



**every  
one**

deserves a decent  
place to live.

# Homeowner Selection / Mortgage Origination Part 1 Midwest Regional Conference, April 2025

**Sonia Lee – Director, Homeowner and Mortgage Services**

**This material is for informational purposes only and should not be considered legal advice. Seek appropriate counsel to obtain advice for your own situation.**



# Learning Objective

You will be able to:

- Identify applicable US Policies for Homeowner and Mortgage Services
- Summarize Fair Lending requirements
- Apply key steps in selection/origination and loan closing to reduce risk to your affiliate.



# Topics – Part 1

- HFHI US Policy Handbook
- Laws/Regulations
- Fair Lending
- Qualified Loan Originator
- Homeowner Selection/Origination policy
- Introduce the ECOA Phase



# US Policy Handbook & Laws





# U.S. Affiliated Organization Policy Handbook

Schedule G: U.S. Affiliation Agreement

Updated January 2025

## HFHI US Policy Handbook

### Policies to focus on for Mortgage Origination

Policy 10 – [Funding Sources](#)

Policy 11 – Homeowner Partner Selection

Policy 19 – Sexual Offender Registration Check

Policy 22 – Sale of the Housing Unit

Policy 23 – Mortgage Origination

Policy 24 – [Mortgage Servicing](#)

Policy 25 – [Family Support](#)

Policy 26 – [Equal Treatment of Habitat Homebuyers](#)

Policy 29 – Authorized Financing Options **UPDATED FY24**

Policy 34 - [Safeguarding](#)

## [US Policy Handbook](#)



# US Policy 11 – Homeowner Partner Selection

## Habitat for Humanity's 3 Selection Criteria – qualifying

Need (AMI - financial & physical) – serve households up to 60% AMI , not to serve above 80% AMI

Ability to Pay (able to repay the mortgage)

Willingness to partner –

Sweat Equity, 200 hrs / household with 100 hrs for construction

Deselection reasons....

*...affiliates have experienced tension between being “a Christian ministry” and the provisions of federal law regarding discrimination in housing and lending and in lending decisions. The resolution of the U.S. Affiliate Committee (the predecessor to the U.S. Council) acknowledges the applicability of the federal laws and the need for a consistent definition of the basic homeowner selection criteria*

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# US Policy 19 - Sexual Offender Registration Check

## Know your state laws!

- Check all **applicants** against the sex offender database
  - Develop an **affiliate policy** for sex offense review and determination
  - Guidance Memorandum & Sample policy

[Guidance on sexual offender registration checks and criminal background checks](#)

[HUD 2016 - Use of Criminal Records by Providers of Housing and Real Estate-related transactions](#)

[HUD 2022 Guidance - Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions](#)

# Criminal Background Checks

Affiliates may adopt criminal background screening policy

**Must make an individualized assessment based on:**

1. The nature of the offense – articulate risk you are trying to mitigate
2. When the offense occurred, rehabilitation since
3. Any mitigating factors (e.g., domestic violence, inaccurate records)
4. Other?
  - Do not consider arrest or information other than convictions.
  - What are your state consent requirements, restrictions?
  - What action is appropriate for the associated risks (e.g., subcontract, limited PR)?



**NO BLANKET BANS – ALL applicants must be screened using the same process!**

# US Policy 23 – Mortgage Origination

## Originating First Mortgages

- Third-party lender may originate interest bearing mortgages – must be affordable
- Term should not exceed 30 years, and in no event to be more than 40 years
- Maximum front end ratio 30% and maximum DTI is 43% of gross income

## Legal Requirements and Governance

- Affiliates are under the federal supervision and oversight of the CFPB
- Must understand any exemption(s) that are being used and knowledgeable of the compliance requirements
- Comply with all applicable laws – origination, referral to a third-party lender, marketing etc.
- Loan originators must be qualified – SAFE Act or TILA requirements

# US Policy 23 – Mortgage Origination cont'd

## Originating Deferred Subordinate Mortgages

- A subordinate mortgage must be used to protect equity when the 1<sup>st</sup> mortgage is less than the FMV
- Deferred subordinate mortgage are not be sold, pledged, discounted or assigned
- Events that trigger the repayment must be clear to the homebuyer
- Must have a maturity date
- Some or all the sub mortgage can be recaptured at the end of the first mortgage's term – must be in note and have an end of term strategy

## Forgiveness Requirements

- Written board approved policy
- Consistently applied

# US Policy 23 – Mortgage Origination cont'd

**Combined Loan-to-Value ratio** – not to exceed 100%, except if financing customary and reasonable closing costs

**Mortgage Insurance** is permitted if the LTV is above 80%

**Leveraging** is permitted; set policy establishing percentage of portfolio that may be leveraged and cash reserve requirements.

