*

a) **It should apply to all residential mortgage loan originators**
b) **There should be a state licensing requirement**
c) **There should be a pre-licensure education requirement**
d) **There should be a continuing educations requirement to maintain competency**

NAMB believes that such an initiative will serve to help reduce the incidence of predatory lending and improve the overall competency of the industry. NAMB urges each state to adopt these concepts in the best interest of the public. NAMB is committed to see this matter through fruition and will monitor the progress of this initiative in each state.

All residential mortgage loan originators should have formal training and should be tested on their knowledge of matters including financial analysis, ethics, federal and state disclosures, real estate law, and mathematical computations germane to real estate and mortgage lending prior to contact with the public. Residential Mortgage Loan Originators should be well qualified before they work with homeowners on mortgaging or financing their most valuable asset.

For this reason, NAMB recommends and supports a standardization of education and experience for every person who holds themselves out to the public to be a Residential Mortgage Loan Originator.

## Licensing Overview

We believe that each state should enact a licensing requirement for all residential mortgage loan originators. The requirements for licensure should encompass all residential mortgage loan originators and all owners or responsible individuals of residential mortgage loan entities.*

**Residential Mortgage Loan Officer** Shall be defined as any individual who, for compensation or gain, takes or receives a mortgage application, assembles information, and prepares paperwork, and documentation necessary for obtaining a residential mortgage loan, or arranges for a conditional mortgage loan commitment between a borrower and a lender, or arranges for a residential loan commitment from a lender. Residential Mortgage Loan Officers also include an employee who solicits financial and mortgage information from the public for sale to another residential mortgage broker.

**Principal Mortgage Owners/ Responsible Individual** Defined as the owner, or managing general partner, or responsible individual, or any Officer, or stock holder, who holds themselves out to be the party accountable for residential mortgage loan originations or branch mortgage operations, with in the state, and/or the person in direct management of residential mortgage loan origination.

**Exempt** Any individuals who do not deal (i.e. negotiate interest rates, loan programs, offer loan locks, loan commitments) directly with borrowers. This includes persons who complete incidental services in arranging or procuring a mortgage loan, including administrative staff wherein their primary function is the verification of data provided by the borrower, assembly of documents and coordination of third party services such as ordering an appraisal, title report or credit reports.

Anyone who deals directly with a consumer and reviews, analyzes, evaluates a proposed borrowers financial statements, income, property characteristics and credit history should obtain a license.

## Licensing Requirements

To obtain a state license to become a residential mortgage loan originator, the following concepts should be adopted:

1. A written application for licensure must be required. The application should require an attestation by the applicant as to the applicant's experience and knowledge of the mortgage industry.

2. The applicant should submit to a background investigation of, at a minimum, criminal records, and employment history.

   - No individual should be licensed who has had a license, or the equivalent, to practice any profession or occupation revoked, suspended or otherwise who has acted beyond legal limits.

   - No person should be licensed who has been convicted of acts against society that could be deemed 'moral turpitude'. Such acts where licenses should be denied must include duties owed by licensees to the public including acts contrary to justice and the doctrine of "fair dealing", honesty, principle or good business morals. This includes, but is not limited to theft, extortion, use of the mail to obtain property under false pretenses, tax evasion and the sale of, or the intent to sell controlled substances.

   - The licensee should provide evidence that they have managed their business and personal financial affairs with care and diligence.

3. A first time Residential Mortgage Loan Officer Licensee Applicant shall provide a certificate of satisfactory completion of a course of study, as defined by the state, consisting of the subjects listed below.

4. A Principal Mortgage Lending Entity/Owner/Responsible party Licensee Applicant shall provide a certificate of satisfactory completion of a course of study, as defined by the state, consisting of course work from the subjects listed below.[11]

5. A Licensee Applicant shall pass an examination of the applicant's knowledge after items 1-4above have been completed.

6. Licenses shall be valid for a two-year period. Upon expiration of the two-year period, the licensee should submit an application for renewal to the appropriate licensing authority. The renewal application should, at a minimum, include evidence of completion of continuing education courses, as described below.

