Welcome to...

Preventing Mortgage Fraud and Foreclosure Scams Webinar

Scheduled Start: 1:00 Eastern. We will be underway shortly.

All audio for this webinar is through your computer – If you can see this slide you should be hearing music until we get underway.

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Today's Webinar

Question and Answer Format

- To access click on the "Ask a Question" button on your screen
- Questions will be answered at the end of the presentation

Supporting Material

- To access click on the "Supporting Material" button
- Includes a copy of today's presentation and a PDF version of the Technical Support Information

Help Features

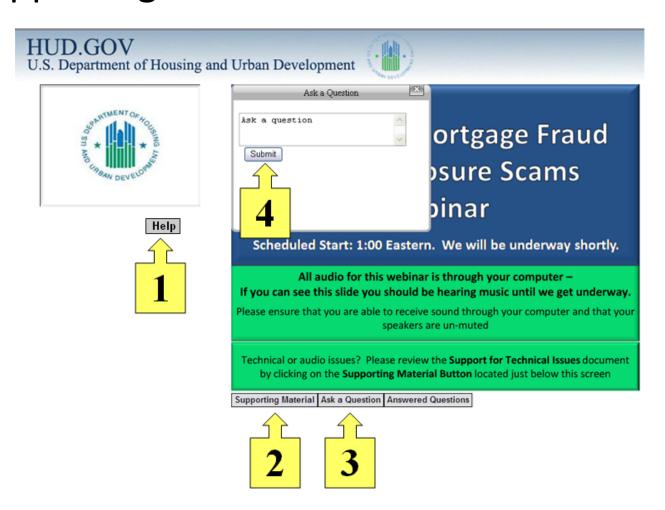
- First 30 minutes simply submit your question via the Ask a Question option
- After 30 minutes click on "Help" Button for FAQs or Tech Support

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Today's Webinar

- 1. Help
- 2. Supporting Material

- 3. Ask a Question
- 4. Question Box



Today's Webinar

Polls

- a total of five polls will be provided to you throughout the webinar. Please respond or X out of the poll to return to the presentation slides
- Poll 1 and 2 will be presented during the introductions

Web Site Pop-ups During Presentation

 Web sites will be provided to you for bookmarking during the presentation. You will need to disable your pop-up blocker in order to receive this information

Archive Version

Archive Site

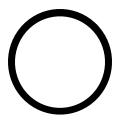
Preventing Mortgage Fraud & Foreclosure Scams Webinar

February 28, 2012

Presented by

Federal Reserve Bank of Atlanta
U.S Department of Housing and Urban Development
Federal Trade Commission
and the

Federal Deposit Insurance Corporation







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TODAY'S AGENDA

Welcome

Introductions

Mortgage Delinquency Trends & Foreclosure Scams

Mortgage Fraud

FTC Law Enforcement

Reporting Mortgage Fraud, Loan Modifications and Preventing Foreclosure Scams

Consumer Information and Resources

Audience Q&A session

TODAY'S PRESENTERS

Welcome

Scott Bice, Director, Quality Assurance Division, Atlanta Homeownership Center U.S. Department of Housing and Urban Development

Mortgage Delinquency Trends & Foreclosure Rescue Scams

Sibyl Slade, Senior Regional Community Development Manager, Community &

Economic Development, Federal Reserve Bank of Atlanta

Mortgage Fraud

Bonnie Lewis, Senior Housing Specialist, Atlanta Homeownership Center U.S. Department of Housing and Urban Development

FTC Law Enforcement, Mortgage Foreclosure Rescue & Loan Modification Scams

Cindy Liebes, Regional Director of the Southeast Region Federal Trade Commission

Reporting Mortgage Fraud, Loan Modifications and Preventing Foreclosure Scams

Thomas Stokes, Acting Chief, Community Affairs Federal Deposit Insurance Corporation

Consumer Information and Resources

Thomas Stokes, Acting Chief, Community Affairs _{02/27/12} Federal Deposit Insurance Corporation