- Recourse for delinquent mortgages should always be requested

# US Policy 29 – Consumer Mortgages Offered by Third-party Lenders

- Can **recommend but not require** a particular lender
- Any **mortgage product used** to purchase a Habitat home is **responsible** and the loan is affordable to the homebuyer in the same manner as if the affiliate originated the loan
- Check with **regulators to determine if activities performed** when using a third-party lender still **fall under any SAFE Act licensing exemption the affiliate operates** under.
- Ensure all **outreach and marketing** materials are accurate and **communicate** the basic eligibility requirements and the affiliate's role to applicants.
- If affiliate has different loan options, **don't** promise any loan product
- **Don't** allow loan originator to receive any **“increased compensation”** for referring to certain loan program or lender
- Ensure borrower cannot claim that the loan program is not in the “consumer's best interest”



# Key Takeaways about US Policies

- There are key policies that directly relate to Homeowner Services
- Affiliates must have a policy for checking sex offences – not just for affiliate personnel, but also potential homebuyers – state law may drive this policy
- Affiliates must know the laws that govern their work, as well as any applicable exemptions and how to comply with them
- Homebuyer's affordability index is capped at 30%/43% and 30-year term is the preferred, but no more than 40-year for affordability
- A subordinate lien must be used to close the gap between the repayable 1<sup>st</sup> and the sales price – the winding down of subordinate liens must be in policy
- A successful Homeowner Support program needs to have resources and mechanisms in place to support buyers as they transition from renter to homeowner
- Policy 29 (updated July 1, 2023) permits referral to third-party lenders. Loans / features must be sustainable for the borrower over time and not contain risky features that could interfere with the borrower's ability to repay

# Lending Laws



# House of Laws

## Mortgage Lending Laws

Advertising	Application	Closing	Servicing
Outreach - Flyers, Website, Posters, Radio, TV etc. – Fair Housing Act – GLBA – ADA – TILA – UDAAP – ECOA – State and Local laws	Homeowner Selection; Underwriting; Pre-qualification; – Fair Housing Act – SAFE Act – ECOA – FCRA – TILA – RESPA – AML/BSA – GLBA – UDAAP – *E-Sign – State and Local laws	Final Underwriting; House Pricing; Disclosures; Conveyance documents – Fair Housing Act – TILA – RESPA – Garn-St Germain Act – ECOA – FCRA – GLBA – UDAAP – *E-Sign – State and Local laws	Payments; Escrow; Loss Mitigation; Foreclosure – Fair Housing Act – RESPA – TILA – ECOA – Garn-St Germain Act – FCRA – UDAAP – BSA/AML – GLBA – SCRA – SAFE Act – *E-Sign – *FDPA – State and Local laws
Board Approved Policy and Procedures			
Annual Business Plan			

# Equal Credit Opportunity Act (ECOA)

## Habitat homeownership program

- Serve economically disadvantaged population
- Can set qualifications for participation
  - Need
  - Willingness to partner
  - Ability to pay
- Can use alimony, child support, maintenance payments for need and ability to pay assessment
- [ECOA Special Purpose Credit Program Notice](#)

## Appraisals

[Right to Receive Copy of Appraisal Disclosure Notice](#)

Provide within 3 days of receiving application



We build strength, stability and self-reliance through shelter.



