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WBSK

MORTGAGE FINANCE NEWSLETTER

A PUBLICATION OF WEINER BRODSKY SIDMAN KIDER PC

WBSK Structures Innovative Initiative

Weiner Brodsky Sidman Kider PC is pleased to announce that it has structured an innovative initiative with MortgageDaily.com, a dominant industry news publication, to provide more timely and comprehensive content and analysis to mortgage industry members and to offer additional value to the Firm's clients.

Through the synergy, the two firms will help industry stakeholders to quickly identify, analyze and manage pressing issues including navigating regulations and guidance, government insured lending, secondary market liabilities and default servicing. In a Press Release issued on the initiative, MortgageDaily.com's founder and publisher, Sam Garcia, praised the relationship by saying that while his publication has excelled at online operations, "Weiner Brodsky Sidman Kider PC's expertise, insight and offline relationships have helped shape the industry."

MortgageDaily.com's audience will receive insight and content from our attorney's and specialists, while the Firm's clients will get discounted subscription rates and access to broader content delivered through multiple technology channels. Among future plans are jointly sponsored conferences and podcasts. To receive your discounted subscription rate, contact Shaun at MortgageDaily.com at 214-521-1300.

California Adopts "Best Practices" Procedures

The California Corporations Commissioner ("Commissioner") recently adopted new rules, effective January 1, 2008, requiring California Finance Lender and Residential Mortgage Lender licensees to implement "best practices" to manage loan product risk on a continuous basis with respect to loans covered by the Guidance on Nontraditional Mortgage Product Risks ("Guidance").

"Best practices" includes lawful processes, policies, and procedures to manage risks associated with the use of nontraditional mortgage products and adjustable rate mortgage products, as defined and prescribed by the Nontraditional Guidance published by the Conference of State Bank Supervisors on November 14, 2006. Each licensee is required to submit, as an addendum to its annual financial report, a statement regarding whether it made or arranged nontraditional mortgage products and adjustable rate products during the reporting period covered by the annual report. If any such loans were made or arranged, the licensee must explain how it implemented best practices during the reporting period. Among other things, the report must indicate how many consumer complaints the licensee received during the reporting period, as well as the number of resolved complaints, unresolved complaints, and workout arrangements. Records of such consumer complaints, unresolved complaints, and workout arrangements must be maintained by the licensee and made available to the Commissioner upon request.

Additionally, within three business days of receiving a completed application for a nontraditional or adjustable rate loan subject to the Guidance, a license is required to provide a borrower with a disclosure that compares payment scenarios and loan balance scenarios among any nontraditional and adjustable rate loan products offered by the licensee that are subject to the Guidance. Further, the new rules impose certain advertising restrictions on loans subject to the Guidance, including a requirement to prominently disclose an explanation of the difference between the payment rate, initial interest rate, and fully-indexed rate in advertisements for adjustable rate, interest only, and payment-option loans.

Recapture of Closing Costs Prohibited

In *Bednar v. Provident Bank of Maryland*, the Maryland Court of Appeals recently ruled that a bank's recapture of its closing costs from a borrower – upon the borrower's prepayment of his loan – violates Section 12-1009(e) of the Maryland Commercial Law Article. In reversing summary judgment, which the circuit court had granted in favor of Provident, the appellate court held that the bank's collection of any charge triggered by loan prepayment was a

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Recapture, *Continued from page 2*
prohibited prepayment charge.

Plaintiff represented a class of similarly situated Provident borrowers who, at loan closing, had executed a waiver-of-closing certificate that stated "if the account is closed during the first three year period, the waiver will be rescinded and the closing costs will be added to the balance of the account and will be due and payable immediately." Although plaintiff's settlement statement indicated that Provident had paid his closing costs, when plaintiff refinanced his loan two years later, Provident collected the $681 in loan closing costs in addition to his outstanding loan principal. Plaintiff also averred that Provident did not inform him that he was paying those costs.

At issue on appeal were two allegations set forth in Plaintiff's amended complaint: one, that Provident had violated the Credit Grantor Closed End Credit Provisions of the Maryland Commercial Law Article ("CLEC"), which prohibits creditors from imposing prepayment charges, and two, by violating the CLEC, Provident had engaged in unfair and deceptive trade practices, thereby violating the Maryland Consumer Protection Act. In their motion for summary judgment, Provident maintained that the "deferred payment of closing costs . . .had been approved by the Maryland Commissioner of Financial Regulation," as well as by other state and federal regulatory agencies that had addressed similar issues. Although the circuit court did not consider the regulatory letters that Provident had submitted, it nonetheless granted summary judgment in Provident's favor, ruling that Provident was merely recapturing the closing costs. The circuit court reasoned that plaintiff's closing costs were both imposed and disclosed at the time of loan closing, not at the time of prepayment of the loan. Because the circuit court found no CLEC violation, it likewise dismissed the derivative Consumer Protection Act claim.