Mortgage Delinquency Trends & Foreclosure Rescue Scams

Presented by Sibyl Slade

Senior Regional Community Development Manager

Federal Reserve Bank of Atlanta

Outline

Mortgage Delinquency & Foreclosure Overview

Trends across the United States

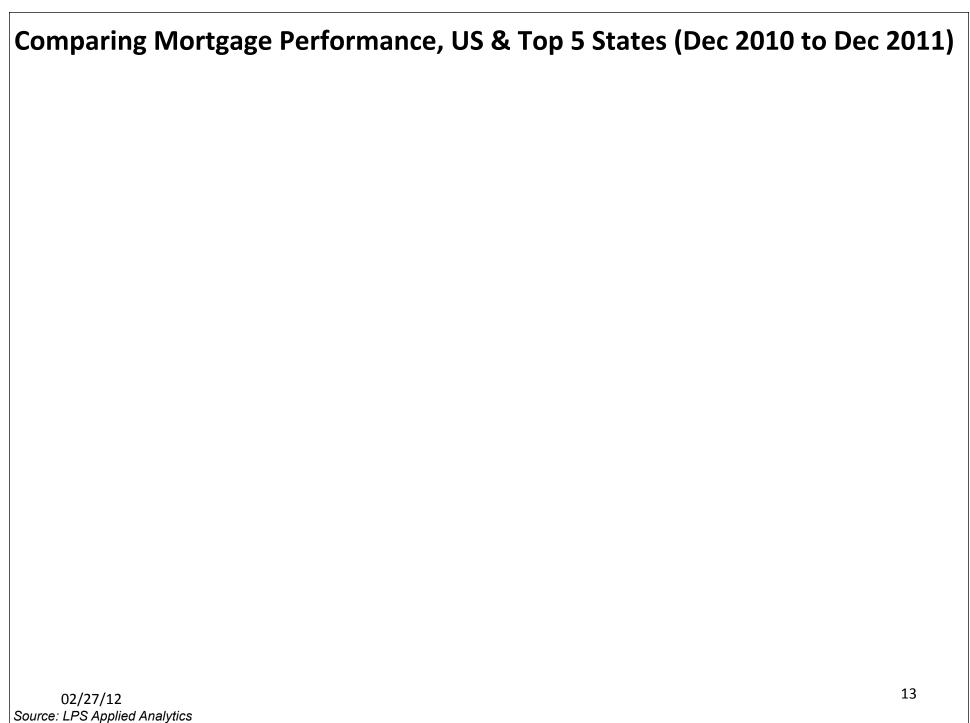
Overview of Foreclosure Rescue Scams

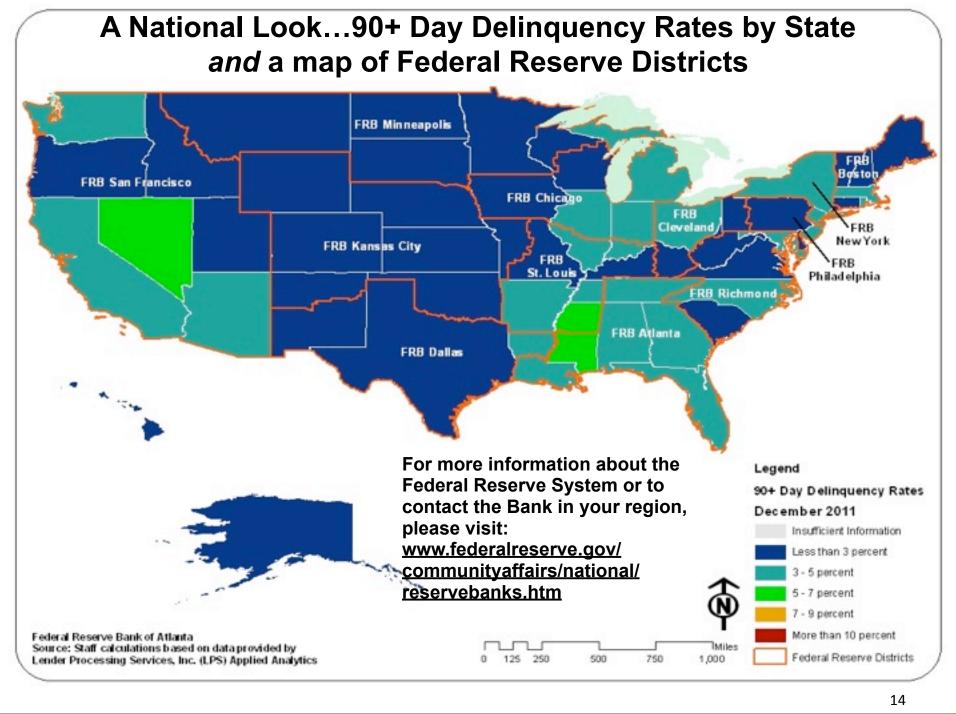
Poll Question 3

How have foreclosure rates in your region changed in the past 3 months?

Click on your response or X out of the poll to return to the presentation slides







Takeaways

- Though foreclosures are decreasing nationally and in many states, we remain at elevated levels.
- Estimates suggest that as many as 1 million borrowers will face foreclosure in 2012.
- The distressed housing market creates an attractive environment for mortgage and real estate fraud activity.

