



3 Hour Predatory Lending and
Mortgage Fraud
VREB Approval #: 58070

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Instructions for 3 Hour Predatory Lending & Mortgage Fraud Correspondence Course

You have chosen to take the 3 hour Predatory Lending & Mortgage Fraud course by correspondence. You may either read it online or print it. After you complete each section, take the quiz. A blank answer sheet is provided for you on the second to last page of this packet; please record your answers there. **You must answer the questions for both sections.** The Virginia Real Estate Board requires a passing grade of 75% or higher.

Complete the Certification Sheet. **Have the Student Declaration notarized.** The Virginia Real Estate Board has given you the option of either sending the notarized affidavit to us or keeping it with your records.

Mail, fax, or scan and email the completed answer sheet, certification sheet and Student Declaration to us. Our mailing address is Box 494, Oakton, Virginia 22124. Our fax number is 703-758-0044. Our email address is info@PotomacRESchool.com.

Your information will be held in the strictest of confidence.

You will not be charged unless you pass the exam. If you do not pass, you will be notified immediately.

Once we have received the required paperwork from you and you have been charged, we will report your hours to DPOR and email your certificate to you. The Real Estate Board requires that we report your hours to DPOR within 5 days of receipt of your paperwork. If you need reporting in less than 5 days, please let us know.

If you have any questions, please call or email us. Our phone number is 703-758-0034. For questions of a general nature, you can call or email us at info@PotomacRESchool.com. If you have questions about the content of the course, you can call or email me at patti@PotomacRESchool.com.

Thank you.

Patti Chapell

Patti Chapell
Director

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Predatory Lending

1 - Responsible Lending

- According to NAR, in testimony before the U.S. Senate Committee on Banking, Housing and Urban Affairs, abusive and predatory lending practices are putting our nation's communities at risk. These practices can cause more families to lose their homes and savings through higher foreclosure rates.
 - All Realtors should seek to prevent abusive lending because abusive lending erodes confidence in the Nation's housing system
 - Not all sub-prime lending is predatory or abusive, and NAR supports federal legislation and regulation that prevents predatory lending while maintaining a role for responsible sub-prime lending.
- What are responsible lending principles?
 - NAR supports the general principle that all mortgage originators should act in "good faith and with fair dealings" in a transaction and treat all parties honestly.
 - Affordability
 - NAR supports strong underwriting standards that require all mortgage originators to verify the borrower's ability to repay the loan based on all its terms, including taxes and insurance, without having to refinance or sell the home.
 - Underwriting Sub-prime Loans with "Teaser Rates"
 - Some sub-prime loans are structured with a significant jump in monthly payments often resulting in "payment shock" for the borrower. While these mortgages may be a reasonable choice for sub-prime borrowers who can afford them, a majority of sub-prime borrowers do not understand the unique terms and conditions of these risky mortgage products that can result in a significant "payment shock." Therefore, lenders (including mortgage brokers) should exercise more caution when underwriting such loans to sub-prime borrowers to make sure the borrower is able to afford the mortgage. Examples of these risky mortgage products include loans with a short-term interest "teaser" rate for the first two or three years (known as 2/28s and 3/27s), loans with an initial interest-only period and mortgages that negatively amortize.
 - Reasonable debt-to-income ratio
 - NAR supports requiring lenders to make sub-prime loans that have a reasonable debt-to-income ratio. Borrowers should have enough residual income after making their monthly mortgage payment, including taxes and insurance, to meet their needs for food, utilities, clothing, transportation, work-related expenses and other essentials. Requiring underwriting at a fully amortizing, fully indexed rate is meaningless if the lender uses such high debt-to-income ratios that the family doesn't have enough income remaining to pay for other necessities.
 - Escrow/Reserve for payment of taxes and insurance

- Lenders that make sub-prime mortgage loans should generally require that the monthly payment include an amount to be held by the mortgage servicer in an escrow/reserve/impound account for the payment of the borrower's periodic payments, such as taxes and insurance. Similar to the exception for prime loans in some jurisdictions, borrowers that make at least a 20 percent down payment should have the option to budget for these payments independently.
- Limit Stated Income/Stated Assets Underwriting
 - Because mortgages underwritten based on "stated income" and/or "stated assets" (also known as "no income verification" or "no doc" loans) typically have higher rates, lenders making sub-prime loans should, as a general rule, underwrite loans based on verified income and assets. The main exception should be for borrowers whose incomes derive from hard-to-verify sources (such as self-employed borrowers).
- Flexibility for Life Circumstances
 - NAR believes that a standard for determining a borrower's ability to repay must be flexible to accommodate borrowers with unique circumstances, such as
 - Borrowers who have demonstrated the ability to make monthly payments over a long term, that are higher than underwriting standards would otherwise allow. Lenders should consider, for example, the borrower's history of making rent and student loan payments.
 - Borrowers with high assets but low income who, for cash management or other financial planning reasons, elect a mortgage with a monthly payment that their current income is not sufficient to cover.
 - Borrowers who anticipate a jump in income or assets due to life events such as graduation, completion of professional training, completion of payment obligations for student or car loans, another member of the household entering the work force when young children start school or an inheritance.
- Anti-Mortgage Flipping Policy
 - NAR supports an anti-mortgage flipping rule requiring mortgage originators making or arranging for a loan that refinances an existing residential mortgage, to verify that the new loan provides a significant benefit to the borrower. The lender should consider the circumstances of the borrower and all terms of the new loan including taxes and insurance, fees and other costs of refinance, prepayment penalties and the new interest rate compared to that of the refinanced loan.
- Bar Prepayment Penalties
 - NAR opposes prepayment penalties for all mortgages. Prepayment penalties often work to trap borrowers in loans they cannot afford by making it too expensive to refinance. If complete prohibition of prepayment penalties is not feasible, NAR supports permitting prepayment penalties for the shortest time and the lowest amount possible. For example, a borrower in a 2/28 mortgage should be able to refinance by the end of the initial two-year "teaser" rate period without having to pay a prepayment penalty.
- Improvements for Assessing Creditworthiness
 - Borrowers with little or no credit history, as traditionally measured, usually have lower credit scores and must pay more every month for their mortgage than those with higher scores. NAR supports ongoing efforts to take into account consumer payment history not typically

considered, such as rent, utility, telephone and other regular payments and urges HUD, the regulators, the GSEs (government-sponsored enterprises), and lenders to work to strengthen these efforts. Use of alternative credit approaches will be especially beneficial for low- and moderate- income first-time homebuyers and borrowers with problematic loans that need to refinance their mortgage to avoid foreclosure.