# Know the laws

## Bank Secrecy Act / Anti-Money Laundering (BSA/AML): [AML](#)

Mandatory compliance with AML Program, and Suspicious Activity Reporting (SAR), both in the origination and servicing processes

- Internal controls (policy)
- Ongoing training
- BSA compliance officer; and
- Independent audit / review





# Know the laws

- **Gramm-Leach-Bliley Act (GLBA)**  
**Privacy: [GLBA](#)**  
Mandatory compliance with safeguarding consumers info that is collected; initial and annual privacy disclosures tell **consumers / customers** info sharing practices and privacy policy
- **Electronic Signatures In Global National Commerce (E-SIGN) Act: [E-Sign Act disclosure](#)**  
Applicant must affirmatively (E-SIGN disclosure) consent before affiliate can communicate electronically





# Other Applicable Laws

- **Real Estate Settlement Procedures Act (RESPA) & Truth In Lending Act (TILA) :**  
Successor in Interest – an individual who inherit or receive ownership interest in a property, from a spouse, parent, or other relative, or upon the death of a joint tenant, when there is an outstanding mortgage loan on the property.
  - Must confirm their identity and their interest in the property;
  - Confirmed SII is treated like the borrower/consumer; loan assumption is not required unless loss mitigation is requested.
- **Garn-St Germain:** statutory exceptions apply to due-on-sale clauses in mortgages on residential—real estate with less than five dwellings.



# Know the laws

## Fair Credit Reporting Act (FCRA):

Use “Consumer Reports” only for permissible purposes, e.g., decision to extend credit  
(Consumer report – includes credit report and background check (release required))

Permission must be obtained to pull a consumer report. Mandatory disclosure of adverse action if decision was based on a factor from a consumer report – employment or credit granting

## Fair and Accurate Credit Transactions (FACT) Act – Credit card and Identity

Theft protections; fraud detection; and allows consumers 1 free credit report annually



# Know the laws

## Truth In Lending Act (TILA):

Mortgage advertising must be accurate, and clear. Requires disclosure showing the cost of a loan also governs steering, and certain aspects of servicing. Also requires a Right of Rescission notice for repair loan transactions secured by the residence





# Know the laws

**Truth In Lending Act (TILA):**

## **TILA/RESPA Integrated Disclosures**

**(TRID):** Mandatory compliance with initial and closing disclosures. If affiliate in the previous or current calendar year originated more than 5 mortgages or more than 25 secured or unsecured loans