Foreclosure Rescue Scam Activity

The number of consumer reports of deceptive foreclosure rescue scams is increasing, targeting those Americans who are either at risk or are in foreclosure.

Some Hallmarks of Consumer Targeted Scams

- Guarantees to stop the foreclosure process
- Instructions NOT to contact your lender/ lawyer/housing counselor
- Collection of fees before services are rendered
- Encouraging delinquent borrowers to sign paperwork they haven't read
- Asking borrowers to sign over their home

Common Foreclosure Rescue Scams

- *Illegitimate Housing Counseling* Posturing their activity so it seems to function like a non-profit housing or credit counseling agency with similar or confusing names.
- Bait-and-Switch Making the borrower think the documents they have signed are to make their mortgage loan current, but instead they have surrendered their ownership.
- **Rent-to-Re-Own** An explanation is given to the borrower that their foreclosure is too far gone, so they are told to surrender their title to the 'rescue company'. The rescue company rents the property to the borrower with the promise to sell it back to them when the borrower is financially stable. In many cases the rent is unaffordable so the rescue company eventually evicts the borrower.

Emerging Scams

- **Partial Interest Bankruptcy Scams** Borrower is asked to give a partial interest of their home to one or more persons. Each interest holder files bankruptcy to temporarily stop the foreclosure. In the meantime, the scam operator does not pay the existing mortgage.
- **Lien Stripping Scams** Borrower who is underwater declares bankruptcy on their second mortgage and is left only with their first mortgage loan. Many of the operators marketing this practice do not have the legal authority to complete the transaction.
- **Loan Modification Scams** Consumers are asked to pay a fee for service to assist with applying for a loan modification.
- Short Sales Scams "Flopping"
 - Realtors have two offers on a property for short sale and submits the lowest offer to the bank and sells the property to the buyer with the highest offer.
 - Second lien holder requires additional funds from the homeowner outside of the short sale agreement.

Poll Question 4

Which of the following scams are the most prevalent in your region?

Click on your response or X out of the poll to return to the presentation slides

Common Red Flags of Fraud Experienced by Lenders

- Collection calls after default Work and home number is disconnected, borrower unknown at work number, borrower claims to have no knowledge of the loan.
- *Trend Analysis on Portfolio* High early payment default (EPD) rates by geographic/loan office, homogenous information supplied across loan applications (e.g. work #, employer, high # of self-employed borrowers).
- **Loan Modifications** Borrower claims owner occupied and mailing address differs, borrower credit is stellar w/no missed payments except for mortgage, borrower claims to be laid off in 60-90 days, wage earners with no 4506T tax record or recent tax returns, large transfers from bank statements, and hidden assets.
- **Short Sales** Sudden default without workout discussion, ambiguous or conflicting reason for default; short sale offer from related party.

Mortgage Fraud

Presented by *Bonnie Lewis*Senior Housing Specialist

US Department of Housing and Urban

Development

Overview

- There are consequences to mortgage fraud.
 - Housing Industry
 - Lender
 - Insurers
 - Community
 - Borrower
- This is not a victimless crime.

Primary Types of Fraud

• For Profit



For Property (for House)



For Profit



- Motivation is money
 - Actual cash realized
 - Loans (mortgage or construction) paid off
 - Borrowers do not plan to pay obligation
- Multiple participants are usually involved
- Industry insiders often complicit in action
 - Lender employees (loan officer, processor, etc.)
 - Real estate agent, builder, seller
 - Appraiser (market value and/or condition of property)
 - Closing Attorney
- Property Flipping is most common type of this fraud encountered by FHA staff
- Other types seen include Strawbuyers (occupancy fraud)

02/27/12

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For Property (House)



- Type most frequently encountered by FHA staff and housing counselors
- Borrower intends to make all mortgage payments
- Motivation is ownership and/or residence in the home either by self or a connected individual
- Rental (investment) property
- Fraud is committed primarily by borrowers
 - Often abetted by an industry professional (real estate professional, loan officer/other lender employees)
 - Often coached by consultants or other advisors (example: Advertisement stating that entity/person can get any individual qualified for a mortgage)
 - Borrower's family may also be a participant
- ozFraudulent activity could be in any aspect of the loan

For Property (continued)



- Common Schemes
 - Churning
 - Equity Theft
 - Straw Buyers
 - Property Flipping

For Property (continued)



Common Schemes - Refinances

- Churning
 - Lender involved or initiated
 - Borrower may attempt to skip mortgage payments by refinancing
 - Borrowers may use to avoid delinquency or foreclosure
- Equity Theft
 - Lender profits by increasing cost of the loan, especially the fees,
 above what is typical in the market
 - RESPA reform made this more difficult to accomplish
 - Market conditions (risk analysis and property values) impacts the lender's ability to accomplish this
 - Loss of borrower's equity without a comparable benefit



