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TO: ATG Members and Agents, ATG Staff, and Closers
FROM: Arden K. Miner
DATE: June 24, 2008
RE: SB1167 – Predatory Lending Database Pilot Program

On July 1, 2008, SB1167 otherwise known as the Predatory Lending Database Pilot Program will go into effect. You may remember the program's brief appearance in January of 2006. It was known then as HB4050, and affected ten zip codes in Cook County. The program underwent some changes; it now affects all of Cook County and applies to 1-4 unit, owner-occupied residential property. The purpose of the program is to reduce predatory lending practices by assisting the borrower in understanding the terms and conditions of the loan they have applied for. Cook County is the focus of the program due to the high number of foreclosures in this area.

I have included an attachment to this memo from the Department of Financial and Professional Regulation entitled "Anti Predatory Lending Database Program Fact Sheet," which describes the program. The statutory reference is 765 ILCS 77/70 *et. seq.* The most important fact for you to know is that every mortgage recorded on July 1, 2008, and after must have either a Certificate of Mortgage Compliance or a Certificate of Mortgage Exemption attached to it. The mortgage will not be recordable without the certificate. The member closers and independent closers have attended a mandatory training session and will be responsible for generating the certificate at the closing. They will have to enter information into an online database maintained by the Department of Financial and Professional Regulation. Some transactions are exempt and will only require a Certificate of Mortgage Exemption. Other transactions will not be exempt and may or may not require housing counseling, but will require a Certificate of Mortgage Compliance. See the attachment for particulars. Unfortunately, this process will take some additional time, so please schedule your closings accordingly. The closer will not be able to disburse without a printed certificate.

We have put in place the following new procedures for Cook County property:

1. When Cook County is selected in the data entry screen as the location of the property, Schedule B, Section I Requirements will contain the following exception:

Note for information: The land lies within the area designated under the Predatory Lending Database Program (765 ILCS 77/70, et seq.) A Certificate of Mortgage Compliance or a Certificate of Mortgage Exemption must be obtained from the Illinois Department of Financial and Professional Regulation and recorded simultaneously with

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the mortgage to be insured hereunder. If the certificates are not obtained, the policy or policies to be issued will be subject to the following exception: "Consequences of the failure to obtain and record a certificate of compliance or an exempt certificate as required pursuant to the Predatory Lending Database Program (765 ILCS 77/70, et seq.)"

2. When a property is located in Cook County, Traditional Title Agency and Title Services Support Members must add the following note to Schedule B, Section II Exceptions:

Note for information: The land lies within the area designated under the Predatory Lending Database Program (765 ILCS 77/70, et seq.) A Certificate of Mortgage Compliance or a Certificate of Mortgage Exemption must be obtained from the Illinois Department of Financial and Professional Regulation and recorded simultaneously with the mortgage to be insured hereunder. If the certificates are not obtained, the policy or policies to be issued will be subject to the following exception: "Consequences of the failure to obtain and record a Certificate of Mortgage Compliance or a Certificate of Mortgage Exemption as required pursuant to the Predatory Lending Database Program (765 ILCS 77/70, et seq.)"

This language can be found in the Standard Language Library under Predatory Lending. Title Services Complete Members, when completing the Commitment Preparation Instructions for Cook County property, should check the box entitled "Predatory Lending Pilot Program". This is how you will instruct the Title Services Department to add the above note to your title commitment.

3. When the closer attempts to print the HUD-1 Settlement Statement, a reminder screen will indicate that a certificate is required for the transaction. The closer will also be alerted on the Fund Assisted Closing assignment sheet that the property is in the Predatory Lending Database Program area.
4. The HUD-1 Services screen will be updated to include check boxes for either Certificate of Mortgage Exemption or Certificate of Mortgage Compliance. Checking the appropriate box will cause a charge to be placed in the 1100 section of the HUD-1 Settlement statement of \$200 for Certificate of Mortgage Compliance and \$100 for Certificate of Mortgage Exemption. This charge will be split equally between ATG and either the Independent Closer or the Member Closing Firm.
5. REsource now contains some additional checklists and affidavits.
 - a. Form 4143 is the Closer Checklist for the Certificate of Exemption.
 - b. Form 4144 is the Closer Checklist for the Certificate of Compliance.



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- c. Form 3047 is an Affidavit of Exemption, which should be completed by the borrower if the transaction is exempt.
 - d. Form 4145 is an Affidavit of Compliance – List of Notices, which is required to be completed by the borrower in a transaction where a Certificate of Compliance is required.
6. Make sure to show the Certificate of Mortgage Compliance fee of \$200 on your Invoice for Title Insurance. If a Certificate of Mortgage Exemption is required, the fee can be reduced on the final HUD-1 Settlement Statement to \$100.
 7. Please note that the statute requires that when a *lis pendens* for a residential mortgage foreclosure is recorded on property in the program area, a certificate of service must be simultaneously recorded that affirms that a copy of the *lis pendens* was filed with the Department of Financial and Professional Regulation. If the certificate of service is not recorded, then the *lis pendens* pertaining to the residential mortgage foreclosure in question is not recordable and is of no force and effect.