**Steering:** directing consumers to a loan where compensation received is greater than other transactions



# Know the laws

## Truth In Lending Act (TILA):

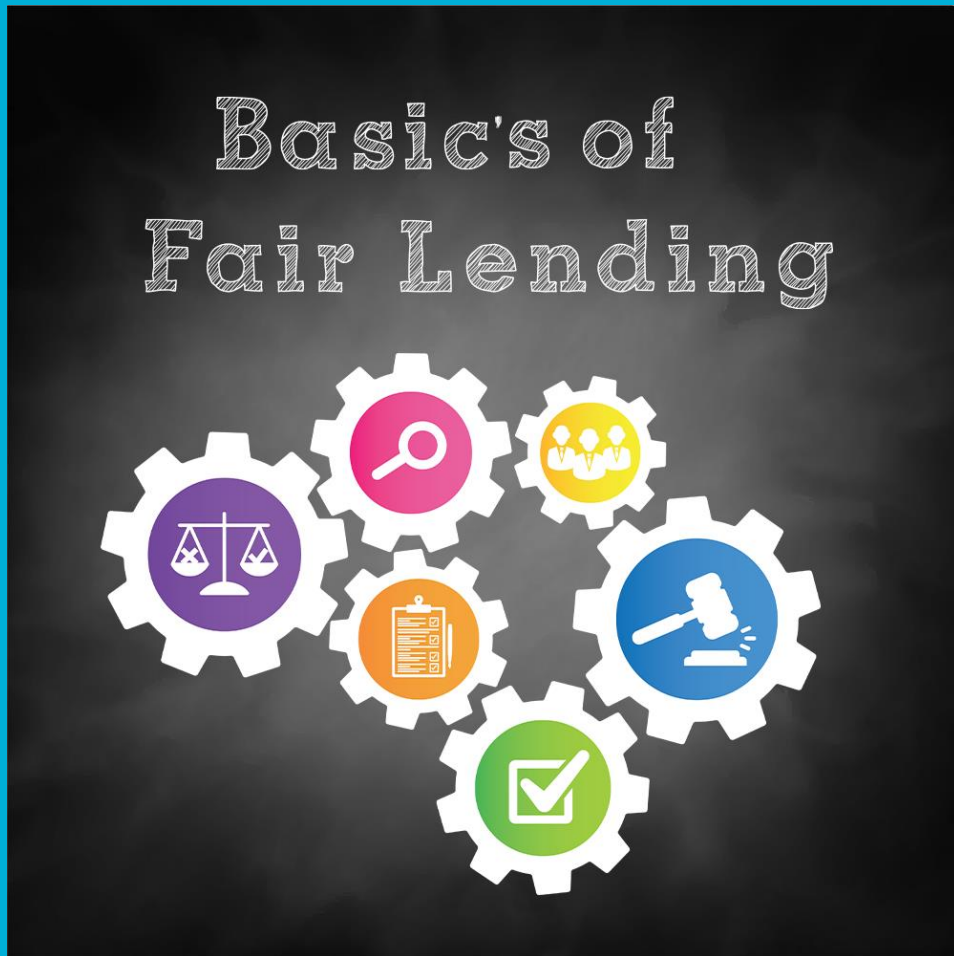
### TILA - Loan Originator

#### Qualifications: LO

qualifications fall either under  
state SAFE Act or federal TILA



# Fair Lending





# Know the laws: Fair Lending



# Know the laws- Comply with Applicable Requirements

**Fair lending laws prohibits discrimination based on a protected class / prohibited basis ....**

**State Laws and Local ordinances** – may prohibit discrimination in housing and residential lending practices on additional bases - (e.g., Ancestry, Source of Income, Creed, gender expression & Veteran or Military status, etc.)



# ECOA / FH Act

## 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**

**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)

# Know the laws - Unfair, Deceptive, Or Abusive Acts or Practices (UDAAP)

An act or practice is **unfair** when:

1. It causes or is likely to cause substantial injury to consumers;
2. The injury is not reasonably avoidable by consumers; and
3. The injury is not outweighed by countervailing benefits to consumers or to competition

An act or practice is **deceptive** when:

1. The act or practice misleads or is likely to mislead the consumer;
2. The consumer's interpretation is reasonable under the circumstances; and
3. The misleading act or practice is material

An act or practice is **abusive** when it:

1. Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; **or**
2. Takes unreasonable advantage of:
  - a) a consumer's lack of understanding of the material risks, costs, or conditions of the product or service;
  - b) a consumer's inability to protect his/her/their interests in selecting or using a consumer financial product or service; **or**
  - c) a consumer's reasonable reliance on a covered person to act in his/hers/their interests++



# Types of Lending Discrimination



## Overt

Blatant discrimination on a protected class  
Expressing a discriminatory preference

## Disparate Treatment

- Occurs when a lender treats an applicant differently based on one of the prohibited bases
- Ranges from overt discrimination to more subtle differences in treatment
- Likely occur in the treatment of applicants who are neither clearly well-qualified nor clearly unqualified for a loan
  - Requiring applicants to have employment
  - Requiring applicants who receive disability income to prove their disability

## Disparate Impact

When a policy or practice applied equally to all applicants has a disproportionate adverse impact on applicants in a protected group

### Discriminatory effect –

A practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin



# Discrimination Triggers

- Lack of policies
- 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
- Untrained personnel serving consumers



# Fair Lending Violation Prevention

- Know the laws and how to prevent discrimination or appearance of discrimination
- Compliant advertising within GSA - be mindful of demographics
- Training
- Draft comprehensive policies with laws in mind
  - Exception to policy should be minimal and approved only by authorized personnel
  - Exception must be documented with compensating factors/controls for decision
  - Objective underwriting guidelines
  - *Policies limit discretion – more discretion, more risk*
- Internal Controls
  - Oversight and monitoring of compliance
  - Written policies reviewed on a set frequency to ensure they are current
- Organizational Structure
  - Who has contact with potential and actual applicants and homeowners?
  - Know your role – stay in your lane
- Complaint Resolution process