- Another public policy issue associated with credit histories is the failure of furnishers to report good payment histories to the consumer reporting agencies. NAR has heard reports that many problematic sub-prime lenders purposefully withhold information on timely mortgage payments from the credit bureaus in order to prevent their customer from refinancing with another lender. The result is obvious – the borrowers with no positive payment histories for their sub-prime loan keep treading the waters of high-interest rates and expensive credit products. NAR supports requiring all institutional mortgage lenders, or the mortgage servicers acting on their behalf, to report payment history of all borrowers to at least the three national credit bureaus on a monthly basis.

2 - Responsible Lending

- Mortgage Choice for Borrowers
 - NAR supports requiring mortgage originators to offer borrowers one or more mortgages with interest rates and other fees that appropriately reflect the borrower's credit risk. It remains the responsibility of borrowers to decide which is the best mortgage for their needs and circumstances, but they may only do so if they understand all the facts so they can make an informed decision. For originators who offer nontraditional mortgage products, the originator should
 - Offer all borrowers a choice of several significantly different mortgage options
 - Include at least one traditional loan product as one of the options for the borrower to consider, if the borrower qualifies for such a product offered by the originator and,
 - Before application acceptance, disclose information about the maximum potential payment over the life of the loan and the date the initial payment will increase to a fully amortizing, fully indexed payment amount.
 - For sub-prime borrowers, originators that offer FHA insured mortgages or VA home loan guaranty mortgages, should consider whether these types of mortgages should be offered as an appropriate option
 - If the originator does not offer mortgages with rates and fees appropriate for the borrower's credit risk, the originator should inform the borrower a lower interest rate may be available from another originator or that the borrower may wish to seek housing counseling to allow the borrower an opportunity to shop elsewhere or receive counseling before proceeding.
 - For loans originated by a mortgage broker, the broker should offer mortgage options that are among the lowest-cost products appropriate for the borrower.
- Enforcement/Remedies

- NAR supports enactment of strong remedies and penalties for abusive acts by mortgage originators. Among the options for consideration are
 - Criminal penalties similar to those under RESPA
 - Civil penalties similar to those under RESPA
 - Prohibition of mandatory arbitration clauses that bar victims' access to court
- Improved Consumer Mortgage Disclosures
 - Lenders have a responsibility to ensure that consumers understand the loans they receive, including their terms and all costs. Consistent with this principle, NAR recommends that HUD improve consumer disclosures under the Real Estate Settlement Procedures Act (RESPA). In particular, NAR believes that consumers should receive a Summary GFE (Good Faith Estimate), accompanied by a detailed GFE with explanations for each subcategory of fees to help consumers more fully understand the services they are receiving and the cost of each service. The revised GFE should closely parallel the HUD-1 settlement form so consumers can compare the GFE they receive when they apply for a loan to their closing documents at settlement.
- Strengthen Appraiser Independence
 - NAR believes that the independence of appraisers should be strengthened to ensure that appraisals are based on sound and fair appraisal principles and are accurate. There are reports that appraisers have been pressured to meet targeted values or risk losing business. Appraisal pressure undermines the integrity of the mortgage lending process if the result is a mortgage loan made based on an inaccurate property valuation. NAR recommends the following measures to strengthen the appraisal process:
 - Require lenders to inform each borrower of the method used to value the property and give the borrower the right to receive a copy of each appraisal
 - Establish enhanced penalties against those who improperly influence the appraisal process. Those with an interest in the outcome of an appraisal should only request the appraiser to
 - consider additional information about the property
 - provide further detail, substantiation or explanation for the appraisal and
 - correct errors
 - Provide federal assistance to states to strengthen regulatory and enforcement activities related to appraisals
 - Support enhanced education and qualifications for appraisers

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3 – Predatory Lending

- What are “prime” and “sub-prime” loans?
 - Until fairly recently, only a borrower with good credit could purchase a home. Those with poor credit were prevented from obtaining a loan. Loans to these creditworthy borrowers were called “prime” loans.
 - In recent years, some lenders decided to take on those with poor credit and offer them “sub-prime” loans. Borrowers obtaining sub-prime loans posed more of a risk to lenders; therefore, measures were taken to compensate the lenders of these loans for the added risk taken.
 - Usually the interest rate was higher than that for a prime loan.

- Pre-payment penalties were stiffer.
 - In some, interest rates fluctuated more frequently.
- What is predatory lending?
 - According to the Federal Trade Commission, a predatory loan is “an unsuitable loan with abusive terms.” NAR lists nine possible warning signs that may indicate an abusive loan:
 - Interest rates or fees that are much higher than the local market average
 - Balloon payments or payments that will greatly increase over the life of the loan
 - A balloon payment is a loan with periodic payments that are not enough to fully amortize the loan by the time the final payment is due; therefore, the final payment is larger than the others.
 - Pre-payment penalties or other barriers to refinancing
 - “No down payment” loans
 - Short “Introductory Rate” periods
 - Inflated property appraisal
 - Offers to lend more money than the borrower has the ability to repay
 - Fees for nonexistent products or services (“junk fees”)
 - Unethical loan document management
- Who is affected by predatory lending?
 - Usually, first-time homebuyers
 - Borrowers refinancing on the verge of losing their homes
 - Elderly
 - Minorities
 - Immigrants
 - Individuals with Low Credit Scores
 - Low income buyers
 - Predatory lenders target certain groups of people and use pressure tactics to force borrowing decisions that are not in the best interest of those people.
- What has precipitated predatory lending?
 - Appreciation in the price of homes has brought about these abusive loans in an effort to get people into houses they cannot afford.
- FBI tips to protect the consumer from becoming a victim of predatory lending
 - Before purchasing a home, the consumer should research information about prices of homes in the neighborhood.
 - The purchaser should shop for a lender and compare costs. He also needs to beware of lenders who tell him that they are his only chance of getting a loan or owning his own home.
 - The consumer should beware of “No Money Down” loans. This is a gimmick used to entice consumers to purchase property that they likely cannot afford or are not qualified to purchase. The consumer should be wary of the mortgage professional who falsely alters information to qualify him for the loan.
 - The consumer should not let anyone convince him to borrow more money than he can afford to repay.
 - The consumer should not let anyone persuade him into making a false statement such as overstating his income, the source of his down payment or the nature and length of his employment.
 - The consumer should never sign a blank document or a document containing blanks.
 - The consumer should read and carefully review all loan documents signed at closing or prior to closing for accuracy, completeness and omissions.
 - The consumer should be aware of cost or loan terms at closing that are not what he agreed to.
 - The consumer should not sign anything he does not understand.

