Habitat for Humanity Illinois

Webinar Series

Homeowner and Mortgage Services

May 2021
Agenda

• Fair Lending / Fair Housing
• Qualified Loan Originator
• Policy and Privacy
• E-SIGN Act
Fair Lending / Fair Housing
Homeowner Services and Mortgage Origination – Fair Lending / Fair Housing

Housing and lending decisions cannot be based on a protected class / prohibited basis ....

- **Executive Orders** - Prohibit discrimination on a number of bases when federal funds are involved. (EO 13166 - Limited English Proficiency)

- **State Laws and Local ordinances** – may prohibit discrimination in housing and residential lending practices on additional bases (e.g., ancestry, creed, genetic characteristics, sexual orientation, mental disability, etc.)
  - **IL Human Rights Act adds extra protections** to the federal FH Act
    - ancestry; marital status; military status; sexual orientation; gender identity; age (over 40); domestic violence victims; & pregnancy
    - Some counties may have other protections
Homeowner Services and Mortgage Origination – Fair Lending / Fair Housing

Equal Credit Opportunity Act (ECOA)
Prohibits discrimination in any aspect of credit transactions based on certain factors. Credit must be made available to all creditworthy consumers.

Fair Housing Act (FH Act)
Prohibits discrimination based on certain factors by any person whose business includes engaging in residential real estate-related transactions.

Color; Religion; National Origin; Sex*; Race

- **Age** (provided the applicant has the capacity to contract);
- **Marital status**;
- **Income** derived from public assistance; or
- **In good faith exercised any right under the Consumer Credit Protection Act**

* CFPB 3/2021 – encompasses sexual orientation discrimination and gender identity discrimination, including discrimination based on actual or perceived nonconformity with sex-based or gender-based stereotypes and discrimination based on an applicant’s associations.

- **Familial status** (defined as children under the age of 18 living with a parent or legal custodian, pregnant women, and people securing custody of children under 18);
- **Handicap** (physical or mental impairment)

* HUD 2/11/2021 – issued a memorandum the prohibition because of sex is amended to include discrimination on the basis of gender identity or sexual orientation
Homeowner Services and Mortgage Origination – Fair Lending / Fair Housing

Discrimination Triggers

- Lack of specific guidelines
- Subjective selection criteria – can different people apply the standard and produce the same result?
- Lack of clear documentation for qualification and underwriting, delinquency management and loss mitigation
- Difference in assistance provided to certain applicants
- Ineffective dispute resolution process - complaints from applicants and homeowners with delinquencies
- Untrained personnel serving consumers
Activity

Is religion a common protected class between FH Act and ECOA?
IL May Webinar

Qualified Loan Originator (QLO)
Activity

How would you rate your knowledge of qualified loan originator (QLO) requirement?
Homeowner Services and Mortgage Origination – Qualified Loan Originator (QLO)

IL Comp. Stat. § 635/1-4 (d)(2.1-2.2) exempts a bona fide nonprofit organization & an employee of a bona fide nonprofit organization when acting on behalf of that organization.

Determine if the LO is financially responsible
- Review credit report*

Determine character and general fitness; may have to get military records
- Review nationwide criminal history report*

All background screening must be completed Jan 2014 or after
- Obtain authorization to pull credit & nationwide criminal background reports*

Set LO Qualification policy – does the individual demonstrate good character, fitness, and will operate honestly, fairly and efficiently

TILA LO Qualification Guidance

Affiliate Leadership Responsibilities

Provide oversight for LO processes and QLO(s)

Ensure that training for state & federal laws governing the types of loans originated are available for LO(s)

*If a consumer report indicates a reason for adverse action, FCRA employee notice requirement must be satisfied
### Who MUST be Qualified

**Loan Originator** = Individuals who are compensated to perform activities such as:

- Taking an application for purchase money mortgage or repair loan secured by real property
- Arranging a credit transaction
- Assisting a consumer in applying for credit
- Offering or negotiating credit terms
- Making an extension of credit
- Referring a consumer to a loan originator or creditor
- Advertising or communicating to the public that you can or will perform any loan origination services

**Habitat Policy** = “key volunteers” too!

Affiliates who perform selection, but a 3rd party originates loan, must have QLO.

### Who is not a Loan Originator?

- Only receives, collects, and distributes information common for the processing or underwriting of a loan
- Only communicates with a consumer to obtain information necessary for the processing or underwriting of a residential loan. The **communication must not include offering, negotiating or counseling consumers about residential mortgage loan rates or terms.**
- Solely underwrites loan (number crunching)
Homeowner Services and Mortgage Origination – Qualified Loan Originator (QLO)

Individual Loan Originator Responsibilities

- Sign a release to have a criminal background and credit report pulled – may have been done at the time of hire
- Provide any additional information such as administrative, civil or criminal findings (military or past disciplinary or enforcement actions in previous roles etc.)
- Complete applicable training on state & federal laws governing the types of loans originated at least annually
- Comply with affiliate Selection / Origination policies and all applicable laws

To renew or register for state training email andfotos@ameritrain.com. Include your name, HFH Affiliate name and your contact information and a message that you would like to register for Habitat for Humanity IL state training. There is a fee for this course.
Habitat for Humanity

IL May Webinar

Policy and Privacy
Homeowner Services and Mortgage Origination – Policies

Has your affiliate established an appropriate frequency to review and update policies?

- Policies form a key part of internal controls – protects affiliate and their personnel
- Policy statements must be objective
- Set timeline for periodic review
- Must reflect HFHI policies, state and federal laws, and affiliate business practices
- Board approval is mandatory
Let’s Talk about Privacy - Gramm Leach Bliley Act

Mandatory compliance with safeguarding consumers info that is collected; initial and annual privacy disclosures tell consumers policy and info sharing practices.

What information is protected?

- Information relating to or capable of being associated with an individual, ‘household’ or device (laws vary)

Policies and procedures must incorporate

- What is collected
  - What do you do with the information? Who has access at the affiliate? Do you share collected information with third parties?
- How is it safeguarded
- How long is collected information stored, and what done with it once that timeline is up
Homeowner Services and Mortgage Origination – E-Sign Act

Electronic Signatures In Global National Commerce (E-SIGN) Act

Applicants must be provided with a written disclosure, and they must **affirmatively consent** before Affiliate can communicate electronically.

E-SIGN Act Disclosure
Activity

Does your affiliate’s policies have a regular review cycle?
Both the FH Act and ECOA protections now include gender identity and sexual orientation.

Fair lending triggers include untrained personnel and subject policies.

IL affiliates and loan originators are exempt from SAFE Act licensure.
- TILA requires each LO to be qualified – ongoing state and federal training, and background screening.

Policies protect the affiliate and their personnel.

GLBA requires affiliates to provide notice to borrowers about their privacy polices and safeguard all information collected.

E-SIGN Act requires a consumer to affirm that they want to communicate electronically.
Thank You

Affiliate Support Center
Monday to Friday
8:00am to 8:00pm
ussupportcenter@habitat.org
or
1-877-434-4435