For Property (continued)



Common Schemes - Purchases

- Straw Buyers
 - The "borrower" may be compensated or may agree due to personal relationships
 - Foreclosure Rescue of family/friend
- Property Flipping
 - Seller, appraiser, lender usually involved
 - Borrower may participate because they want the property/ house

Borrower Fraud



- Misrepresenting income, asset, credit, debt, or eligibility status
- Signing documents that reflect inaccurate or fraudulent data
- Altering documents (or knowledge of someone else altering documents)
- Providing a "friendly" source for information
- Non-disclosure of information that could impact the loan decision
- Signing blank documents
- Does not notify lender of changes or issues encountered during the loan process, such as
 - Job changes
 - Asset depletion
 - New debts
- Change in borrowers status (divorce, separation, etc.) when both
 parties are on the loan

Fraud Detection



Learn to recognize the indicators (Red Flags)



- Apply logic and reason (common sense) during reviews
- Pursue and resolve inconsistencies
- Keep in mind that a few inconsistencies does NOT mean that the file contains fraud or misrepresentation
- Remember the basics of fraud detection

NOTE: Indicators are applicable for both loan origination and loan servicing (especially for housing counseling and loss mitigation decisions)

Fraud Detection Basics



- Review
 - Documents
 - Other information (tax records, property records, independent verification systems, etc.)
- Compare
 - Documents to documents
 - Information (from borrower or other sources) to documents
- Clarify
 - Discrepancies
 - Inconsistencies
- Document the resolution of issues
- Don't be afraid to QUESTION any concern noted.

REMINDER: Lenders are required to report any instance of fraud, misrepresentation, or serious violation of FHA loan approval criteria to HUD via

Common Areas for Fraudulent Information

- Borrower Eligibility
 - Occupancy
 - Other
- Income
- Assets
- Debts
- Credit history
- Property
- Application information
- Borrower explanations and/or additional Documentation
- Sales Contract
- Closing actions



Borrower Eligibility – Overview



- Occupancy is a specific eligibility requirement for most FHA loans
- Straw Buyer (occupancy fraud)
 - Borrower could be assisting relative or friend
 - Borrower could be paid
- Investment Property
- Indicators of occupancy fraud are similar for both refinance transactions and servicing functions
- Indicators for purchase transactions can be difficult to detect (as the borrower "intends" to occupy the home, but is rarely an occupant at the time of the loan application and/or closing)

Borrower Eligibility – Occupancy Potential Fraud Indicators

- Purchase Transactions
 - Already owns a home
 - Commuting distance and/or conditions
 - Size/Type of residence
 - Borrower does not intend to live in the property for the majority of the year (exceptions exist for members of the US Armed Forces)

Borrower Eligibility – Occupancy



Potential Fraud Indicators

- Refinance Transactions
 - Address on documents different than subject property
 - Chain of Title does not support ownership
 - Mortgage history/lack of history
 - Length of time home is owned
 - Type of loan(s) against the property
 - Borrower was not occupying the property at the time of the initial loan application, and/or at closing

Borrower Eligibility – Other Areas Potential Fraud Indicators

- Credit history
 - Non-traditional credit particularly susceptible
 - Non-disclosure of bankruptcy, foreclosure, debt responsibility, etc. (if the credit report is pulled from a reputable company, this is highly unlikely)
- Legal work status
 - Is legally able work in the US
 - Cannot provide documentation of this status (non-citizen and non-resident alien)
 - If a concern arises, the lender should ask for additional documentation
- Valid Social Security Number not provided
- No source of income
- No Assets

Income/Employment Overview



- Name and address of employers for previous two years provided
- Length of time at current employer
- 2 years of sequential employment (or gaps explained)
- Change in profession (field of work) within last 1-2 years
- Self-Employed?
- Is the employment stable? (Likely to continue for at least the first three years of the loan)
- Is the income level stable? (Likely to continue at the current level, or greater, for at least the first three years of the loan)

Income/Employment Potential Fraud Indicators



- Documents are faxed from realtor or seller (or the verification from borrower)
- Large increase in monthly income
- Calculations, including FICA and Medicare taxes, are incorrect (spot check)
- Paystubs, W-2s, or tax returns look "funny" such as different fonts, font sizes, shading, spacing, include handwritten information, unusual marks or lines, generic no name or address of employer, dates don't match the pay schedule or deposits into bank accounts, etc.
- W-2 income significantly different than paystub and/or verification of employment
- Verification obtained from someone other than Human Resources or Payroll
- Verbal verification of employment obtained from a phone number that was not confirmed with an independent source