If you have any questions regarding these procedures or the Predatory Lending Database Pilot Program, please contact me at 312.752.1407, Marie Duhig at 312.752.1387, or Patty Woods at 312.752.1364. In addition, you can view the SB1167 website at www.idfpr.com or contact the Illinois Department of Financial and Professional Regulation toll-free at 866.266.4120.

Sincerely,

Arden K. Miner
Senior Manager – Underwriting / Escrow
Staff Attorney

ANTI PREDATORY LENDING DATABASE PROGRAM FACT SHEET

Authorizing Act

Public Act 95-0691 (SB1167)

Effective Date

July 1, 2008

For any mortgage application taken prior to July 1, 2008, but closed after July 1, 2008, a Certificate of Exemption will need to be recorded with the mortgage (see Recording Requirement) but the originator will enter no information into the database.

Purpose of the Program

To reduce predatory lending practices by assisting the borrower in understanding the terms and conditions of the loan for which he or she has applied. The act does not prohibit any type of loan. It is solely the borrower's decision whether to proceed.

Web address of Anti Predatory Lending Database

www.ilapltd.com

Program Area

Cook County, Illinois

(Property located outside of Cook County is not subject to the Act)

Property subject to the Act

1-4 unit, owner-occupied residential

Exempt Property

Not subject to the Act:

Non-owner occupied property

Commercial property

Residential property of more than 4 units

Government property

Exempt transactions

Reverse mortgages

Recording Requirement

As of July 1, 2008, in order to record any mortgage against Cook County property, a Certificate of Compliance or Certificate of Exemption must be attached to the mortgage. Mortgages executed prior to July 1, 2008 but recorded on or after July 1, 2008 will not require either certificate. Loan applications taken prior to July 1, 2008 but closed after July 1, 2008 will require only a Certificate of

Exemption. It is the responsibility of the closing agent to determine which, if any, certificate is required and to print that certificate.

Database User Groups

Only the following three groups will be authorized as users pursuant to P.A. 95-0691. All users will need to register, obtain a User ID and PIN, and receive training in the use of the database.

Mortgage Brokers and Loan Originators licensed by the Division of Banking
Housing Counselors (must be HUD-certified agencies)
Closing Agents

Entities Exempt from the Act

Any entity not required to be licensed under the Residential Mortgage License Act, such as banks and other depository financial institutions, as well as certain limited private lenders (such as an individual making a loan to a family member), is exempt from the Act. Exempt entities are not required to enter information into the database but must, however, obtain a Certificate of Exemption from the closing agent to record their mortgages. Loans by these entities may go directly to closing upon approval. If an exempt entity, such as a bank, chooses to close its own loans, it must register as a closer.

Standards for Housing Counseling

Counseling is required if

- A. In a purchase transaction, all borrowers are first time homebuyers
or
The borrower(s) are refinancing a primary residence,
and
- B. The loan is a mortgage that includes one or more of the following
 - 1) The loan permits interest-only payments
 - 2) The loan may result in negative amortization
 - 3) The total points and fees payable by the borrower at or before closing will exceed 5%
 - 4) The loan includes a prepayment penalty
 - 5) The loan is an adjustable rate mortgage which allows adjustments of the interest rate in the first three years.

One standard from group A and at least one standard from group B must be present or counseling will not be required.

Program Overview

A mortgage broker or loan originator takes a loan application and enters required information into the database. The database will first determine whether the property is exempt. If it is not exempt, the database will then determine if it will be necessary for the borrower(s) to obtain counseling.