- If it sounds too good to be true, it probably is.
- How can we, as Realtors, help prevent predatory lending?
 - Recognize the warning signs.
 - Educate our buyers about the mortgage lending process.
 - Ensure that our clients fully understand all aspects of the home buying process.
 - In some cases, refer our buyers to a financial advisor or counseling organization.
 - Share resources, such as the following, with our buyers:
 - Freddie Mac – “Don’t Borrow Trouble” campaign
http://www.dontborrowtrouble.com/en/anti_predatory.html
 - National Community Reinvestment Coalition – Anti-Predatory Lending Toolkit:
<http://www.ncrc.org/policy/predatoryLending.php>
 - My Money – the Federal Government’s Website with links to many sites, including those on the following subjects: Budgeting and Taxes, Credit, Financial Planning and Homeownership.
www.MyMoney.gov
 - HUD’s Website – a wealth of information about home buying
www.hud.gov/buying/index.cfm
 - Freddie Mac’s Credit Smart Program – helps consumers understand, build, and maintain better credit
www.freddiemac.com/creditsmart
 - FDIC’s Money Smart Program – “a training program to help adults outside the financial mainstream enhance their money skills and create positive banking relationships”
www.fdic.gov/consumers/moneysmart/overview.html
 - Credit-Power – targets students and contains information about credit and homeownership
www.credit-power.org/default_eng.asp
 - A brochure, “Shopping for a Mortgage? Do Your Homework First,” produced jointly by NAR and the Center for Responsible Lending, identifies the warning signs of predatory loans. It outlines interest-only mortgages, negative amortization mortgages and option payment ARM mortgages. It also gives consumers tips on how to avoid these loans, and includes questions consumers should ask when shopping for a mortgage. Questions include
 - “How much can my monthly payments increase, and how soon can these increases happen?”
 - “Do I expect my income to increase, or do I expect to move before my payments go up?”
 - “Will I be able to afford the mortgage when the payments increase?”
 - “Am I paying down my loan balance each month, or is it staying the same or even increasing?”
 - “Will I have to pay a penalty if I refinance my mortgage or sell my house?”
 - “What is my goal in buying this property? Am I considering a riskier mortgage to buy a more expensive house than I can realistically afford?”
 - Anyone can get a copy of this brochure by going to
<http://www.coloproperty.com/links/specialtymortgage.pdf>

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- The Homeownership Preservation Foundation is a non-profit group that offers free counseling for victims of predatory mortgage lending. It can be contacted at 1-888-995-HOPE.
- On July 11, 2007, the NAACP filed a Federal class action lawsuit against fourteen of the country's largest sub-prime mortgage lenders.
 - This lawsuit is designed to bring about equitable lending practices that do not adversely affect borrowers based on their race.
 - In a 2006 study, the Center for Responsible Lending found that when creditworthiness and credit risk were equal, African-Americans were still 31 percent to 34 percent more likely to receive higher rates and more expensive sub-prime loans than Caucasians.
 - The National Community Reinvestment Coalition revealed that lenders on average made high-cost sub-prime loans to higher-qualified African-Americans 54% of the time, compared to 23% of the time for Caucasians, even when the Caucasian applicants were less qualified.
 - These and other studies demonstrate that African-American homeowners are paying higher mortgage interest rates than their Caucasian counterparts.
- The Mortgage Bankers Association reported that at least 1.3 million home mortgage loans were either seriously delinquent or in foreclosure at the end of September, 2007.
- Deal brokered with mortgage industry in December of 2007
 - Froze certain sub-prime loans – those offered to borrowers with weak credit histories – for five years if the borrowers could not afford the higher monthly payments as those loans adjusted after being at lower introductory rates
- Project Lifeline
 - Announced February 12, 2008
 - Program was put together by six of the nation's largest financial institutions, which service almost 50 percent of the nation's mortgages.
 - Homeowners who are 90 or more days overdue on their monthly mortgage payments would be able to put the foreclosure process on hold for 30 days while they attempt to work with the lenders to make their mortgages more affordable.
 - The group, calling themselves the "Hope Now Alliance," are comprised of the following banks:
 - Bank of America Corporation
 - Citigroup, Inc.
 - Countrywide Financial Corporation
 - J.P. Morgan Chase and Company
 - Washington Mutual, Inc.
 - Wells Fargo & Company
- Predatory Lending Legislation
 - Congress and many individual states have passed and are continuing to pass legislation to fight predatory lending.