Income/Employment



- Employer name similar to borrower's name
- Documents provided by borrower (paystubs, W-2s, tax returns, etc.) are not consistent with verifications and information from other sources (such as the credit report, or independent verification services)
- Employment, and/or continuation of employment, is overstated on the application
- Amount of income (income level) is overstated on the application
- Explanations or clarifications are not consistent with information found in file documents

Assets Overview



- All funds used in the transaction must be documented as coming from an acceptable source
 - Earnest money deposit
 - Debts recently paid or to be paid at closing (including judgments)
 - Funds paid at closing
 - Gift funds and Secondary Financing family loans: In addition to documenting the transfer of the funds to the borrower, the lender must also document that the ultimate source of the funds was not an interested party to the transaction (seller, realtors, lender, etc.)
- Deposits that are not sourced on the bank statement required additional explanation and/or documentation
- Only the accounts used in the transaction must be disclosed and documented

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Assets Potential Fraud Indicators

- Bank Statement
 - Different Fonts, or font size
 - Shading, folding, lines, or other unusual characteristics
 - The figures do not compute (addition/subtraction does not support balance shown)
 - Generic missing the name of the financial institution, the account owner name and address, the account number, etc.
 - Ending/beginning balances or dates don't match
 - Counter deposits or no deposits when the paystubs show direct deposit
 - Numerous counter deposits that are not explained
 - Faxed from seller or realtor
- Inconsistent or inaccurate data
 - Actual source of funds to close not shown (one account verified, but funds were drawn from a different account)
 - Secondary financing, especially family loans, shown as a gift

Credit History Overview



- Information on the credit report, or alternative credit history verification documents, should be consistent with other file information
- Rental housing history, or mortgage history, is relevant
- Credit reports to reflect information from all three major credit bureaus
- Sufficient history is needed to determine the borrower's attitude towards credit obligations. The question to ask:

Is there a disregard for obligations, or an inability to manage finances?

Credit History



Potential Fraud Indicators

- Mortgage payment history not on the credit report
- Inconsistencies or discrepancies noted on the credit report
- Omission of bankruptcy, foreclosure, garnishment, judgment, child support payments, etc., on the application.
- Non-disclosure of pending actions (inquiries often reveal pending credit or other credit history issues)
- Recent inquiries from potential creditors
- Information on the credit report does not match information provided by the borrower on the loan application or found in other documents (residential address, employment, social security number, etc.)
- Length of established credit is inconsistent with the borrower's age
- Debts reflected on the credit report are disputed
- A pattern of the same credit bureau official completing credit reports for a particular lender employee

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Obligations (Debts) Overview



- All debts must be disclosed by the borrower on the application
 - No matter how small the balance or payment, or how few payments remain
 - No matter to whom it is owed (including family or friends)
 - Debts with deferred payment debts (such as student loans)
 - Child support, alimony, garnishments, etc.
 - Balances or payments different than shown on the credit report must be further documented and verified
 - If a debt is not reflected on the credit report, the balance and monthly payment must be documented independently (statement, letter from creditor, etc.)
 - If the payment for a debt is not reflected on the credit report, the lender must use 5% of the current balance as the monthly payment unless the creditor documents the monthly payment
- ₀₂/երգջnsistencies and/or discrepancies must be explained and/or

Debts



Potential Fraud Indicators

- Omitted debts
 - Debts not shown on the credit report, including recent or new/pending debts
 - Co-signed debts
- Inaccurate information
 - Understated payment amounts or current balance
 - Understated term of debt
 - Creditor
 - The number of months/payments remaining
- Inconsistencies or discrepancies require additional clarification and/or documentation

Property Overview



- The appropriate Uniform Residential Appraisal Report (URAR) is used
- Estimated Market Value (Appraised Value) is sufficient for the mortgage
- The value is supported by data and adjustments
- Adjustments are supported by sources and statements
- All portions of the appraisal form are completed
- Any unusual items are explained and documented as needed
- Discrepancies and inconsistencies are explained and/or documented
- The photographs and sketches of the property are current, and are consistent with the information cited on the appraisal form
- Sufficient comparable properties (comps) are cited on the appraisal form
- The URAR/appraisal is signed by the individual who actually inspected the property
- The appraisal must be ordered by staff of the approving lender. Only an underwriter, or specified staff not involved in the loan processing, may request and/or discuss the appraisal with the appraiser.