7. The licensing authority should have the authority to request additional information from the Licensee Applicant to support statements made on the application or dispute matters discovered through investigation.

8. All initial applicants shall submit a finger print card, which shall be forwarded to the local Department of Public Safety and/or FBI for a records check.

9. The Licensee Applicant shall pay sufficient fees to pay for Licensing Authorities' costs of processing the license application and investigations.

10. Upon receipt of a Residential Mortgage Loan Officers license, the licensee shall immediately deliver the license to his/her employing broker. Upon termination of employment of a Residential Mortgage Loan Officer, the license shall be transferred to a new employing broker and the regulating authority should be notified. If the Residential Mortgage Loan Officer does not have a new employing broker, the license shall be returned to the Licensing Authority with an explanation or the reasons for termination.

11. The appropriate state regulatory authorities should maintain state licensing or registration records.

**Grandfathered Persons**

Every Residential Mortgage Loan Officer, currently registered, licensed or otherwise employed in the mortgage industry immediately preceding enactment of this initiative shall be permitted to continue employment as a Residential Mortgage Loan Officer. Each current originator shall be required to meet all of the necessary elements of licensure at the next renewal period specified by state law.

Unless provided for in state law, every Principal Residential Mortgage Lending Entity or Owner, currently licensed immediately preceding enactment of this initiative shall be permitted to maintain their license and position. Each current Principal Residential Mortgage Lending Entity/Owner shall be required to meet all of the necessary elements of licensure at the next renewal period specified in the state law.

[11] Based upon the experience of many mortgage brokers, the educational requirement should be greater than that required of Residential Loan Officers.

**Pre-Licensing Education**

All persons making an initial application for licensing must:

a) Attend educational courses, determined by the state, when applying for a Residential Loan Officer license;
b) Attend educational courses, determined by the state, when applying for a Principal Mortgage Owner license;
c) Pass a test of core competencies;
d) Receive a certificate of completion from the school or organization that provided courses.

*Each State or Licensing Authority should, with the assistance of the local mortgage professionals, establish review and approve curriculum sufficient to establish a baseline of knowledge for licensees.*

**Recommended Course Curriculum** Pre-licensure course curriculum may include:

a. Federal Lending Laws;
b. Ethics, Diversity and Sensitivity;
c. Practices of Residential Lending.
d. Real Estate and Mortgage Mathematics;
e. Escrow Procedures, Title Insurance and Loan Settlement;
f. Appraisals and Land Survey;
g. Loan Processing and Loan Underwriting Process;
h. Secondary Mortgage Market;
i. Loan Default and Foreclosure Law;
j. State Statutes and Rules.

**Continuing Education Requirements**

Every residential mortgage originator, whether a Residential Loan Officer or Principal Mortgage Owner, shall, upon renewal of an existing license, submit proof of satisfactory completion of a course of study.

Subjects may include:

a) Federal and State Lending Law;
b) Local Rules and Regulations;
c) Ethics and Professional Standards;
d) General Real Estate or General Financial Studies;
e) Product Update;
f) Personal Development;
g) Diversity Training.

Continuing education courses may be offered through classroom instruction, electronic transmission, or distance learning. Qualifying hours may be obtained by attendance at a locally chartered real estate or mortgage business school, accredited college, university or community college, or vocational school or other institution approved by the state licensing agency.

The licensee should receive a completion certificate that such hours have been successfully completed. Licensees shall submit the appropriate completion certificate(s) with the license renewal form.

## Conclusion

It is the intent of this initiative to engage measures to reduce the incidence of predatory lending and to raise the standards for those persons who interact with the public in the area of home financing. Every Residential Loan Originator should be licensed, responsible and accountable for his or her actions when working with the public. We at NAMB believe that establishing minimum educational requirements as well as requiring continuing education will substantially increase each Residential Loan Originator's awareness of their responsibility and duty to give consumers fair and honest service. It may be desirable for each state to consider establishing a mortgage oversight board to assist the commissioner with up-to-date material for pre-licensing and continuing educational courses.