Predatory Lending Final Quiz

1. Prevention of predatory lending is in the best interest of
 - a. Realtors
 - b. The public
 - c. Both a and b
 - d. Neither a nor b

2. Would a predatory loan be one which a consumer cannot afford?
 - a. Probably
 - b. No
3. The current housing crisis can be blamed on
 - a. Predatory lending
 - b. High rate of foreclosures
 - c. Shortage of building materials
 - d. a and b
4. All might be examples of predatory lending except
 - a. No documentation loan
 - b. 30 year fixed rate loan
 - c. No down payment loan
 - d. Loan with balloon payment coming after first two years
5. What is sub-prime lending?
 - a. Extending a loan whose rate is at least 5 points below prime.
 - b. Lending to high risk borrowers.
 - c. A loan that is available only to people who make over \$200,000 annually.
 - d. All of the above
6. Loan flipping is the practice of
 - a. Selling your home after the first month
 - b. Lowering the interest rate on a loan
 - c. Repeatedly refinancing a loan, often in the favor of the lender.
 - d. None of the above
7. What is a balloon payment loan?
 - a. A loan in which the required payments do not exceed the interest charged, often resulting in a large payment of the entire principal at the end of the loan term
 - b. The practice of adding extra charges, such as unemployment insurance, to the principal of a loan in order to increase the interest accrued
 - c. A special offer where the lending institution gives out promotional balloons to your children every time you refinance a loan
 - d. a and b
8. Which of these are warning signs of a predatory lending deal?
 - a. The lender tells you to misrepresent or falsify information on your loan application.
 - b. The lender pressures you into applying for more money than you need.
 - c. The lender fails to provide required loan disclosures or tells you not to read them.
 - d. All of the above
9. Why do sub-prime loans have higher interest rates than prime loans?
 - a. They are better loans.
 - b. Mortgage companies don't like them.
 - c. Both a and b
 - d. They are riskier loans; the higher interest rates help compensate the lender for the added risk.
10. Who would probably not be affected by predatory lending?
 - a. Middle-aged couples with a large down payment

- b. Immigrants
 - c. First-time homebuyers
 - d. Minorities
11. NAR is in favor of
- a. Barring pre-payment penalties
 - b. Eliminating the use of the HUD-1
 - c. Eliminating use of the Good Faith Estimate
 - d. None of the above
12. What is a pre-payment penalty?
- a. Extra fees that may be due if you pay off a loan early
 - b. Extra fees charged to sub-prime loans before the loan is approved
 - c. Another term for the points on a mortgage
 - d. None of the above
13. Why should the payment history of rent, utility and telephone bills be considered as part of certain borrower's credit history?
- a. Prompt payment of telephone bills is not essential
 - b. Some borrowers have lower than desirable credit scores just because they have little credit history
 - c. Both a and b
 - d. None of the above
14. What is the result of mortgage companies not reporting good payment histories to the consumer reporting agencies?
- a. Those with sub-prime loans can never refinance with a more favorable loan product
 - b. Those with sub-prime loans cannot raise their credit scores
 - c. Both a and b
15. For originators who offer nontraditional mortgages, the originator should
- a. Offer all borrowers a choice of several significantly different mortgage options.
 - b. Offer just one mortgage product
 - c. Always offer an FHA product
 - d. None of the above
16. If the loan originator does not offer mortgages with rates and fees appropriate for the borrower's credit risk, he should
- a. Offer the borrower one of his best products
 - b. Tell the borrower that he will not qualify for any type of mortgage.
 - c. Inform the borrower that a lower interest rate may be available from another originator.
 - d. None of the above
17. NAR supports enactment of strong remedies and penalties for abusive acts by mortgage originators. Among options for consideration are
- a. Civil penalties similar to those under RESPA
 - b. Criminal penalties similar to those under RESPA
 - c. Prohibition of mandatory arbitration clauses that bar victims' access to court
 - d. All of the above

Mortgage Fraud

Part 1 – What is Mortgage Fraud?

- What is mortgage fraud?
 - Mortgage fraud, according to the FBI, is “any material misstatement, misrepresentation or omission relied upon by an underwriter or lender to fund, purchase or insure a loan.”
 - Mortgage fraud is not the same thing as predatory lending. Mortgage fraud is when one or more individuals defraud a financial institution; predatory lending is when a dishonest financial institution willfully misleads or deceives the consumer.
 - Mortgage fraud may be perpetrated by one or more participants in a loan transaction, including the borrower, a loan officer who originates the mortgage, a real estate agent, appraiser, title representative or attorney or by multiple parties as in a fraud ring described below.
 - The mortgage industry estimates that 10 – 15 percent of the mortgage loans processed annually involve some type of fraud.
- There are two types of fraud.
 - Fraud for the home
 - According to the FBI’s “Financial Crimes Report To The Public Fiscal Year 2006,” 20 percent of today’s mortgage fraud stems from a home buyer lying about income, debt or other information in order to buy a home.
 - This involves the purchaser falsifying the loan application in order to buy a home that he cannot afford.
 - By inflating the income or omitting debt on the application, the purchaser can buy a more expensive home.
 - Typically, these buyers are sub-prime borrowers and don’t plan to default. Whether they are investors or homeowners, their intention is not to walk away with cash but to get a roof over their or someone else’s head. Sometimes real estate agents coach these purchasers to fill out the applications not according to the truth but according to what the banks want to see.
 - Fraud for profit
 - 80 percent of all mortgage fraud involves fraud for profit.
 - This typically involves a number of professionals who conspire to inflate the price of the home, such as an appraiser, a mortgage broker, an outside investor and straw buyer, real estate agent, title company representatives and even representatives of the lenders.
 - Fraud for profit is also called “Industry Insider Fraud”.
 - This type of fraud is committed by the real estate professionals and involve making loans and reselling them, knowing that the purchaser of the loan might never be repaid.
 - A study by BasePoint Analytics, a fraud research company, provides evidence that fraud for profit is widespread. The study showed that 70% of “early payment defaults” or non-payments at the beginning of the mortgage term, could be traced to loan applications with significant misrepresentations.
 - In an especially hard hit region, the Southwest, experts claim that the biggest scam has involved cash back schemes where the price of homes has been artificially inflated in order to give cash back to purchasers.
 - Some of those charged with mortgage fraud try to hide behind the push for greater home ownership, claiming that they are just helping people get into homes.

