New mortgage broker guidelines hope to improve credible status

by Jim_Woodard

Residential mortgage brokers may soon have a new set of guidelines to follow when dealing with their borrower clients. At least that's the objective of a new resolution approved by the Residential Board of Governors of Mortgage Bankers Association.

The board wants more clarity and accountability in transactions handled by mortgage brokers. It also wants more net worth and bonding requirements for brokers. It's an attempt to minimize broker-related problems and enhance the quality of service to consumers, thus boosting their public image as credible professionals.

"This resolution is a step in MBA's call for better disclosures and more transparency in mortgage transactions," said MBA Chairman Kieran Quinn. "The borrower is best served when he or she has a clear understanding of who their mortgage broker is working for and how their broker is compensated."

The new resolution calls for legislative or regulatory action requiring brokers to maintain a minimum financial net worth consistent with Federal Housing Administration requirements - currently $63,000 plus $25,000 for each branch office. MBA also wants brokers to carry bonding worth $75,000 or an amount equal to 10 percent of the broker's annual loan volume (whichever is higher).

There should be timely and improved disclosures about the services to be performed by the mortgage broker, the resolution stressed. Brokers should disclose the total compensation they receive from the transaction before the borrower commits to the mortgage broker. Disclosures should include how much of the compensation will be derived from the lender based on the loan terms and how much will be paid by the borrower in direct fees.

Finally, it should be disclosed to borrowers whether or not the broker is acting as the borrower's agent, and if the broker is acting as he or she should be treated as an agent under the law, the MBA resolution stated.

Q: What new federal laws address current mortgage-related problems?

A: Potentially changing the way mortgage bankers and brokers do business, a bill called "Mortgage Reform and Anti-Predatory Lending Act of 2007" has been introduced in Congress. The objective of the bill (H.R. 3915) is to minimize problems stemming from the current mortgage crisis and protect borrowers from lending abuses that can lead to foreclosures.

The bill should create a "duty of care standard" for residential mortgage loan originators. It would include regulations to prevent steering a borrower to a loan that is not in their best interest so the broker can earn more commission. And establish a nationwide registration regime.

It would also call for minimum loan repayment standards, including taxes and insurance payments, based on verified and documented borrower information. It should eliminate loans with prepayment penalties, negative amortization and balloon payments for high risk mortgages, and require mandatory pre-loan counseling for some borrowers.

Another interesting aspect of the bill is setting forth certain foreclosure protections for renters.

"While the bill is filled with good intentions and does contain some reasonable and necessary changes to industry policies and procedures, there are some aspects of the bill that create an unfair advantage for institutional originators," it was noted in a feature carried by Originator Times. "It could possibly put some mortgage bankers and brokers out of business."

Q: Are mortgage applications on the increase?

A: With mortgage interest rates remaining at historically low levels, and even declining recently, more mortgage applications are coming in from home buyers and those who want to refinance their existing mortgage. An increasing number of consumers are seeing today's market conditions as a "window of opportunity" for applying for a mortgage that meets their current needs.

"Reports of weaker consumer spending and a decline in manufacturing activity is keeping mortgage interest rates at bay," said Frank Nothaft, chief economist for Freddie Mac, a major buyer of mortgages. "Rates for long-term mortgages are little changed, while rates for ARMs lowered following the Federal Reserve's latest interest-rate cut. With mortgage rates remaining low, about 38 percent of applications are for refinance transactions.

"During the third quarter of this year, about 87 percent of refinanced loans were for loan amounts that were 5 percent or more higher than the original balances."

Also, Freddie Mac estimates that families withdrew about $60 billion in home equity over the third quarter, down from about $81 billion during the second quarter.

Q: Does price-cutting by home builders have a downside?

A: Home builders are cutting prices and offering tempting incentives in efforts to reduce their inventory of completed homes. This is good news for home buyers, but bad news for other home sellers in the same area.

Those lowered prices of new homes depreciate the value of all existing homes in that area, and make it even more difficult to attract buyers to resale homes.

However, those lower prices offered by builders often fail to attract many buyers because potential home buyers focus on the probability that those prices will fall further if they wait for awhile, rather than perceiving the immediate price drop as bargains. This was revealed in a recent survey of real estate agents by Bank of America.

Send inquiries to Jim Woodard, P.O. Box 120190, San Diego, CA 92112-0190. Questions may be used in future columns; personal responses should not be expected.

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