*This initiative contemplates using the words 'license' and 'registration' interchangeably. We leave to the States to determine if this process includes an individual license, permit or an aggregated corporate registration methodology, so long as both aspects of educational requirements are maintained and criminal background investigations and prohibitions are maintained. If a corporate registration of all originators is contemplated, it should require 'employee' status and a bonding requirement should be considered. It is understood that if such a corporate methodology is utilized, paragraph 10 under Licensing Requirements is not applicable.

# Recommended Course Curriculum

Pre-licensure course curriculum may include:

**I. Federal Lending Laws**. Licensees should develop competencies in matters of federal mortgage statutes, which may include:

a) Regulation Z, Truth in Lending Act;
b) Real Estate Settlement Procedures Act (RESPA);
c) Regulation B, the Equal Credit Opportunity Act;
d) Regulation C, the Home Mortgage Disclosure Act;
e) National Flood Insurance Act;
f) Fair Credit Reporting Act;
g) Federal Trade Commission rules concerning advertising for credit;
h) Servicing Transfer Act;
i) Privacy Act;
j) Consumer Protection Act;
k) Community Reinvestment Act.

**II. Ethics, Diversity and Sensitivity**. Licensees should be able to discuss the canons of:

a) Fair Housing Act;
b) Emerging Markets;
c) Redlining and Block-busting;
d) Ethical practices of mortgage lending.

**III. Practices of Residential Lending**. Licensees shall develop competencies in the subjects of:

a) Evolution of Residential Lending in the United States
b) The role of Government Sponsored Enterprises (GSE's)
c) Federal National Mortgage Association
d) Government National Mortgage Association
e) Federal Home Loan Mortgage Corporation
f) Federal Housing Administration
g) Veteran's Administration
h) Farmers Home Administration
i) Private Mortgage Insurance Industry Principles of Mortgage Lending, including but not limited to:
j) Assisting consumers in selection of loan programs including adjustable rate loans;
k) Evaluating the relationship between discount points and interest rates;
l) Describing the costs of originating a mortgage loan;
m) Preparing and discussing the required state and federal disclosures with a consumer;
n) Interpreting and discussing loan contingencies and covenants with the consumer;
o) Explaining the loan commitment issued by a lender;
p) Reading and understanding a real estate contract as it relates to financing of real property;
q) Identifying methods of holding title to real estate and discuss options with the consumer;
r) Describing the advantages of primary and subordinated financing options;
s) Explaining and preparing a Good Faith Estimate of costs for a consumer.

**IV. Real Estate and Mortgage Mathematics.** Licensees should develop competencies in basic mathematics.

The licensee should have the basic skills to:

a) Calculate gross and net loan amounts to satisfy a consumers loan request;
b) manually prepare a Good Faith Estimate of costs and Truth in Lending statement;
c) calculate and analyze ratios of mortgage payment-to-income;
d) calculate the ratio of total obligations-to-income to determine loan acceptability;
e) analyze income tax returns for self-employed borrowers to confirm sufficient income;
f) calculate loan to value ratios;
g) calculate origination fees, yield spread premiums and discount points;
h) calculate prorations for real estate taxes and insurance amounts for the reserve account;
i) calculate rate changes on adjustable rate mortgages;
j) convert hourly and weekly salaries to monthly income to compute ratios;
k) determine that the consumer has sufficient funds for closing;
l) calculate monthly principal and interest payments and the amortization of a loan;
m) calculate per diem interest amounts;
n) manually calculate the Annual Percentage Rate
o) describe the theory of Time Value of Money and the impact on the financing contract.

**V. Escrow Procedures, Title Insurance and Loan Settlement.** Licensees should develop competencies in matters of closing forms and the closing process. The licensee should be able to explain the documents and process so that the borrower fully understands what is taking place.