Part 2 – Examples of Mortgage Fraud

- What are some examples of mortgage fraud?
 - Undisclosed kickbacks
 - When a seller gives money to a buyer for repairs that are not part of the sales contract, fraud is committed. The buyer and seller or the buyer and real estate agent collude to deceive the lender as to the true sales price of a property. The seller or the real estate agent gives the buyer a cash rebate which is not disclosed to the lender. As a result, the lender lends too much, and the buyer and/or seller pocket the overage.
 - All exchanges of money need to be approved by the lender and need to be on the HUD-1.
 - Foreclosure schemes
 - Homeowners who are in default are targeted by unscrupulous individuals who claim that the homeowners can save the house in exchange for a transfer of the deed and upfront fees.
 - Purchase loans disguised as refinance
 - Purchase loans that are disguised as refinances require less documentation and lender scrutiny.
 - Silent second mortgage
 - A silent second is a second mortgage given the purchaser by the seller, used as the purchaser's down payment, and hidden from the lender.
 - Falsifying employment income occurs
 - Anytime that a purchaser inflates his income, whether he is self-employed or employed. This often occurs in "stated income" or low doc or no doc loans, which do not require verification. In some cases, the borrower alters an employer-issued W-2 to overstate income.
 - Failure to disclose liabilities
 - Some borrowers may conceal other mortgages or recent additional credit card debt in order to obtain larger loans.
 - Occupancy fraud
 - This occurs when an investor is purchasing a property and claiming on the sales contract and loan application that he is planning to occupy the property. This is done to obtain a loan with more lenient down payment guidelines and lower interest. The lender is defrauded because he is making a riskier loan and is not being compensated for the additional risk.
 - Mortgage fraud rings
 - Multiple parties are involved in financially motivated attempts to defraud lenders of large sums of money.
 - Some schemes involve a straw borrower whose credit report is used, a dishonest appraiser who intentionally and significantly overstates the value of the subject property, a dishonest attorney who prepares two sets of HUD closing documents and a property owner, all in a coordinated attempt to obtain an inappropriately large loan. If undetected, a bank may lend hundreds of thousands of dollars against a property that is actually worth far less. The parties involved split the illegal gains and disappear without making one payment on the mortgage.
 - Shotgunning
 - There are two types of shotgunning
 - When a person simultaneously takes out multiple loans with different lenders for the same home, he is shotgunning. Typically

- after committing the mortgage fraud, the person leaves the country.
 - Shotgunning also takes place when there are multiple sales of the same house.
- Air Loans
 - Air loans are non-existent property loans where there is no collateral. The property is fictitious.
- Identity Theft occurs
 - When a person assumes the identity of a homeowner and takes out a mortgage on his property. Sometimes this is part of a mortgage fraud ring where a seller assumes the identity of the home owner, and a buyer who seeks the mortgage to buy the house, both of whom are using false identities, share the illegal gains and disappear without making payments on the mortgage.
- Nominee Loans/Straw Buyers
 - The true borrower is concealed through the use of this “nominee” or “straw buyer,” who allows the borrower to use the person’s name and credit history to apply for a loan.
- The purchaser receives a gift he plans to repay for the down payment.
 - A gift letter states that there is no intent on the recipient’s part to repay the loan and the giver of the loan does not expect re-payment. When the agreement between giver and recipient is that the recipient will repay the loan, but the gift letter says otherwise, this is loan fraud.
- Inflated purchase price is
 - When there are two sales contracts for the same property and the agent sends the higher, false one to the lender in hopes of obtaining a better appraisal.
- Property flips
 - The property is purchased, falsely appraised at a higher value, and then quickly resold.
- Appraisal fraud
 - If a home’s appraised value is deliberately overstated, more money can be obtained by the borrower in the form of a cash-out refinance or obtained by the seller in a purchase transaction. A dishonest appraiser may inflate the value, or someone with knowledge of graphic editing tools such as Adobe Photoshop can alter an appraisal. In many cases of mortgage fraud, the appraisal is involved.
 - Studies show that more than 50% of appraisers say they have been pressured to overstate property values.
 - Even fairly honest lenders will use a “special appraiser” who they know will bring in a higher appraisal than their “honest appraiser.”

Part 3 – Remedies and Reasons

- What should the consumer or agent do if he suspects mortgage fraud?
 - If the consumer is approached by a real estate professional who asks him to become part of a mortgage fraud scheme, he should report the person to the FBI.
 - Federal Bureau of Investigation (FBI)
935 Pennsylvania Avenue, NW
Washington, D.C. 20535
202-324-3000
<http://www.fbi.gov/whitecollarcrime.htm>
 - OR
 - Contact the FTC

- The Federal Trade Commission (FTC)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580
Identity Theft Clearinghouse: 877-438-4338
Consumer Response Center: 877-382-4357
<http://www.ftc.gov> or
<http://www.ftc.gov/bcp/edu/microsites/idtheft/>
- OR
- Talk to a reputable real estate lawyer or the state licensing authority.
- OR
- Contact the Mortgage Bankers Association's (MBA) website dedicated to stopping and reporting mortgage fraud at
www.stopmortgagefraud.com
800-348-3931
- Why is mortgage fraud so prevalent?
 - A recent study by Demos, a research firm in New York City, states that Americans have more debt now than ever. They have been taking equity out of their homes in record amounts to consolidate debt, and Americans actually own less of their homes today than thirty years ago. This climate (frequent refinancing) depends heavily on a continuing appreciating real estate market. In the current declining market, many homeowners have taken on mortgages that exceed the true market value of their homes, thanks to appraisal fraud. The report asserts that mortgage fraud exists because the financial incentives of those involved in the mortgage loan process often work against the very idea of securing an honest appraisal.
 - Since loan officers are paid on a commission basis, their livelihood depends upon having loans close without problems.
 - In the refinancing situation, the appraisal must come in at a certain level in order for the refinancing to occur. Therefore and ironically, the lender's own rules contribute to the necessity to hit a dollar figure with the appraisal.
 - Loan originators don't really care if the loan defaults since most loans are sold to the secondary market and are not held by the institution at which the loan officer is employed.
 - The livelihoods of appraisers depend upon a steady flow of work from lenders. If an appraiser has a practice of bringing in low appraisals, he will soon find himself out of business.
 - Consumers often think only of the short-term when purchasing or refinancing. They want the house, or they want the money from the refinance. They don't think in the long term about the possibility of being, at some point, "upside down" with a loan balance that is higher than the value of the house.
 - Appraisers agreed to inflate property value since the market was appreciating.
 - Agents wrote offers with increasing amounts of cash back.
 - Mortgage lenders told borrowers that they would get the loan for them no matter what.
 - During the housing boom, "no documentation" mortgages grew in popularity, because, as home prices rose, qualifying for a traditional mortgage became more and more difficult.
 - Also, during the hot sellers' market, relaxed underwriting standards were introduced to give previously underserved consumers a better shot at home ownership. However, this easy money allowed too many loans to go to purchasers who could not afford them.
 - In some cases, sub-prime mortgage fees can be as much as a third of the value of the home.
 - The strong seller's market caused an increased reliance by both financial institutional and non-financial institutional lenders on third-party brokers.