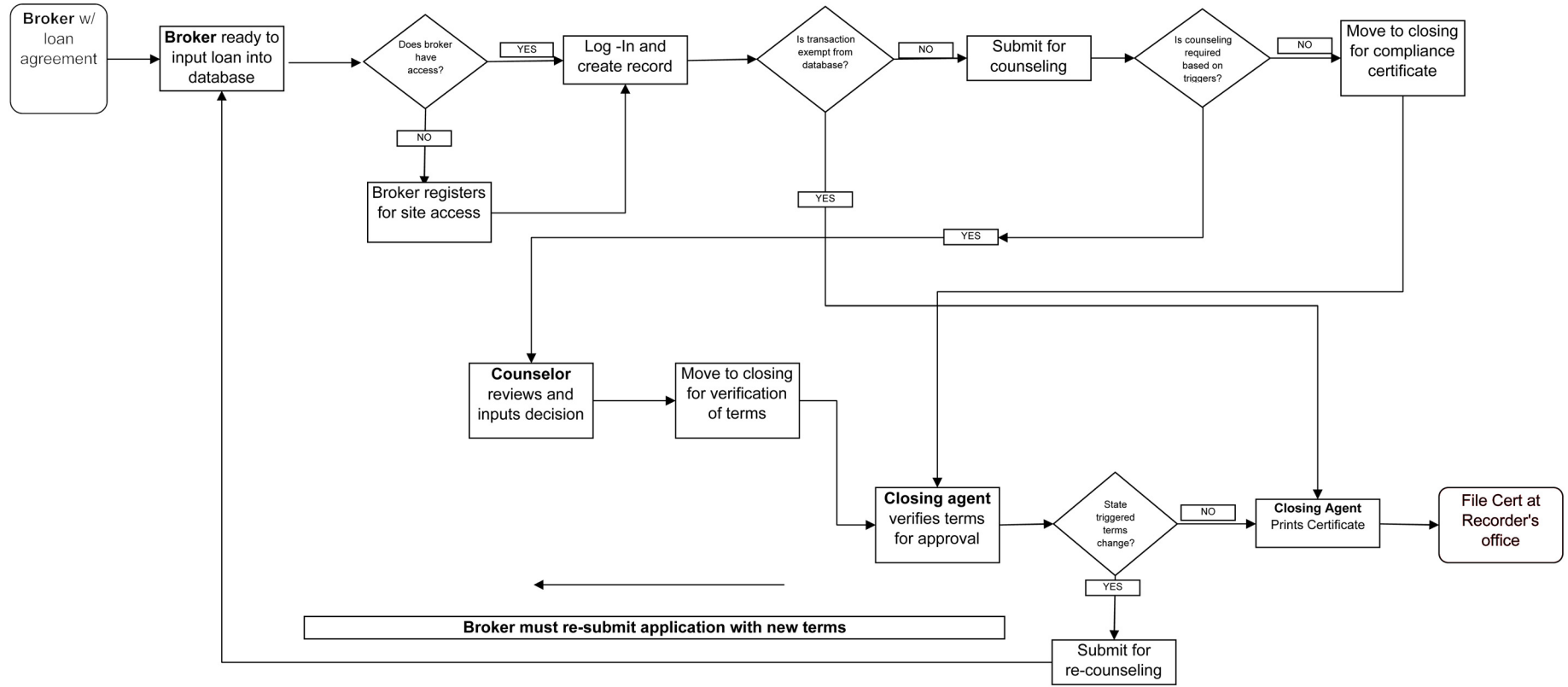
If counseling is not required, the loan may proceed to closing. If counseling is required, the borrower(s) will be notified and given a list of all participating counseling agencies.

The counselor will compare the information entered by the broker/originator with the borrower's loan documents and other information provided by the borrower and enter recommendations. Whatever the counselor's recommendation may be, the borrower will make the decision whether to proceed.

Unless the borrower chooses not to proceed, the loan now moves to closing. The closing agent will have access to the information needed to perform the closing function and will determine whether the loan being closed has similar characteristics to the loan entered by the broker/originator and counselor. If there has been no material change, as defined in the Act, the closing agent will mark the loan "ready to close." The closing agent may make non-material changes to correct errors. A Certificate of Compliance will issue upon closing. In the event that the closing agent discovers material changes in the loan terms such that would meet another standard for counseling the loan cannot close and re-counseling will be required.

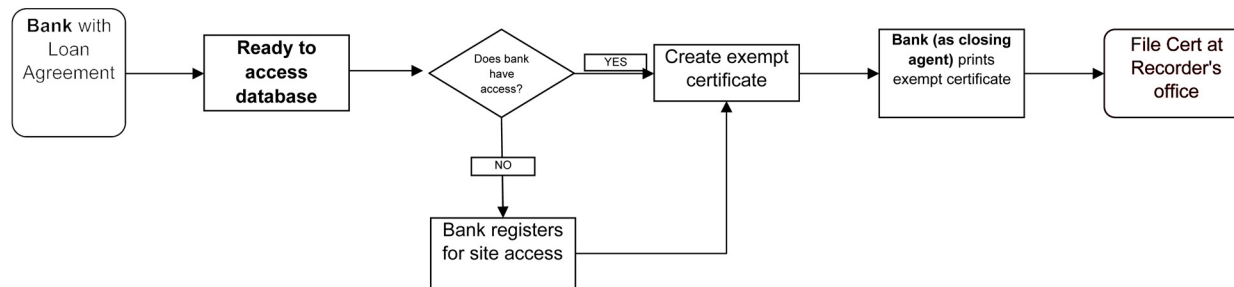
SB 1167 High Level Process Mapping

1. Broker Process



2. Bank as Closing Agent

(ONLY NEEDED IF BANK IS CLOSING OWN LOANS)



Note: Banks are exempt from database entry, the above process is only to be used if a bank is originating and closing their own loans. Must be registered as a closing agent to create/print exempt certificates.