



Bankers Advisory

COMPLIANCE MONITOR

April 30, 2014

Arizona Enacts Changes to Mortgage Regulations

By Matthew Dailey

Arizona Enacts Bills Modifying Purchase Money Mortgage Liability, Loan Originators and Escrow Protection Letters

The state of Arizona recently enacted two House bills and one Senate bill amending the laws regarding the mortgage industry.

Arizona Updates Provisions Regarding Purchase Money Mortgages

The state of Arizona updated its provisions relating to liens of judgment in actions to foreclose certain mortgages on single 1- or 2-family dwellings. Also there were exceptions created for properties owned by someone engaged in the business of constructing and selling homes. The law also addressed changes for recovering balances after the sale or foreclosure on property under a trust deed. These provisions are effective immediately.

House Bill 2018 amends sections 33-729 and 33-814 of the Arizona Revised Statutes relating to Property Deficiency Actions. The new law states that for mortgages originated after December 31, 2014, real property owned by a person engaged in the business of building and selling homes is not exempt from any foreclosure. If real property has a home that was not completed or has a building intended to be used as a home but was not, the property can be used to satisfy the judgment.

Arizona Modifies Provisions Regarding Loan Originators

The state of Arizona modified its requirements for obtaining a loan originator license as well as continuing education. These provisions are effective immediately.

House Bill 2098 amends sections 6-991.03 and 6-991.04 of the Arizona Revised Statutes relating to loan originators. Under the revised law a loan originator must be granted a license by the superintendent after completing a twenty-hour education course during the three-year period before the time of application. This differs from the previous two-year period of time. Also added is the provision stating that the applicant have completed late continuing education for the purposes of satisfying education for the last year that the loan originator was in renewable status.

The time period for passing an examination is also eliminated as the applicant must demonstrate knowledge and understanding of federal and state laws. It does not have to be within one year of the granting of the license going forward.

Also added is the provision that the originator must have retaken the loan originator's exam if the licensed loan originator failed to maintain a valid license for a period of five years or longer.

Lastly, a licensee is allowed to be inactive for more than two consecutive renewal periods in any ten year period. This previously was not allowed according to the laws of Arizona.

Arizona Modifies Provisions Regarding Escrow Agent Protection Letters

The state of Arizona modified its provisions relating to escrow agent protection letters. These provisions are effective immediately.

Senate Bill 1047 revised section 6-841.02 of the Arizona Revised Statutes relating to escrow agents. According to the new law, title insurers may provide closing protection letters to any party in a transaction where a title policy will be issued. The letter can indemnify a person against a loss that results from theft or misappropriation of settlement funds only to the extent that the theft relates to the status of title to land or priority of the lien. The letter can also indemnify a buyer or lender where there is failure to comply with written closing instructions.

A title insurer must charge a party receiving a closing protection letter a fee which the insurer earns after the closing of the transaction. The fee cannot be subject to any agreement requiring a division of fees and cannot be greater than \$25.00.

Finally, an insurer cannot provide any other protection that looks as though it indemnifies against improper acts or omissions regarding settlement services.



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