- A significant portion of the mortgage industry is void of any mandatory fraud reporting.
- Who is involved in mortgage fraud?
 - The perpetrators of mortgage fraud span the entire spectrum from the innocent consumer to organized crime.
 - The FBI states that, based on existing investigations and mortgage fraud reporting, 80 percent of all reported fraud losses involve collaboration or collusion by industry insiders.
- What are the consequences of mortgage fraud?
 - Mortgage fraud is a prosecutable crime and is against the law.
 - Fines and prison sentences are stiff. According to the FBI, sentences can be up to 30 years and fines up to one million dollars or both.
 - If the lender subsequently discovers that any part of the consumer's loan application is false, he can demand immediate full payment of the loan.
 - When homes were appreciating, homeowners with unaffordable mortgage payments could either refinance or sell their homes, often at a profit, so these fraudulent scams went unnoticed.
 - Everything came crashing down when the market turned. Foreclosures, bankruptcies and short sales have been the result.
 - When applications inflate income and/or omit debt, this is a recipe for default.
 - These foreclosures, bankruptcies and short sales have contributed to a decline in the nation's median home price and forced contractors out of work.
- What is being done about mortgage fraud?
 - Unfortunately, during the hot real estate market, rising real estate covered up all of the illegal activities. Everyone was making money. Federal prosecutors claim that mortgage fraud has been around for years but has gone unnoticed.
 - The FBI is focusing its efforts on mortgage fraud schemes perpetrated by industry insiders. The FBI is identifying fraudulent trends within the mortgage industry and educating the public.
 - The U.S. Department of Housing and Urban Development (HUD) was the first agency to address flipping by establishing a rule stating that if a person receives an FHA home loan, they must own that house 90 days before reselling it.
 - The Veterans Administration (VA) now has the same rule.
 - HUD also will not allow someone to buy property and then resell it without going to settlement. Before this came about, agents were buying lease-purchase properties and then assigning their contracts to the new buyer of the home after flipping. HUD requires that in order to sell the property, the owner must have title to it first.
 - In 2007, Ohio passed a law that prohibits lenders from trying to influence appraisers. A common scam has been for purchasers borrowing more money than the home is worth.
 - New York, Baltimore and Cleveland are suing mortgage lenders for damages after a rash of foreclosures.
 - In a recent case, an attorney in Georgia was convicted of fraud and got 30 years in a federal penitentiary with no possibility of parole.

Part 4 – The Agent's Duty

- What are red flags that the real estate agent and consumer should look for?
 - The listing agent is asked to raise the list price in the computer after the sales contract has been ratified.
 - The buyer requests a specific appraiser.

- The mortgage broker tells the agent not to send a contract amendment to him.
- Hyped Appraisals
 - When the buyer is willing to pay more than the appraised value of the house, there may be a mortgage scam unfolding.
 - During the hot seller's market, it was difficult for lenders to spot appraisals that were higher than the value of the properties; however, with the cooling of the market, these inflated appraisals are easier to recognize.
- The property has been on the market for a long time but sells for significantly more than the list price.
- Bogus Fees
 - Mortgage fraud does not always involve millions or even thousands of dollars. It can simply be a matter of padding the paperwork. The real estate agent and the principals to the transaction should carefully review the pre-settlement HUD-1 and then compare it to the HUD-1 that is presented at settlement.
- No Name Vendors
 - Real estate sales associates should be careful to work only with reputable vendors. They should check these people out and get a referral from a trusted colleague.
- The agent's Instincts are Screaming at him that Something is Wrong
 - When the agent mentions it, those who are perpetrating the questionable act tell the agent that it's fine and that it is standard practice.
- The agent needs to make sure that the true facts of a transaction are reflected in the contract (with all its amendments) and on the HUD-1.
- FBI tips to protect the consumer from becoming a victim of mortgage fraud
 - Get referrals for real estate and mortgage professionals. Check the licenses of the industry professionals with state, county or city regulatory agencies.
 - If it sounds too good to be true, it probably is. An outrageous promise of extraordinary profit in a short period of time signals a problem.
 - Be wary of strangers and unsolicited contacts, as well as high-pressure sales techniques.
 - Look at written information to include recent comparable sales in the area, and other documents such as tax assessments to verify the value of the property.
 - The consumer needs to understand what he is signing and agreeing to--If he does not understand, he needs to re-read the documents or seek assistance from an attorney.
 - The consumer needs to make sure that the name on the application matches his name.
 - The consumer should review the title history to determine if the property has been sold multiple times within a short period--It could mean that this property has been "flipped" and the value falsely inflated.
 - The consumer needs to know and understand the terms of his mortgage and should check the information against the information in the loan documents to ensure they are accurate and complete.
 - The consumer should never sign any loan documents that contain blanks--This leaves him vulnerable to fraud.
 - The consumer should check out the tips on the Mortgage Bankers Association's (MBA) website at <http://www.StopMortgageFraud.com> for additional advice on avoiding mortgage fraud.
 - The consumer should beware of e-mails or web-based advertisements that promote the elimination of mortgage loans, credit card and other debts while requesting an up-front fee to prepare documents to satisfy the debt. The documents are typically entitled Declaration of Voidance, Bond for Discharge of

Debt, Bill of Exchange, Due Bill, Redemption Certificate or other similar variations. These documents do not achieve what they claim.