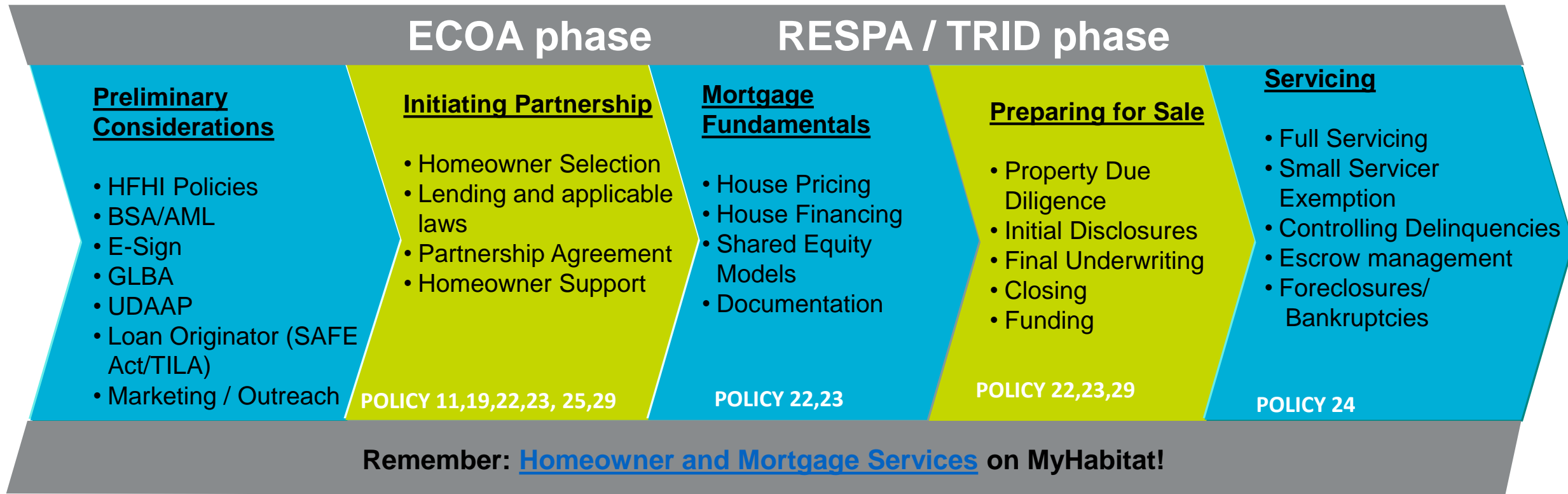
**Be conscious of decisions throughout the life-cycle of a loan**

**Reputation Risk = Brand Risk**

# Homeowner Selection Process

Initial Assessment (ECOA) phase  
and

Final Assessment (RESPA) phase



[Mortgage Origination Checklist](#)

# Qualified Loan Originator (QLO)



# Qualified Loan Originator (QLO)

**QLO  
Compliance  
is a  
component  
of Good  
Standing**

Policy 23 §2.2.3. [Policy 23, Mortgage Origination](#)

All affiliates must submit their QLO compliance evidence to HFHI [QLO Tools and Resources](#)

Demonstrating compliance requires applicable items based on state SAFE Act requirement

- Submit QLO compliance information via the [self-service portal](#)
- Ensure to update annual training certs - [Training records submission](#)

# Qualified Loan Originator (QLO) cont'd

## Know your state requirement

[State Exemption Status Determination](#)

Exempt

Exempt from state licensing (legislation or regulator opinion letter) but must meet qualifications requirement

Illinois

Exempt w/  
Conditions

Action taken or origination threshold met to obtain exemption from state licensing but must meet qualifications requirement. Also, affiliate is exempt but LOs are not.

Iowa & Minnesota

Non-  
Exempt

No legislative exemption from state licensing – SAFE Act license for both affiliate and LOs

# Qualified Loan Originator (QLO) – Leadership Responsibilities cont'd

\* If a consumer report indicates a reason for adverse action, FCRA employee notice requirement must be satisfied

## Policy:

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

Ensure that federal and state training is available for loan originators.

## Review Credit Report:

Based on affiliate policy, determine if the LO is financially responsible – are there patterns of financial abuse?