*The documents to be explained include, but are not limited to:*

a) the mortgage note and its provisions for default, the lenders rights and the borrowers rights;
b) the security agreement, (mortgage or deed of trust), including each of the covenants and conditions;
c) the HUD-1 closing statement and its relationship to the Good Faith Estimate of Costs;
d) the Good Faith Estimate of costs and final Truth in Lending statement;
e) the consumers right of rescission.
f) the purpose and cost of lenders title insurance;
g) the purpose and cost of owners title insurance;
h) title examination;
i) title abstract;
j) lien theory;
k) Schedule "B" exceptions to title insurance

**VI. Appraisals and Land Survey.** The licensee should be able to describe:

The three methods of valuation, including:
- cost approach;
- market approach;
- income Approach;

a) the theory of economic obsolescence;
b) the theory of functional obsolescence;
c) the theory of depreciation;
d) the theory of depletion;

e) the Rectangular Survey System;
f) the method of legal identification of real property in their state;
g) calculate the number of acres in a given area;
h) calculate the number of square feet in a given area.

The licensee should be able to understand and communicate with the borrower the purpose and process of the appraisal, the survey, title insurance, restrictive covenants, deed restrictions, and encroachments and pest inspections.

**VII. Loan Processing and Loan Underwriting Process.** Licensees should study the subjects of loan processing and underwriting. After study in this section, the licensee should be able to:

a) prepare, explain, and execute a business agreement with the consumer;
b) demonstrate the ability to understand and explain an FNMA 1003 mortgage application;
c) explain requirements for determining if the property, income and credit of borrower fit the loan offerings available through the licensee.

The licensee should have the knowledge to collect the necessary exhibits anticipated for:
a) underwriting contingencies;
b) understanding the procedures and requirements for issuing adverse action notices;
c) assembling for submission an entire loan package for underwriting.
d) evaluation of an appraisers conclusions.

The licensee should also have a basic knowledge of:
a) negotiating a rate lock;
b) investigation and confirmation of application data;
c) arranging for a property inspection;
d) evaluating and reviewing a title insurance policy;
e) owner's versus mortgagee's title insurance policies;
f) the function and operation of private mortgage insurance and knowing when it is required;
g) when private mortgage insurance can be canceled;
h) the meaning of the terms novation, assumption, and "subject to the mortgage";
i) release of liability.

The licensee should be able to demonstrate an understanding of the basics concepts of:
a) fixed versus variable rate mortgage loans;
b) negative and positive amortization principles;
c) graduated payment mortgages;
d) reverse mortgages;
e) shared appreciation mortgages;
f) bi-weekly mortgages;
g) temporary and permanent interest rate "buy-downs";
h) the concept of a wraparound mortgage.

**VIII. Secondary Mortgage Market.** Licensees should study the process of the secondary market. The licensee should be able to describe:

a) how interest rate markets are established;
b) interest rate risks;
c) the theory of "yield spread premiums";
d) the theory and process by which loans are sold;
e) the theory and purpose of a loan purchase commitment;
f) FNMA and FHLMC standard eligibility requirements;
g) the function and method of operation of FNMA, GNMA and FHLMC;
h) the method and marketing aspects of a GNMA mortgage-backed pass-through security;
i) the theory of "service release premiums".

The licensee should also be able to explain the basic functions of;
a) mortgage servicing;
b) collections;
c) remittance of payments;
d) escrow accounts for taxes and insurance;
e) payoffs ;
f) assumptions;
g) the transfer of servicing rights.

**IX. Loan Default and Foreclosure Law**. Licensees should study Foreclosure Law. Licensees should be able to describe:
a) the type of foreclosure law most frequently used in their state;
b) the legal process of a judicial foreclosure;
c) the legal process of a trustee's sale and how it differs from a judicial foreclosure;
d) the borrower's rights of reinstatement;
e) the borrower's right of redemption;
f) the legal process of a forfeiture of equitable title;
g) the effects of subordinate liens after foreclosure;
h) the effects of mechanics and materialmens' liens;
i) the process of tax lien sales.

**X. State Statutes and Rules.** Licensees should study of State and local law. Licensees should be able to identify:
a) minimum record keeping requirements;
b) record retention requirements;
c) minimum requirements for licensing;
d) the process for examination of a licensees records;
e) standards for accounting;
f) standards for maintaining Trust Funds;
g) minimum net worth requirements;
h) minimum bonding requirements;
i) local disclosure requirements;
j) contracts and written agreements with consumers;
k) minimum requirements for supervision of employees;

# The National Voice of the Mortgage Broker

Established in 1972, the National Association of Mortgage Brokers (NAMB) is the national trade association representing the mortgage broker industry. With 49 state affiliates, and more than 27,000 members, NAMB promotes the industry through programs and services such as education, professional certification and government affairs representation. NAMB members subscribe to a code of ethics and best lending practices that foster integrity, professionalism and confidentiality.