Property Potential Fraud Indicators



- It can be difficult to identify inaccurate or misrepresented information from only a desk review. A field review, or data from another source, may be necessary to identify fraudulent appraisals.
- Inconsistencies and/or discrepancies between the URAR information and supporting information/documentation (including the borrower's loan application, the sales contract, public/tax records, etc.).
- Declining Market (were comps adjusted appropriately?).
- A multiple unit property.
- Combined residential and business use.
- Amenities appear excessive for type of house.
- Number of rooms (including bedrooms and baths) excessive for a one-unit property.
- The appraisal dated prior to the sales contract (or sales contract information on the appraisal is inconsistent with the contract provided in the file)

Property



Potential Fraud Indicators (continued)

- Property condition better than usual for the age (and there is no explanation, nor is there a comment about upgrades or improvements)
- Seller acquired property within the last 12 months (could indicate flipping)
- Current owner reflected as "Owner of Record" (often used to cover a flip)
- The property value increased substantially in a short period of time.
- The comparable properties (comps)
 - Are not similar to the subject property (subject) in design, size, location/ neighborhood, amenities, etc.
 - Exceed the recommended distance, and the inconsistency is not explained or addressed (similar neighborhoods and locations as the subject property is needed; cannot usually use a rural comparable property with a suburban subject property)
 - The comps used are older than 6 months without an adequate explanation
 - The adjustments exceed the benchmarks (10% line, 15% net, and 25% gross) without adequate explanation particularly if they are positive
 02/27/1adjustments

Property



Potential Fraud Indicators (continued)

- Photographs of subject and comps, the sketch and dimensions, and/or the maps do not support the information provided in the URAR.
 - The front and rear photos of subject property appear to be of different properties
 - The subject properties photos show "For Rent" or "For Sale" signs (refinance transactions)
- The estimated market value is inconsistent with other properties in the area (and it was not explained or addressed)
- Information provided in the Comments section of the URAR is inconsistent with the information provided elsewhere on the form.
- Information was modified/altered on the original URAR (changes should be reflected in an addendum to the appraisal).
- Information on the Market Conditions form inconsistent with the URAR information.

Loan Application - Overview



- The Uniform Residential Loan Application (URLA) is a summary of the loan and borrower information. As such, it is a key document in fraud detection.
- The signatures on the URLA (by borrower and loan officer) certifies that ALL of the information on the form is accurate. This document is routinely used to pursue actions against the the borrower and/or the loan office (the signatory parties) when fraud or misrepresentation is found.
- Information provided is verified independently by the lender. It may also be verified by the investor/servicing lender, the insurer such as FHA, auditors, investigators, etc.
- Review of this document is often the first indicator of posible fraud.

Loan Application



- Name, birthdate, and social security number
- Residence address for the last two years, and cost of housing.
- Marital status and number/age of dependents
- Current employer, time employed, income level, and position title
- Information for full two (2) years of employment
- Assets: Name of financial institution, account number, and current balance
- All debts
 - Includes those not reflected on the credit report, having a very small balance, someone else paying the debt, or a payroll deduction, child support/alimony, garnishments, and employer loans.
 - The name of the creditor, account number, minimum monthly payment, and current balance are reflected.
- Other credit information (judgments, bankruptcy, litigation, other property owned, etc.)

Loan Application





Mortgage Information

- Type of mortgage (FHA, VA, etc.)
- Type of loan (ARM, Fixed)
- Loan identification numbers (lender's and insurer's)
- Subject property information (address, legal description, year built, number of units)
- Mortgage information (amount, interest rate, funds already paid, etc.)
- Type of borrower (owner occupant, investor, non-occupant coborrower)
- How the property title will be held

Loan Application Potential Fraud Indicators



- Significant changes from the initial URLA to the final URLA
- Discrepancies or inconsistent information between the URLA and other documents, and/or data obtained from third party sources
- Non-purchasing (non-borrowing) spouse
- Identify of Interest sales transaction (borrower is purchasing home from family, friend, employer, etc.)
- Borrower is purchasing another home, but does not plan to sell the current residence
- Borrower purchasing another home in the same community as the existing home (without a reasonable explanation and/or documentation)
- Unrealistic commute distance or commuting conditions
- Size of the home is inadequate for the borrower and dependents
- Size of home significantly larger than usual for borrower and dependents (Example: 5 bedroom home for a three person family)

Loan Application Potential Fraud Indicators (continued)



- Tenant purchaser
 - Lease to own or paying off a land contract requires additional documentation of monies paid by borrower and agreements executed
 - Inconsistencies on the appraisal and/or sales contract may have greater significance
- Employer's address is a P.O. Box
- Employer's phone number is a cell phone
- Home and business (office) phone numbers are the same
- All, or most, of the downpayment is paid outside of closing (POC)
- Downpayment is other than cash (rent credit, sale of personal property, gift, etc.)
- Borrower's signature is significantly different than found on other file documents

Borrower Explanations and/or Additional Documentation



Overview

- Borrowers may be asked to explain discrepant or inconsistent information.
 The explanation must be signed and dated, and the borrower is responsible for ensuring the accuracy of the information in the statement.
- The explanation must be consistent with other file documentation.
 Additional documentation may be requested (from the borrower or a third party) if needed.