In reversing the circuit court, the Court of Appeals specifically held that the paid-at-refinancing "closing costs" were "plainly a prepayment charge." Relying on the test set forth by the Seventh Circuit in *Goldman v. First Federal Savings and Loan Association*, the appellate court reasoned that the charge was one "that would not be imposed if the note were paid at maturity instead of at an earlier date." The court disagreed with Provident's argument that the imposition of the charge was merely a recapturing of permitted costs, deeming it an attempt to circumvent the provisions of the CLEC that expressly prohibit prepayment charges.

Notably, the court held that Provident's reliance on letters from the Office of the Maryland Commissioner of Financial Regulation was "misplaced." While acknowledging that an administrative agency's interpretation should normally be afforded weight, the Court nonetheless exercised its own prerogative to interpret the statute, which, the Court said, unambiguously "[did] not allow Provident to impose an impermissible prepayment charge."

Maine Enacts Anti-Predatory Lending Law

The Maine legislature enacted several bills that add new anti-predatory lending provisions to Maine's Consumer Credit Code – Truth-in-Lending. The bills became effective January 1, 2008, and impose lending restrictions on loans that meet the definition of a "high-rate, high-fee mortgage,". Additional restrictions apply to "residential mortgage loans" and "subprime mortgage loans."

A "high-rate, high-fee mortgage" is defined as a "residential mortgage loan" in which the terms of the loan meet or exceed certain thresholds. Such loans include residential mortgage loans in which (a) the APR equals or exceeds the APR thresholds under the federal HOEPA regulations (regardless of whether the transaction is open- or closed-end); and/or, (b) the total points and fees payable in connection with the residential mortgage loan exceed (1) for loans in which the total loan amount is $40,000 or more, 5% of the total loan amount; or (2) for loans in which the total loan amount is less than $40,000, 6% of the total loan amount. This calculation excludes certain points and fees such as "bona fide disount points" and "conventional payment penalties." Note that the definition of "points and fees" is expanded to include, among other things, all compensation paid directly or indirectly to a mortgage broker from any source, including a table-funded transaction.

A "residential mortgage loan" is defined as an extension of credit, including an open-end credit plan in which the loan does not exceed the GSE conforming loan limit (currently $417,000 for a one-family residence), and the loan is considered a federally related mortgage loan. This definition excludes reverse mortgage transactions, construction loans, or a loan made primarily for business, agricultural, or commercial purposes.

The following restrictions apply to high cost home loans:

<u>Financing of Points and Fees</u>: Points or fees may not be directly or indirectly financed.

<u>Prepayment Penalties:</u> A prepayment fee or penalty may not be included in the loan documents or charged under the loan terms.

<u>Borrower Counseling:</u> A borrower must receive counseling prior to entering into a high-rate, high-fee mortgage.

<u>Assignee Liabilities:</u> Any person who purchases or is otherwise assigned a high-rate, high-fee mortgage is subject to all affirmative claims and any defenses with respect to the loan that the borrower could assert against a lender of the loan, unless the purchaser or assignee demonstrates by a preponderance of the evidence that it had in place at the time of the purchase or policies expressly prohibiting such purchase.

<u>Mortgage Documents—High-Rate, High-Fee Mortgage Notice</u>: Certain notices are required on the first page of the mortgage document evidencing a high cost home loan.

<u>Subterfuge:</u> No person may attempt in bad faith to avoid the new

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CALIFORNIA – Amends Officer Change Notification Requirements and Revises Application and Instruction Materials for Finance Lender/Broker Licensees.

Effective December 7, 2007, California Finance Lender/Broker Licensees are required to file an amended application within 30 days of any change to the officers, directors, partners, or any other individuals required to be named in the initial license application. Additionally, the California Department of Corporations revised the Finance Lender/Broker License Application and Instructions and the Finance Lender/Broker License Short Form Application and Instructions.