A mortgage broker is an independent real estate financing professional who specializes in the origination of residential and/or commercial mortgages. There are approximately 33,000 active mortgage broker operations across the nation that employ an estimated 240,000 people and originate 65% of all residential loans in the U.S.

A mortgage broker is also an independent contractor who markets and originates loans offered by several wholesale lenders. By offering superior market expertise, and direct access to many different loan programs, a mortgage broker provides the consumer the most efficient and cost-effective method of obtaining a mortgage that fits the consumer's financial goals and circumstances. Mortgage brokers originate more mortgages than any other single loan source group in this nation.

The brokerage industry plays a significant role in the mortgage lending process and American economy, increasing competition and driving down costs. The expansive mortgage broker network allows loan wholesalers of all sizes to immediately gain a national presence without incurring the great expense of national advertising and maintenance of branch offices.

The mortgage broker industry is regulated by 10 federal laws, five federal enforcement agencies and over 45 state laws or licensing boards. Additionally, brokers typically have some type of Quality Control requirements and NAMB members also adhere to a strict Code of Ethics and best lending practices.

# Appendix B

National Association of Mortgage Brokers

**Relationship of the Mortgage Broker to it's Customer**

The majority of mortgage brokers are small, independent businesses operating retail offices open to the public for the purpose of obtaining mortgage financing. Like any retail source, the mortgage broker has wholesale distribution channels which supply them with inventory, in this case, a variety of mortgage products. The mortgage broker provides rate and price flexibility and among other things, offers numerous loan products, collects information from the borrower, communicates such with the lenders and facilitates closings. The public, in turn is able to choose the product offered by that particular mortgage brokerage firm. If the shopper does not find the product or price they want, they go to another mortgage source.

It has been suggested that we should be the fiduciary agent for the borrowing consumer .The mortgage broker is **not** the exclusive agent for the lender **or** the borrower. The mortgage broker is an independent entity that typically has contractual loan origination arrangements with multiple wholesale lenders. As an independent entity, mortgage brokers rely on referral business, which is obtained by offering a combination of good customer service, a variety of mortgage products and competitive interest rates. A broker that does not offer all of the afore-mentioned, will most often not get the business, since customers have the ability to shop for the rate, product and service that they prefer. Since not all mortgage brokers offer the same loan products or are approved with all lending sources, it would be impossible to assure the "best" mortgage options to every customer, thus making fiduciary responsibility unattainable.

A member of the National Association of Mortgage Brokers adheres to a strict code of ethics and best lending practices which can be found at www.namb.org. Mortgage brokers do the majority of all the mortgage loans in this Country and the public has declared us their mortgage originator of choice. For the past several years the borrowing public has opted to use the mortgage broker as their lending source, primarily because of competitive pricing, varied mortgage products, professional service and convenient location and hours.

# Appendix C

US Department of Housing and Urban Development

## Uniform Good Faith Estimate Statement

| | |
|---|---|
| Name and Address of Borrower | Originating Company Name and Address: Loan #:__________________ |
| Property Address: | **Proposed Interest Rate: ______% Term of the loan: _____Years**<br>**Proposed Loan Amount: $____________________**<br>**Program Type:☐ Conventional; ☐ FHA; ☐ VA; ☐ Other:__________**<br>**☐ Fixed Rate Mortgage Loan, or ☐ Adjustable Rate Mortgage Loan**<br>**Prepayment Penalty: ☐May; ☐May Not Balloon Payment: ☐ Yes; ☐ No** |