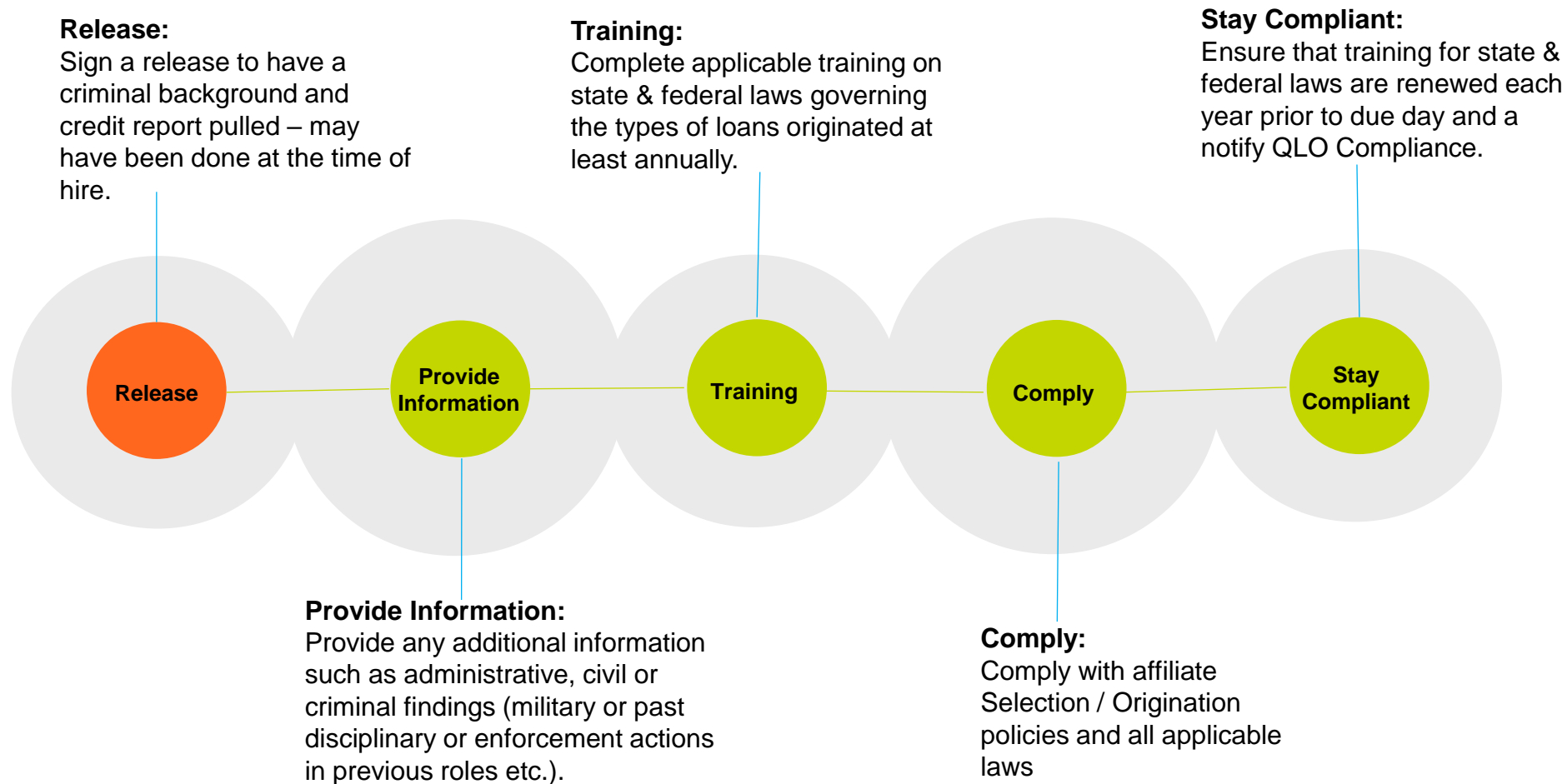
## Training – State and Federal:

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





# Qualified Loan Originator (QLO) – Individual LO Responsibilities



## Loan Originator Activities

- Assisting a consumer to complete an application;
- Discuss/advise on potential loan terms, including fees;
- Discuss factors that may get an approval such as improving credit history; and
- Discuss disclosures (NOI, AAN, GFE/LE, HUD-1/ CD etc. as applicable).
- Refer to a lender