Potential Fraud Indicators

- The information provided (either in a statement or document) is inconsistent with other file information.
- Someone other than a borrower (such as a non-borrowing spouse) signs the statement.
- The statement is faxed from the realtor or seller.

Sales Contract

Overview

- Must be legible and valid (legally enforceable)
- FHA is not a party to the sales contract; however, if the terms of the contract violates FHA requirements, an addendum must be executed to resolve the issue



Potential Fraud Indicators

 Parties to the transaction (seller, buyer, real estate agents) not the same as reflected on other documents



- Earnest money on the HUD-1 is a different amount than that shown on the contract
- Seller is listed only as a company, without a legible name of the seller's representative executing the contract
- Unusual terms or conditions of the sale

Loan Closing

 The lender is to review all loan closing documents to ensure the loan is closed as it was approved, and for compliance with all RESPA and FHA requirements.
 Any discrepancies or inconsistencies are resolved prior to

authorization for the loan to close.

- A copy of the HUD-1 should be provided to the borrower at least 24 hours prior to closing for their review (against the GFE and other loan documents).
 - Information and guidance for the consumer (and the industry) on closing loans can be viewed at www.hud.gov [click on A-Z Index in top right corner of page, then click on Real Estate Settlement Procedures Act (RESPA)]
 - Recommend that borrowers be provided a copy of the entire closing

Home Equity Conversion Mortgage (HECM)

Overview

- The youngest borrower must be at least 62 year old
- Only borrowers may remain on title
- Counseling is obtained prior to loan (only the initial URLA and educational information can be provided prior to counseling)
- May be a HECM purchase or regular HECM
- Traditional credit underwriting not required (no mortgage payments)
- Property value is critical, as is the source of funds for a HECM Purchase

Potential Fraud Indicators

- Inconsistencies or discrepancies between information/documents
 Source of funds to close (especially on a HECM purchase)
- Appraised value/information inconsistent for property location area
- Length of time owned (recently acquired?)
- Other owners recently removed from title
- Documents show borrower address is different than subject property
- Repairs required set aside amount and the inspection not documented

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Information Sources

- US Department of Housing and Urban Development (website: <u>www.hud.gov</u>)
- Fannie Mae website (<u>www.fanniemae.com</u>)
- FBI website (www.fbi.gov)
- Freddie Mac website (<u>www.freddiemac.com</u>)

FTC Law Enforcement Mortgage Foreclosure Rescue Loan Modification Scams

Presented by *Cindy Liebes*Regional Director of the Southeast Region
Federal Trade Commission

The Federal Trade Commission

- Independent agency with both consumer protection and antitrust jurisdiction.
- Headed by a Chairman and four Commissioners, nominated by the President and confirmed by the Senate, each serving a seven-year term.
- Fulfills its mandate through law enforcement, policy development, and consumer and business education

The Federal Trade Commission

- Law enforcement jurisdiction over the advertising and marketing of most products and services in commerce
 - The FTC does not have jurisdiction over banks, common carriers and the rates charged by natural gas and electric companies.



The FTC Act

- Section 5 of the Federal Trade Commission Act (FTC Act) prohibits "unfair and deceptive acts or practices."
- Deception under § 5: A material omission, misrepresentation, or practice that is likely to mislead a consumer who acts reasonably under the circumstances

Recent Increase in Scams Targeting Consumers who are Struggling Financially

- Loan modification scams
- Debt settlement scams
- Credit repair scams
- Advance fee loan and credit card scams
- Government grant scams
- Employment scams
- Work-at-home and business opportunity schemes
- Employment Scams
- Advance Fee Loan and Credit Card Scams



Responding to the Financial Crisis

 Over the past few years, the FTC has filed over 100 actions against providers of unfair and deceptive financial services

 The Commission has obtained millions of dollars in redress for injured consumer victims of financial services fraud **M**ortgage

Assistance

Relief

Services



Trends

Lease Back/title stripping scams (localized)



Advance fee foreclosure rescue scams



Advance fee loan modifications scams



Forensic Audit scams

Typical Foreclosure Rescue / Loan Modification Pitch

"We Can Stop Your Foreclosure!"



"97% Success Rate!"



Guaranteed to Save Your Home!"