COLORADO – Adopts Temporary Mortgage Broker License Requirements and Clarifies Licensing Requirements

Effective January 1, 2008, the Colorado Division of Real Estate issued regulations defining Temporary Mortgage Broker License requirements for individual applicants. The Division of Real Estate has discretion to issue temporary licenses upon submission of a completed Mortgage Broker License application including, fingerprint cards, a surety bond in the amount of $25,000, proof of errors and omissions insurance, and all required application fees. Additionally, effective January 1, 2009, applicants will be required to complete pre-licensing education and pass an examination in order to receive the temporary license. Temporary licenses are valid for 120 days from completion of the Mortgage Broker License application. Note that Temporary Mortgage Broker Licensees may only be hired by individuals that are licensed as Mortgage Brokers.

Also, on January 7, 2008, the Colorado Division of Real Estate issued a position statement in which it clarified those individuals that must hold a Colorado Mortgage Broker License. In that position statement, the Division of Real Estate has formally taken the position that "persons who directly supervise individuals that negotiate, originate, or offer or attempt to negotiate or originate for a borrower, and for a commission or other thing of value, a residential mortgage loan to be consummated and funded by a mortgage lender are required to be licensed." Thus, direct supervisors of mortgage broker licensees must themselves hold a Colorado Mortgage Broker License, even if the supervisors do not themselves originate mortgage loans or have contact with borrowers.

IDAHO – Amends Continuing Education Requirements for Loan Originators and Qualified Persons in Charge

Effective January 1, 2008, the Idaho Department of Finance issued a temporary rule clarifying that, of the 14 hours of continuing education that Loan Originators and Qualified Persons in Charge must complete each reporting period, at least 2 of those continuing education credit hours must be directly related to ethics.

MASSACHUSETTS – Requires Licensure of Loan Originators

Effective July 1, 2008, Loan Originators must obtain a license in order to conduct Massachusetts business. Loan Originators may not be employed by or affiliated with more than one licensed entity at a time. Applicants must complete a residential mortgage lending course within the 2-year period preceding the date of application. Additionally, loan originator licensees shall be required to complete at least 8 hours of continuing education every 3 years, as determined by the Commissioner of Banks. Finally, applicants for a Loan Originator License that submit their application after December 1, 2009 will be required to pass an examination prior to applying for licensure.

NEW YORK – Adopts Regulations Implementing New Loan Originator Authorization Requirements

New York has issued emergency regulations implementing the new Loan Originator Authorization requirements that became effective January 1, 2008. Loan Originators employed by licensed entities prior to January 1, 2008, must submit an application by July 1, 2008. Such individuals may continue to operate up until the earlier of January 1, 2010, or the date on which the licensed entity receives notice that the application has been denied or withdrawn. Loan Originators employed by a licensee or registrant on or after January 1, 2008 are required to submit an application by April 1, 2008 and are not permitted to conduct New York origination business on or after April 1, 2008 unless they receive notice from the Superintendent that the application has been accepted for processing. Such individuals may operate until the licensed entity receives notice that the individual's application has been denied or withdrawn. Loan Originator applications must include 2 sets of fingerprint cards and the authorizations shall expire annually on December 31.

The regulations also stipulate pre-authorization and continuing education requirements. Loan Originators employed by licensed entities prior to January 1, 2008 must complete 18 hours of education coursework by January 1, 2010 and every 2 years thereafter. After January 1, 2016, the required continuing education hours vary depending on the number of years of experience accrued in the mortgage industry. Loan Originators employed by a licensee or registrant on or after January 1, 2008 must complete at least 18 hours of education within the 5 years prior to approval or by December 31 of the calendar year of the first anniversary of their initial authorization to conduct New York business. Beginning on the second anniversary of initial authorization, such Loan Originators must complete at least 18 hours of education every 2 years, for the next 8-year period. Upon acquiring 10 or more years of experience in loan origination, such individuals must complete 8 hours of education every 4 years.

No later than January 15, 2008, all licensed entities must submit a list containing the names and addresses of each Loan Originator employed by or affiliated with the entity. Additionally, licensed entities must file quarterly reports listing any newly employed or affiliated Loan Originators and any dismissals of Loan Originators for cause, based upon an alleged violation of the New York Banking Law or any other state or federal law.

Antipreditory, *Continued from page 2*
law by dividing any loan transaction into separate parts or structuring a residential mortgage loan transaction as an open-end loan.

Additional aspects of the new anti-predatory legislation include the following prohibitions that apply to residential mortgage loans:

<u>Waiver of Borrower's Remedies:</u> A residential mortgage loan agreement may not include any provision that waives any borrower's remedies available at law or equity. Any such provision is unenforceable and void as a matter of law.