# Homeowner Selection Policy Creation



# Why policies?

**Leadership manages/oversee the compliance of the affiliate. Policies are the key!**

- Fair treatment to all – homebuyers, employees, homeowners & management
- Set expectations
- Ease of operations – a single place to turn for help; Saves time
- Consistency – staff turnover
- Avoid lawsuits
  - Be prepared for a lawsuit
- Because it's the right thing to do



# Policy Creation

**Leadership manages/oversee the compliance of the affiliate. Policies are the key!**

- Policies set behaviors, roles and responsibilities
- Must have an owner and a regular review cycle
- Protects the affiliate, personnel, applicants and homeowners

# Policy Creation cont'd

**Objective Policy - Different individuals, acting independently, will apply the standard in a consistent manner.**

- Avoid statements like “will comply with all laws”
- Avoid words like “should”, “may”, “appropriate”, “significant”
  - Objective = facts
  - Subjective = feelings/interpretation



# Policy Creation cont'd

## [Selection/Origination Policy Handbook](#)

### **Policy handbook sections**

1. Background
2. Homeowner Services Team
3. Homeowner Recruitment
4. Application Defined
5. Application Evaluation
6. Partnership
7. Affordability and Subsidy
8. Sales Preparations and Closing
9. Appendix – 1 thru 7



## **Homeowner Selection/ Mortgage Origination Policy Handbook**

# Policy Creation -Third-party Lending

Section **7.2** allows affiliates to add policy statements for third party lending

## **New guidance update – Policy 29 FY24**

- Lenders must be registered or licensed and regulated by a prudential regulator
- Lenders must have responsible consumer lending practices and don't offer harmful loan features to Habitat buyers
- Affiliates are encouraged to have a policy that identifies loan features that prevents sustainable homeownership

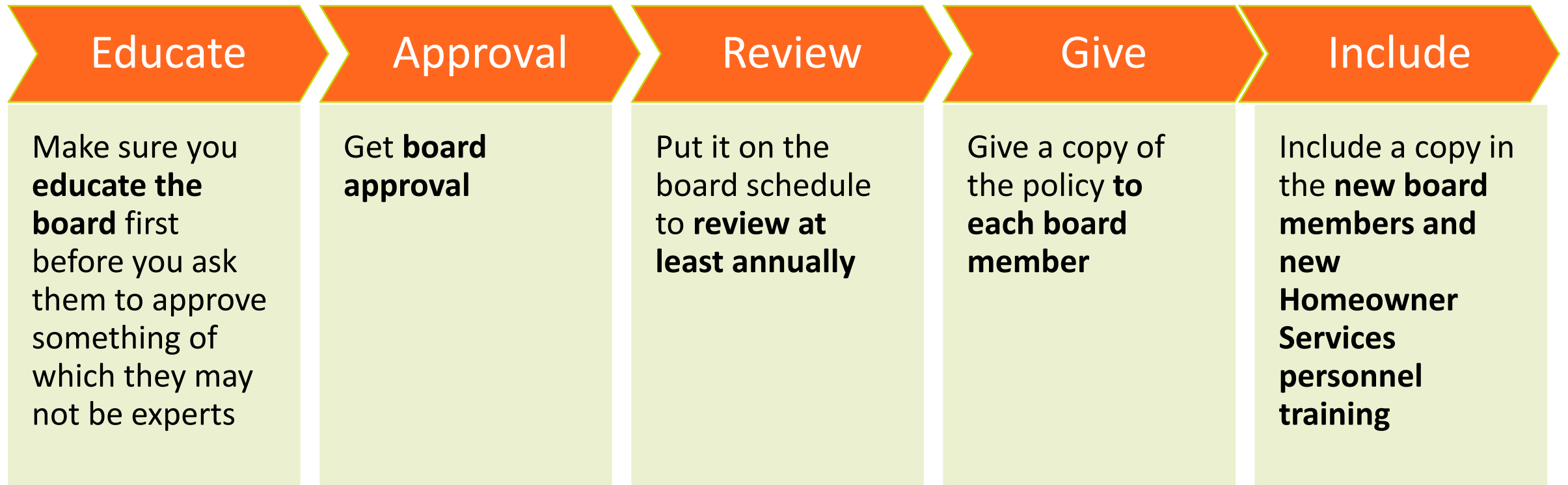
# Policy Creation - Exercise

1. Affiliate may request to have a reference from current as well as past landlords
2. Applications received after the open application period will be denied
3. Failure to complete required sweat equity hours could result in deselection
4. Applicants must not have unfavorable judgements or liens against them
5. An unsuitable neighborhood is a condition that demonstrates need for adequate shelter