- There is no magic cure-all to relieve a person of debts incurred.
- Borrowers may end up paying thousands of dollars in fees without the elimination or reduction of any debt.
- Perpetrators mislead the homeowners into believing that they can save their homes in exchange for a transfer of the deed, usually in the form of a Quit-Claim Deed, and up-front fees. The perpetrator profits from these schemes by re-mortgaging the property or pocketing fees paid by the homeowner without preventing the foreclosure. The victim suffers the loss of the property as well as the up-front fees.
- The consumer should be aware of offers to "save" homeowners who are at risk of defaulting on loans or whose houses are already in foreclosure.
- The consumer should seek a qualified Credit Counselor or attorney to assist him in making some of the decisions.

Part 5 - Case Studies

➤ Case Studies

- A buyer has entered into a contract to purchase a property for \$200,000, but, after learning about a roof problem, asks for and gets a price concession of \$10,000 from the seller. At a \$190,000 sales price, the buyer might obtain a 90 percent loan-to-value mortgage for \$171,000 and bring approximately \$19,000 to close. However, the buyer has only \$10,000 in cash and needs to get a loan of \$180,000 to buy the property. The seller proposes a rebate plan to close the deal. On the sales contract, the seller will keep the price at \$200,000. In that way, the buyer will be able to borrow \$180,000 with a 90 percent loan. At closing, the seller rebates \$10,000 to the buyer. Aware that the lenders will probably treat the \$10,000 rebate as a price concession, the deal participants agree not to tell the lender about the rebate. That's fraud.
- A mortgage broker charges a borrower \$10,000 in points and fees (the charges are a disguise for fraud). The seller agrees to pay for those loan charges and discloses this payment to the lender. Unbeknownst to the lender, the mortgage broker then rebates the \$10,000 to the buyer outside of the closing. Again, this is fraud. Another example is that instead of the buyer bringing \$20,000 in cash to the closing, the seller agrees to carry a second mortgage for \$10,000. The seller discloses the second mortgage to the lender. However, the seller and buyer agree that the second mortgage will never be paid. Again, the buyer gets a loan based on an inflated price. Once more, it's fraud.
- One of the truisms about mortgage fraud is that if the seller's concession is shown on the HUD-1 settlement statement, there's no fraud. But that's true only if the description on the HUD-1 is accurate. Among the gimmicks used to create the illusion of disclosure is a debit from the seller's proceeds suggesting a charitable contribution by the seller or the payment of a debt owed by the seller. If the deducted money is being used to satisfy real debt of the seller or make a real contribution, then it's perfectly legal. But if the debit and payment to the third party are really a disguise to route money from the seller back to the buyer or other promoter of fraud, such as the mortgage broker, again, it's fraud.
Routing the payment through a so-called charitable organization

doesn't avoid the fraud because the stated contract price exaggerates the true price received by the seller.

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- In 2007, four people connected with a San Marcos Realty office pleaded guilty to charges that they illegally secured mortgages for financially unqualified consumers, thereby pocketing more than one million dollars in fraudulent commissions.
 - "Straw buyers," purchasers with higher credit scores and income, were substituted for less qualified buyers on mortgage applications.
 - Financial information was falsified on loan applications, indicating higher balances on bank statements.
 - Employment was falsified.
 - Bank statements, social security cards and other documents were falsified.
- Johnson Cuffy, a Florida real estate investor, bought a house in 2005 for \$245,000. Then, Cuffy obtained an inflated appraisal of \$340,000. Cuffy then recruited a straw buyer, Kervyn Harris. Then he arranged for Fremont Investment & Loan of California to lend Harris \$340,000. When the sale closed on December 30, 2005, Cuffy walked away \$95,000 richer. Cuffy divided the proceeds among his father, sister and the man who provided the straw buyer. The house went into foreclosure. The Florida Department of Financial Services' fraud division arrested all involved.
- REO FLIPWAGON (JACKSONVILLE): In December 2003, the FBI initiated a UCO to address the massive amount of mortgage fraud in the Jacksonville area. On September 16, 2004, as a result of this investigation, seven search warrants were executed, and two arrests were made. Mortgage broker J. R. Parker and closing attorney, Dale Beardsley, were arrested via complaint, charging them with bank fraud for their role in this alleged scheme.
- OPERATION CLEAN DEED (CHARLOTTE): In November 2002, an FBI UCO was initiated utilizing a cooperating witness to introduce undercover FBI Agents into seven organizations involved in a multimillion-dollar mortgage fraud ring. Investigation led to the identification of fraudulent loans which exposed financial institutions and mortgage companies to potential losses of \$130 million. On September 16, 2004, informations were filed in U.S. District Court, Western District of North Carolina, charging six individuals with bank fraud for their roles in a multimillion-dollar mortgage fraud.
- JAMES MCLEAN; PRESIDENT ET AL; FIRST BENEFICIAL MORTGAGE COMPANY - VICTIM (CHARLOTTE) A two-year joint investigation by the FBI, the Internal Revenue Service, and HUD-OIG revealed a fraud for profit scheme committed by several insiders of First Beneficial Mortgage Corporation. This two-year fraud was perpetrated against Fannie Mae and Ginnie Mae home loan programs resulting in losses exceeding \$30 million. Recently, the president of First Beneficial Mortgage Corporation and six others were convicted on conspiracy, bank fraud, wire fraud, and money laundering charges. The president was sentenced to 21 years in prison, ordered to pay \$23 million in restitution and forfeited about \$8 million in property.
- MAGGIE CUEVAS; FAG-HUD; FIF (LOS ANGELES) A joint investigation conducted by the Los Angeles FBI Office and HUD-OIG illustrated an extensive scheme in which fraudulent identification and employment documents were used to perpetrate mortgage frauds. The scheme was largely assisted by an individual who regularly manufactured false identity and income documents for a profit. This document forger created W-2s, pay stubs, credit letters and social

security printouts over an eight-year period. These documents were used by real estate professionals who knowingly submitted the falsified information to lending institutions. The loans were then insured by HUD and caused a loss to that agency of more than \$18 million. A search warrant executed during the investigation revealed more than 100 real estate professionals had ordered false documents in the past. To date, the document forger and six associates have been convicted in the scheme, as well as 14 real estate professionals.