<u>Late Fees:</u> A late fee may not be imposed more than once on a particular late payment. If a late fee is deducted from a payment made on the residential mortgage loan and the deduction results in a subsequent default on a subsequent payment, a late fee may not be imposed for that default. However, a lender or servicer may apply any payment made in the order of maturity to a prior period's payment due, even if it results in late fees accruing on subsequent payments due.

<u>Right to Cure Default and Foreclosure:</u> If all defaults in connection with a residential mortgage loan are cured after the initiation of any action to foreclose, the lender or the servicer must take the necessary steps to terminate the foreclosure proceeding or other action.

The new law also adds a definition of "subprime mortgage loan" as either a non-traditional mortgage loan or a rate spread loan. A non-traditional mortgage loan has the same meaning as those mortgages described in the "Interagency Guidance on Nontraditional Mortgage Product Risks" published on October 4, 2006. A rate spread loan is any loan for which the rate spread must be reported under HMDA and Regulation C, and also includes any loan that meets the criteria of a high-rate, high-fee mortgage.

A lender may not knowingly or intentionally engage in "flipping" a "subprime mortgage loan." In December 2007, the Bureau of Financial Institutions Regulation issued a "net tangible benefit" worksheet. That worksheet now need only be used with "subprime mortgage loans." Also, a lender may not make a "subprime mortgage loan" unless a reasonable lender would believe at the time the loan is closed that the borrower would be able to make the scheduled payments associated with the loan.

In addition, on December 17, 2007, the Maine Department of Professional and Financial Regulation issued Joint Advisory Ruling #111, clarifying that HELOCs are not included in the definition of a "subprime mortgage loan," and are not subject to the "ability to pay" underwriting requirements under the new anti-predatory lending legislation, except to the extent a HELOC is a Simultaneous Second-Lien Loan as defined in the Interagency Guidance on Nontraditional Mortgage Product Risks issued September 29, 2006, or meets the criteria of a high-rate, high-fee mortgage.

The new law also requires lenders to provide borrows with a GFE, as specified under RESPA, and to re-disclose the GFE if the APR changes or a prepayment penalty is added to the loan. Prepayment penalties, to the extent allowed, may not be imposed under a rider but must be contained in the loan agreement. Supervised lenders, their loan officers, and loan brokers may not knowingly assist or encourage a loan applicant to submit false credit information in connection with a loan application, nor may such entities or persons knowingly falsify such information in a consumer's application. The new law also imposes certain limitations on the use of so-called "trigger leads," places certain limitations on rate locks, and imposes a duty of good faith and fair dealing on loan brokers.

Penalties for violating certain provisions of the anti-predatory law in connection with the origination, brokering, or servicing of a residential mortgage loan can carry criminal liability, as well as punitive damages, borrower's actual, consequential, and incidental damages, and costs, including reasonable attorney's fees.

Filing of Lawsuit Insufficient Notice For TILA Rescission

The U.S. District Court for the Eastern District of California recently ruled that the filing of a lawsuit was not sufficient notice to rescind a mortgage loan under the Truth in Lending Act in *Toscano v. Ameriquest Mortgage Company*.

Toscano involved a mortgage refinance by Vincent Toscano. On May 24, 2004, Mr. Toscano discussed a mortgage refinance with Joshua Bonvillion, an employee of Ameriquest Mortgage Company ("Ameriquest"), on the phone. The discussions took place in Spanish, and Mr. Bonvillion allegedly promised Mr. Toscano a fixed interest rate of 6.3%. A notary public who did not speak Spanish conducted the loan closing, and the loan documents were in English. Mr. Toscano was allegedly unable to read English but nevertheless signed the documents, which actually contained a loan with a variable interest rate of over 7%. It is unclear when the transaction closed because the only date provided in the Complaint was the May 24, 2004 date. On May 18, 2007, Mr. Toscano sued Ameriquest, alleging violations of the federal Truth in Lending Act ("TILA") and state law claims for breach of fiduciary duty, fraud, financial abuse of an elder, and unfair business practices. Ameriquest was served with the summons and complaint on June 4, 2007. Ameriquest moved to dismiss based on Mr. Toscano's failure to notify it of his intention to rescind within three years after the date of the transaction, as required by TILA and the applicable regulations.