## Objective

**Objective Policy - Different individuals, acting independently, will apply the standard in a consistent manner.**

# Get your Board on board



# Homeowner Selection Initial Assessment or ECOA Phase





# Basic Principles for Selection & Support

- **Habitat affiliates are non-bank lenders**
- **Decisions** made in the selection process **is a credit decision**
- **Know the laws** that govern the processes
- Formally **adopt policies** and procedures
  - Policies must be facially neutral, using objective criteria
  - Apply policies and procedures consistently
  - Policies must incorporate all applicable federal, state and local laws
- Define & ensure **internal understanding of roles** of Board, Homeowner Selection Committee, other personnel
- Manage clear & realistic expectations: **applicants must understand** affiliate's policies and program requirements
- Have a plan - set goals and monitor them – allows affiliate to make informed decisions
- **Maintain clear & consistent communication**; explain components of application initially and throughout process
- **Respect**

# Outreach & Marketing



- Equal housing opportunity logo
- Advertising must be accurate and not misleading
- Avoid triggering terms – use “we offer an affordable mortgage”
- Images must reflect community makeup
- Ensure actions or words are not discouraging to consumers

# Distributing Applications – Legal Requirements

[Habitat homeownership application \(English\)](#)

[Solicitud Programa de Propiedad de Vivienda de Habitat](#)

Must be available in more than one venue

Attending an orientation meeting **cannot** be a condition of receiving an application

ECOA Special Purpose Credit Program Notice

**Not a requirement but used to avoid confusion with the law.**

E-Sign Act Disclosure and Agreement

Applicant must affirm to receiving electronic communication

Right to Receive Copy of Appraisal

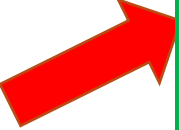
**Provide within 3 days of receiving application**

Initial Privacy Notice (GLBA)

Annually every 12 months thereafter

# Habitat Application Process

## Two phases, one mortgage origination process



(1) **Initial Assessment phase**, also known by Habitat as the *ECOA phase*, which includes homeowner selection, the application (and screening portions), and homeowner assessment processes that an affiliate might use.

(2) **Final Assessment phase**, also known by Habitat as the *RESPA/TRID phase*, which includes the final assessment, final underwriting, and closing disclosures and processes.

Note that these two phases may overlap. Accordingly, once an applicant begins providing information to the affiliate, determine whether an application is triggered by law or by policy. [Mortgage Origination Checklist](#)

# HFH Application – Initial Assessment or ECOA Phase

**1 application with a 2 Phase Process** [Mortgage Origination Checklist](#)

## High Level Overview

### Program qualifications

- Need
- Willingness to Partner
- Ability to Pay
- Other

### Application assessment

- Screening
- Initial underwriting
- Income/asset verification
- Credit review
- Financial readiness
- Home visit
- Board concurrence

### Board concurrence

- Provide overview of qualified applicants

### Notice of Action Taken Notices

- Partnership Agreement (approval)
- Adverse Action (denial)



# Initial Assessment – Program Qualifications

Special Purpose Credit Program – serve **economically disadvantaged persons** - **permits lender to set qualification criteria**

Need

- AMI – financial need
- Substandard housing

Permits the collection of alimony, child support, and maintenance payments for household income to determine program qualifications (need)

Other

- GSA residency
- Legal US residency
- Criminal History

Ability to Pay

- Underwriting – income and debt verification

Willingness to Partner

- Willingness to participate in program items

- Consistently apply **policies and procedures**
- Each program criteria must have **objective criteria** to determine eligibility
- **Avoid** any appearance of **impropriety**

# ***QUESTIONS on Topics covered***