| **Settlement Charges:** | |
|---|---|
| **800: Items Payable in Connection With The Loan:** | |
| 801: Loan Origination Fee ( %) to: | |
| 802: Loan Discount Fee ( %) to: | |
| 803: Appraisal Fee to: | |
| 804: Credit Report Fee to: | |
| 805: Lender's Inspection Fee to: | |
| 806: Application Fee to: | |
| 807: Flood Certification Fee to: | |
| 808: Mortgage Broker Fee ( %) | |
| 809: Tax Service Fee to: | |
| 810: Processing Fee to: | |
| 811: Underwriting/Admin Fee to: | |
| 812: Wire Transfer Fee to: | |
| 813: | |
| **900: Items Required By Lender To Be Paid In Advance** | |
| 901: Interest for _____ days at $________ /day | |
| 902: Mortgage Insurance Premium for ____ mos. to _________ | |
| 903: Hazard Insurance Premium for _____mos. to _________ | |
| 904: Flood Insurance Premium for _______ mos. to _________ | |
| 905: VA Funding Fee / Mortgage Insurance Premium | |
| **1000: Reserves Deposited with Lender: Waived ☐Yes ☐No** | |
| 1001: Hazard Insurance: _____ months @ $_________ per mo. | |
| 1002: Mortgage Insurance: ____ months @ $_________ per mo. | |
| 1003: City Property Taxes: ____ months @ $_________ per mo. | |
| 1004: County Property Taxes: ____ months @ $_______ per mo. | |
| 1005: Annual Assessments: _____ months @ $_______ per mo. | |
| 1006: Flood Insurance: _____ months @ $__________ per mo. | |
| 1007: months @ $__________ per mo. | |
| 1008: | |
| **1100: Title Charges** | |
| 1101: Settlement or Closing/Escrow Fee to: | |
| 1102: Abstract or Title Search to: | |
| 1103: Title Examination to: | |
| 1104: Title Insurance Binder to: | |
| 1105: Documentation Preparation to: | |
| 1106: Notary Fees to: | |
| 1107: Attorney's Fee to:<br>(Includes above item numbers: ) | |
| 1108: Title Insurance Fee to:<br>(Includes above item numbers: ) | |
| 1109: Lender's Coverage $ | |
| 1110: Owner's Coverage $ | |
| 1111: Includes Commitment Fee to: | |
| 1112: Endorsement Fee to: | |
| 1113: Wire Fee to: | |
| 1114: Electronic Doc Fee to: | |
| 1115: Courier Fee to: | |
| 1116: | |
| 1117: | |
| 1118: | |
| **1200: Government Recording and Transfer Charges** | |
| 1201: Recording Fees: ☐Deed $ ☐Mortgage $<br>☐Release(s)/Reconveyance(s) $ | |
| 1202: City/County Tax/Stamps: ☐Deed $ ☐Mortgage$ | |
| 1203: State Tax/Stamps: ☐Deed $ ☐ Mortgage $ | |
| 1204: Assignment Fee to: | |
| 1205: Subordination Fee to: | |
| **1300: Additional Settlement Charges** | |
| 1301: Survey to: | |
| 1302: Pest Inspection Fee to: | |
| 1303: General Inspection(s) to: | |
| 1304: Home Warranty Fee to: | |
| 1305: Elevation Certificate Fee to: | |
| **A: Settlement Cost (Sections 800, 1100, 1200, 1300 above)**<br>**B: Prepaid Items (Sections 900 and 1000 above)** | |
| **1400: Total Estimated Settlement/Closing Costs** | |

| **Summary of the Borrower's Transaction:** | |
|---|---|
| Contract Purchase Price | |
| Existing Loan Amount to be Paid Off | |
| Personal Property | |
| Total Settlement/Closing Cost Charges to Borrower(s): **1400 A** | |
| Total Pre-Paids/Reserves Charged to Borrower(s): **1400 B** | |
| | |
| **Gross Amount Due From Borrower(s):** | |
| <Deposit of Earnest Money> | ( ) |
| <Principal Amount of new loan(s)> | ( ) |
| <Seller Paid Closing Cost Credit(s)> | ( ) |
| <Subordinate Loan Proceeds> | ( ) |
| <Other Credit(s)> | ( ) |
| **Amounts Paid By or In Behalf of Borrower(s):** | ( ) |
| | |
| **Cash at Settlement Due From/To Borrower(s):** | |
| | |
| **Proposed Payment(s):** | |
| 1st Mortgage: ☐Principal & Interest pmt ☐ Interest Only pmt | |
| 2nd Mortgage: ☐Principal & Interest pmt ☐ Interest Only pmt | |
| Property Taxes | |
| Home Owners Insurance | |
| Private Mortgage Insurance | |
| Homeowners Association Dues | |
| Other | |
| Other | |
| | |
| **Total Proposed Monthly Payment:** | |