Acknowledging that there is a split of authority between the federal courts as to whether the filing of a lawsuit (as opposed to service of the summons and complaint) constitutes a form of notice of rescission under TILA, the U.S. District Court for the Eastern District of California held that Mr. Toscano's filing of the lawsuit on May

18, 2007 was not sufficient notice of rescission and dismissed his TILA claims without prejudice for lack of subject matter jurisdiction. The Court stated that TILA requires that the debtor send written notification to the lender by mail, telegram, or some other means of written communication within three years after either the consummation of the loan or sale of the property, whichever occurs first. After the expiration of this three-year period, the right of rescission is extinguished and the federal courts are deprived of jurisdiction over such claims. Ameriquest, however, was not provided with written notice until it was served with the summons and complaint on June 4, 2007. The Court noted that proper service of the summons and complaint was not necessary to effectuate the notice of rescission. Mailing a copy of the complaint to the lender's designated place of business would satisfy the TILA requirements even if the mailing would not constitute a valid service of summons and complaint pursuant to court procedural rules.

Eleventh Circuit Rules That Section 8(b) Claims May Proceed As Class Actions

On January 17, 2008, the Eleventh Circuit reversed a district court's denial of class certification in *Busby v. JRHBW Realty, Inc.,* a case involving claims of undivided and allegedly unearned fees in violation of Section 8(b) of the Real Estate Settled Procedures Act of 1974 ("RESPA").

The facts, as set forth by the Eleventh Circuit, are as follows: Plaintiff Vicki V. Busby used the services of a real estate agent from Defendant JRHBW Realty, Inc. dba RealtySouth to purchase a home in May 2004. The RealtySouth agent earned a sales commission based on a percentage of the purchase price. The sales commission was lowered to encourage the plaintiff to purchase the home. At the closing, RealtySouth charged the plaintiff an Administration Brokerage Commission fee ("ABC Fee") of $149.

On September 23, 2004, the plaintiff filed a putative class action suit against RealtySouth in the U.S. District Court for the Northern District of Alabama, alleging that the ABC Fee was a fee for which no service was performed in violation of RESPA Section 8(b). In July 2006, the district court denied the plaintiff's motion for class certification, reasoning that, while the legal issues of the plaintiff's RESPA claim were identical to those that would be presented by each class member, individual issues predominated with regard to factual issues.

In reversing the district court, the Eleventh Circuit first addressed its decision in *Heimmerman v. First Union Mort. Corp.*, on which the district court heavily relied in its decision. In *Heimmerman*, the Eleventh Circuit ruled that, in light of HUD's 2001 Statement of Policy ("SOP"), Section 8(a) claims are inappropriate for class review because each loan transaction must be evaluated on a case-by-case basis. The Eleventh Circuit rejected the proposition that the same rational applies to cases brought under Section 8(b) where, as in *Busby*, the plaintiff contends that *no services* were provided for the ABC fee.

On this basis, the Court systematically rebuffed RealtySouth's contentions that the plaintiff failed to satisfy Rule 23's typicality, predominance and superiority requirements. In its analysis, the Court emphasized that it would not need to engage in a "reasonableness determination[]" to adjudicate the class claims. Instead, the Court explained that "a simple binary determination of 'any services' or 'no services' is all that need be done." Importantly, *Busby* conceded at oral argument that if Realty South can demonstrate that it provided *any service* for the ABC fee, her claim will fail.

Eleventh Circuit Rejects Novel RESPA Theories

The Eleventh Circuit Court of Appeals recently affirmed summary judgment in favor of a mortgage broker and a credit reporting agency ("CRA") for claims asserted under Sections 8(a) and 8(b) of the Real Estate Settlement Procedures Act.

In *Krupa v. Landsafe, Inc.*, the defendant broker obtained almost all of the credit reports it needed for customers from its affiliate, the defendant CRA. Both defendants were owned by the same parent corporation. Before 2002, the CRA charged the broker a $25 fee for each credit report. The cost of the report ordered for a customer who did not end up getting a loan was not passed on to the customer, but was absorbed by the broker. To avoid having its affiliate absorb that cost, the CRA changed its pricing policy in 2002 to charge more for credit reports on applicants who locked in loans and nothing for the reports on applicants who did not. Under this pricing restructure, the CRA charged a $35 fee for each report the broker ordered that led to the locking in of a loan, and nothing for a report that did not. The broker, in turn, passed on the $35 fee as part of the cost of the loan to customer who received a loan through the company. The result was that the CRA's revenues from the credit reports it sold to the broker were the same after the new policy was implemented as they had been before.