- BRENT BARBER dba MIDTOWNE RESTORATION, L.L.C (KANSAS CITY) A two-year joint investigation conducted by the Kansas City FBI Office, IRS and HUD-OIG culminated on August 13, 2004 with the arrest of Brent Barber, real estate investor. Barber, along with his three business associates, was charged in U.S. District Court for their alleged roles in purchasing run-down properties, securing fraudulent appraisals and obtaining mortgages in the names of straw purchasers. It is alleged that the straw purchasers were paid \$2,000 for their role in the scheme whereby they placed properties in foreclosure, leaving Barber and his associates with the mortgage proceeds. This scenario was repeated approximately 300 times, resulting in losses to lending and financial institutions in excess of \$15 million.

Mortgage Fraud Final Quiz

1. Tom and Amy are purchasing a townhouse, which they plan to rent out. Which of Tom's following statements could indicate mortgage fraud?
 - a. "We'll probably have to put 10% or 20% down since this is an investment property."
 - b. "Let's fix it up before we put it on the market."
 - c. Both a and b
 - d. "We'll get a better interest rate if we say we're going to live in it."

2. Sally and John are purchasing a home in the Briarwood Subdivision. They love the home but have expressed concern about the condition of the carpet. They called the sellers and, during the conversation, the sellers indicated that they would be willing to commit mortgage fraud. Which of their statements indicate this?
 - a. "We'll give you a closing credit of \$2,000. Have your agent draw up an amendment to the contract and we'll sign it."
 - b. "We'll just give you a \$2,000 check for carpet outside of closing."
 - c. Both a and b
 - d. Neither a nor b

3. Does mortgage fraud always involve a lot of money?
 - a. Yes
 - b. No

4. Who is addressing the mortgage fraud epidemic?
 - a. HUD
 - b. VA
 - c. FBI
 - d. All of the above

5. Fraud for profit is
 - a. Fraud typically committed by the buyer
 - b. 20% of fraud committed
 - c. Fraud typically committed by real estate professionals.

- d. None of the above
6. How are mortgage fraud and predatory lending different?
- They're not. They're the same thing.
 - Mortgage fraud is when one or more individuals defraud a financial institution; predatory lending is when a dishonest financial institution willfully misleads or deceives the consumer.
 - Mortgage fraud is committed by the lender and predatory lending is committed by the buyer.
 - None of the above
7. Martin, a listing agent, sells a home for \$450,000. The appraisal comes in at \$420,000. Martin implores, even bribes the appraiser to raise the appraisal to \$450,00, which the appraiser does. Is this fraud?
- Yes. It is appraisal fraud.
 - No. This is done all the time.
 - Yes. It is shotgunning.
 - None of the above
8. Sue, a listing agent, sells a home for \$620,000. The appraisal comes in at \$605,000. Sue looks into the appraisal and sees that the appraiser, not familiar with the area, did not use the best comparables. Sue brings this to the appraiser's attention and asks her to take a look at these new comps. Is this fraud?
- Of course.
 - Yes, but Sue needed this sale in order to buy her new mink coat.
 - No. Sue is merely asking the appraiser to consider better comps.
 - None of the above
9. Donna and Mike sign a Sales Contract for a \$600,000 home. They barely qualify but just make it, according to their lender. Two days before closing, Mike purchases a boat, that he puts on his credit card. He tells Donna that they are not going to tell the lender because the added debt will prohibit them from getting the loan. Is this legally acceptable?
- No. It's mortgage fraud.
 - No. It's predatory lending.
 - Yes. What the lender doesn't know won't hurt him.
 - None of the above.
10. What are some of the causes of mortgage fraud?
- Greedy lenders and appraisers
 - Buyers who want a house that they cannot afford
 - Both a and b
 - Neither a nor b
11. A person committing mortgage fraud can
- Lose the house
 - Go to prison
 - Be fined up to one million dollars
 - All of the above
12. During the strong seller's market, mortgage fraud
- Went unnoticed
 - Was rampant
 - Did not exist
 - Both a and b

13. The following are red flags that mortgage fraud may be occurring except
 - a. The buyer requests a specific appraiser.
 - b. The loan officer tells the agent not to send a contract amendment to him.
 - c. In the Sales Contract, the purchaser requests that the seller pay \$1,000 toward closing costs.
 - d. The property sells for more than the list price after being on the market for a year.

14. The consumer can protect himself against mortgage fraud by being diligent and doing the following:
 - a. Obtaining a referral for real estate professionals
 - b. Not signing any document which contains blanks.
 - c. Both a and b
 - d. Neither a nor b

Name _____ Date _____

3 HOUR PREDATORY LENDING & MORTGAGE FRAUD FINAL QUIZ

Please circle the correct answer for each question.

Predatory Lending

1. A B C D
2. A B C D
3. A B C D
4. A B C D
5. A B C D
6. A B C D
7. A B C D
8. A B C D
9. A B C D
10. A B C D
11. A B C D
12. A B C D
13. A B C D
14. A B C D
15. A B C D
16. A B C D
17. A B C D

Mortgage Fraud

1. A B C D
2. A B C D
3. A B C D
4. A B C D
5. A B C D
6. A B C D
7. A B C D
8. A B C D
9. A B C D
10. A B C D
11. A B C D
12. A B C D
13. A B C D
14. A B C D

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Print Name _____ **Course: 3 Hour Predatory**

Billing Address _____ **Lending & Mortgage Fraud**

_____ (VREB Approval #58070)

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_____ I enclose a check payable to Potomac Real Estate School LLC in the amount of \$26.00

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_____ Please charge \$26.00 to my ___Visa___Master Card___American Express___Discover

OR

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Security Code _____ Signature _____

Did you find the material well organized?	Yes	No
Was the material well written?	Yes	No
Was the course material relevant?	Yes	No

Suggestions _____

How did you find us? Please circle

Internet Postcard Referred by _____ Email

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Other



Student Declaration: I hereby certify that I completed this continuing education course (3 Hour Predatory Lending & Mortgage Fraud) on my own without assistance.

Signed _____

Date _____

Name (Print) _____

Notary Public Declaration: Taken, subscribed, and sworn

before me this ____ day of _____, 20__

In the City/County/Town of _____

In the State/Commonwealth of _____

My commission expires ____/____/_____

Notary Public _____

Notary Signature Required

But Seal NOT Required