**Nature of Relationship:** In connection with this residential mortgage loan, you the Borrower(s), has/have requested assistance from ______________________________ (Company name) in arranging credit. We do not distribute all products in the marketplace and cannot guarantee the lowest rate.

**Termination:** This agreement will continue until one of the following events occur:

1. The Loan closes
2. The Request is denied.
3. The Borrower withdraws the request.
4. The Borrower decides to use another source for origination.
5. The Borrower is provided a revised Uniform Good Faith Estimate Statement.

**Notice To Borrower(s):** Signing this document does not obligate you to obtain a mortgage loan through this mortgage originator; nor is this a loan commitment or an approval; nor is your interest rate locked at this time unless otherwise disclosed on a separate Rate Lock Disclosure Form. Do not sign this document until you have read and understood the information in it. Fees received under this estimate are legal and permissible under the Real Estate Settlement and Procedures Act. You will receive a re-disclosure of any increase in interest rate or if the total sum of disclosed settlement/closing costs in **Section 1400A** increase by 10% or more of the original estimate. Should any such increase occur, mandatory re-disclosure must occur prior to the settlement or close of escrow.



Applicant(s) hereby acknowledge(s) the receipt of a copy of this Good Faith Estimate and that you/they inquired into real estate mortgage financing with ____________________________ (Company) on _________________(date).

Borrower: ___________________________ Co-Borrower: _______________________________

______________________________ ______________________

Originator Date License # (if applicable)

National Association of Mortgage Brokers

# NAMB's Proposed Changes to the Good Faith Estimate (GFE) Form

*The U.S. Department of Housing and Urban Development (HUD) recently renewed efforts to reform the Real Estate Settlement Procedures Act (RESPA) to simplify the process of obtaining mortgages for consumers. As part of the process, HUD released proposed revisions to the good faith estimate (GFE) form, expanding it from one page to four pages. The National Association of Mortgage Brokers (NAMB) submitted an alternative GFE to help build consensus among stakeholder groups while reflecting HUD's goals of simplicity, clarity, transparency, and greater cost certainty for consumers.*

## Highlights of the GFE form proposed by NAMB:

**Simplicity**

- One page in length
- Deletes the confusing "teeter-totter" comparisons from the HUD-proposed form
- Moves the "shopping chart" to the HUD Settlement Guide Pamphlet
- Eliminates yield spread premium disclosure – easier for the consumer to understand and compare the actual costs of obtaining a mortgage

**Clarity**

- Mirrors the current HUD-1 Estimated Settlement Statement
- Line items allow consumers to compare the costs all the way through the form
- Includes various details about the proposed loan terms
- Estimated amount of cash due from the borrower better matches the final estimated settlement statement so consumer can see the credits and debits from the principal amount of the loan; clearly shows any closing costs paid by the seller or any subordinate liens
- Includes a paragraph disclosing the role of the originator in the transaction

**Transparency**

- Timely and accurate settlement cost disclosure – form is easy to compare initial proposed rate and fees to actual rate and fees when placed beside the final estimated settlement statement before closing
- Mandatory re-disclosure before funding if the settlement costs proposed at funding are 10% higher than the settlement costs disclosed on the original good faith estimate
- Mandatory re-disclosure before funding for any change to the interest rate from the original proposed rate on the original good faith estimate

**Greater certainty of costs**

- Recommends consumers be given a right to a private legal cause of action if no timely re-disclosure is made

*The National Association of Mortgage Brokers is the voice of the mortgage broker industry with more than 27,000 members in all 50 states and the District of Columbia. NAMB provides education, certification and government affairs representation for the mortgage broker industry, which originates 68% of all residential loans in the United States.*