The plaintiffs obtained a loan through the broker after the 2002 policy change and were charged the $35 fee. They later filed a putative class action challenging this practice, asserting claims under RESPA Sections 8(a) and 8(b).

The theory for the plaintiffs' Section 8(a) kickback claim was that the CRA was providing free credit reports for customers who did not lock in loans, or at least was offering a pricing structure that allowed the broker to pass along its credit report costs to its customers as a kickback in return for the referral of credit reporting business. Rejecting this theory, the *Krupa* court stated that there can be no violation of Section 8(a) unless there was a referral agreement that provided or promised the CRA its affiliate's business in return but that, in this case, the undisputed evidence showed that the volume and value of the business referred to the CRA had not changed since the 2002 pricing restructure. The court further noted that there was not "a speck of evidence" that the restructured pricing was intended to increase the amount of business the CRA received, and so it affirmed the district court's judgment against the plaintiffs on their Section 8(a) claim.

The court then turned to the Section 8(b) markup claim. The plaintiffs' theory here was that some of the $35 fee they paid was unrelated to the cost of the credit report, and was meant to subsidize the broker with respect to customers who did not lock in loans. Citing its 2003 holding in *Sosa v. Chase Manhattan Mortgage Co.*, the *Krupa* court emphasized that, in a Section 8(b) claim, a payment must be made for some reason other than in exchange for services actually rendered. The *Krupa* court observed that the plaintiffs were provided with services in exchange for the $35 fee because the full amount of the fee was paid by the broker to the CRA for the provision of credit reports. Rejecting the Section 8(b) claim, the court ruled that, because the $35 fee was paid over in full to the CRA, "there was no splitting of the fee nor did anyone end up with any part of the charge other than for services actually performed."

The Eleventh Circuit encompasses Alabama, Georgia and Florida.

HUD Clarifies HECM Rules

In 2000, Congress amended section 255 of National Housing Act to allow for "streamline refinances" of HECMs. In 2001, HUD adopted rules implementing this law change. The 2001 final rule contained language that a discounted initial MIP may be available for "presently insured HECMs." On January 8, 2008, HUD issued clarifying regulations correcting an unintended consequence that results in situations where HECM loans that are not in default, but have been assigned to HUD, are not eligible to be refinanced with a discounted initial mortgage insurance premium (MIP). The recent rule also clarifies the date for calculating the "maximum claim amount" for HECM loans. The rule was adopted as "interim" rule effective February 7, 2008, making advanced public comment unnecessary. Nevertheless, in its efforts to make the rule final, HUD has invited comments, and those comments are due by March 10, 2008.

In its clarifying 2008 rule, HUD noted that the phrase "presently insured" has the unintended consequence of excluding certain HECM loans from consideration for a reduced initial MIP upon refinancing. Certain HECM loans, assigned to HUD, are not in default, and therefore are "existing HECM loans." The clarifying rule permits such HECM loans to be eligible for the discounted initial MIP upon refinancing, in accordance with the purpose of the HECM program, which is to improve the financial situation of senior homeowners.

Further, HECM loans are limited both by a loan limit (tied to a percentage of the GSE loan limit) as well as a "maximum claim amount." The maximum claim amount is the lesser of the appraised value of the property or the maximum dollar amount for an area as established by HUD for a one family residence. Under the prior rule, the date on which the appraised value was determined was the date of the appraisal. This rule changes that date to the date of closing. Thus, the date for calculating the maximum claim amount is the date of the closing of a HECM loan. The rule does not change when the appraisal must be submitted, or the circumstances under which a second appraisal is needed. Also, this rule cannot result in an increase in the maximum claim amount for HECM loans in process before its effective date.

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1300 Nineteenth Street, N.W., Floor 5, Washington, D.C. 20036-1609

This Newsletter is intended to provide a concise and timely review of judicial developments, federal and state legislative, regulatory and other legal matters affecting the mortgage finance industry. It is not intended to be relied upon as a substitute for legal advice.

Bruce E. Alexander
Richard J. Andreano, Jr.
James A. Brodsky
Donald C. Brown, Jr.
Larry M. Chattoo
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Sandra B. Vipond
Michael S. Waldron
Harvey E. Weiner
Natasha M. Williams

Ann B. Shearer, Government Relations Specialist
Andrew E. Zirneklis, Compliance Specialist
Melissa M. Jewett, Licensing Specialist
Darron E. Mason, Licensing Specialist
Nancy L. Pickover, Licensing Specialist

(202) 628-2000

www.wbsk.com, info@wbsk.com