

NEWS FROM SCDCA

South Carolina Department of Consumer Affairs



Brandolyn Thomas Pinkston, Acting Administrator

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SCDCA Media Contact: Public Information and Education Division

800.922.1594 (toll free in SC)

803.734.4190 (direct number)

Email: gateway@dca.state.sc.us

Fast Facts For Mortgage Brokers ON PREDATORY LENDING

Here's a quick look at some of the key measures in the new predatory lending law, which goes into effect January 1, 2004. (For a brief history of this legislation, log on to the SCDCA website at www.state.sc.us/consumer and click on the 'Predatory Lending Bill History' link.)

Flipping

The law bans "flipping", which is refinancing within 42 months of an existing loan without providing the borrower with a net tangible benefit.

Points and Fees Charged On A High Cost Loan

If refinancing with the same lender, points or fees cannot be charged. If financing or refinancing with a different lender, points or fees over 2.5% cannot be financed.

Credit Insurance

Financing prepaid, single premium life, disability, or unemployment insurance is prohibited in all home loans beginning **January 1, 2005**. *Only* credit insurance paid on a monthly basis will be permitted beginning **January 1, 2005**.

Prepayment Penalties

Prepayment penalties are not permitted on loans of \$150,000 or less.

Special Disclosure Requirements for Non-Real Estate Secured Manufactured Housing

Disclosures regarding the material terms of the loan must be given 48 hours prior to finalizing the loan closing. If the terms of the loan change, a new disclosure must be given.

Balloon Payments

Balloon payments are prohibited on high cost loans under the new law.

Mortgage Broker Responsibility

Under the new law, the mortgage broker must work in the “best interest” of the borrower. The broker must act as an agent of the borrower. If the broker acts as an agent of any other party in the mortgage transaction, it must be disclosed to the borrower.

Required Disclosures for Mortgage Brokers

At the time of the Good Faith Estimate and before the scheduled closing, the mortgage broker must disclose *in writing* the amount being earned on the loan. The Department of Consumer Affairs will provide a disclosure form to include the following: **the dollar amount of the yield spread premium and the percentage of the yield spread premium in relation to the loan amount; an itemization of dollar amounts for points, fees, and commissions with a combined total, and the percentage of the combined total in relation to the loan amount; and the total amount being earned on the loan.** The disclosure form can be found at the SCDCA website: www.state.sc.us/consumer.

Mandatory Counseling on a High Cost Loan

Under the **new law**, if a lender makes a high cost home loan, the borrower must first receive counseling “on the advisability of the loan transaction” and the appropriateness of the loan for the borrower. **The purpose of the counseling is to ensure that the borrower fully understands the material terms of the loan and the amount of fees and costs the borrower will be required to pay.** *Note: The borrower’s “credit score” is included on the form.* The counselor must be approved by the State Housing and Development Authority to provide counseling on a high cost loan. The counselor must certify to the lender that the counseling services have been rendered. **If the lender does not provide the counselor with the required information, the counselor can consider withholding counseling certification until the lender is contacted.** To view or obtain a copy of the Mandatory Counseling Checklist form, visit the SCDCA website at www.state.sc.us/consumer. **For more information on counseling procedures, contact the State Housing Authority at (803) 734.2032.**

Home Repair Loans

Protects consumers who enter into home repair loans by mandating both the homeowner and contractor are named on any checks issued. The consumer will have the ability to refuse to endorse a check for incomplete work or work that was never started. Note: Does not include money for a new home construction loan or a purchase money loan for a home.

Title Lenders

Limits have been placed on lenders who make loans on car titles. The annual rate may still be 300%, but the amount owed may not be renewed beyond six times. In addition, the borrower now has six additional months to pay off the debt with no new interest added.

For more information about the Predatory Lending bill, contact the Department of Consumer Affairs at (803) 734.4200 or toll free in South Carolina 1.800.922.1594.