Characteristics include:



- Large up-front fees
- Advice to cease paying or communicating with lender/servicer
- Involvement of former mortgage brokers who sold risky loans and of career con artists



- Deceptive Success/Efficacy Claims
- Deceptive Affiliation/Endorsement Claims
- Deceptive Money-back Guarantees
- Deceptive claims of special expertise

Deceptive Affiliation Claims (con't)



FINAL ENTITLEMENT NOTICE

Expiration Date: June 30, 2009

Modification Case # 95960

Your modification case has been assigned to the following processing center:

Nations Housing Modification Center Capitol Hill

611 Pennsylvania Avenue SE No. 393

Washington, DC 20003-4303

Modification Helpline: 1-888-332-0188 "Due to the current foreclosure crisis, a bill has been passed by Congress" that "allows the Nations Housing Modification Center (NHMC) to provide relief for homeowners that are delinquent on their mortgage through the Nations Home Affordable Modification Program."

Our records indicate that you are currently over 60 days late on your mortgage. NHMC is authorized to provide you with a free consultation. This free consultation will determine if you qualify for a beneficial loan modification through the Nations Home Affordable Modification Program.

The Nations Home Affordable Modification Program may allow one or all of the following:

- Lower monthly payments
- Late payments waived
- Late fees waived
- Legal fees waived
- Adjustable rates converted to fixed rates as low as 2%
- Principal balances can be REDUCEDIII

This initiative may reduce your mortgage payment by as much as 40%. For example, a \$2,000 monthly payment may be reduced to as low as \$1,200. At the same time, the Nations Home Affordable Modification Program may eliminate all delinquent payments and fees. All of these terms are adjusted on your present loan without the cost of a refinance.

Home | Contact



Loan Modification Plan Consumer Alert Save Your Home Consumer Resources

Consumer Alert

Fraudulent Websites are on the rise, only trust official government Websites.

California Attorney General Brown Issues Consumer Alert Warning Homeowners of Property

As properly values continue to decline across the state, companies are sending deceptive mailers to homeowners offering help in reducing property tax assessments, if the homeowner pays the company hundreds of dollars in fees. The companies use official-sounding names such as "Tax Adjusters," Tax Reseasement" or "Tax Review" to make victims believe the company is a government agency. DON'T BE FOOLED - government agencies don't change for tax reassessment, it's free. If your property has declined in value and you think your property tax is incorrect, you can request a review of your property from your local tax assessor.

IF YOU ARE A VICTIM OF THIS SCAM, you can file a complaint with your State's Attorney General's Public Inquiry Unit.

FORECLOSURE RESCUE SCAMS

Fraudulent foreclosure consultants target homeowners who are behind on their mortgage payments. Here's what you can do to avoid becoming a victim:

1. DON'T transfer title or sell your house to the foreclosure rescuer.

Fraudulent foreclosure consultants often promise that if the homeowners transfer title, they may stay in the home as renters and buy it back later. The foreclosure consultants claim that transfer is necessary so that someone with a better credit rating can obtain a new loan to prevent foreclosure. BEWARE) This is a common scheme irescuersi use to exict homeowners and steal all or most of their home's equity.

- 2. DON'T pay your mortgage payments to someone other than your tender, even if he/she promises to pass the payment on to the lender. Fraudulent foreclosure consultants often keep the money for
- DON'T sign any documents without reading them first. Many homeowners think that they are signing documents for a new loan to pay off the mortgage they are behind on. Later, they discover that they exhably transferred exercises. that they actually transferred ownership to the "rescuer".

IF YOU TRANSFERRED YOUR PROPERTY OR PAID SOMEONE YOUR MORTGAGE PAYMENTS, YOU MAY BE A VICTIM OF A CRIME. Please register a complaint with your States' Altorney General's Public Inquiry Unit.

Refinance Fraud - Look out for people posing as mortgage brokers or lenders and offering to refinance your loan so you can afford the payments. Con artists may trick you into signing over the ownership of your home by saying that you are signing documents for a new loan.

Signing over the deed to your home exposes you to the dangers described above. Even if you are a victim of fraud, you could still lose your home.











FTC's Response

- The FTC has stepped up its efforts to combat mortgage loan modification and foreclosure rescue scams in three ways:
 - (1) Enforcement Actions
 - (2) Rulemaking
 - (3) Consumer Education

MARS Law Enforcement

- FTC has filed more than 40 actions against more than 200 defendants in the last few years
- Has partnered with the states, and other federal agencies in three nationwide sweeps
- "Operation Stolen Hope" and "Operation Loan Lies"
- Collectively filed more than 200 lawsuits against Mortgage Assistance Relief Services providers

MARS Rulemaking

 Rulemaking to stop deceptive loan modification entities who, for an up-front fee, offer to secure concessions from mortgage servicers or lenders, e.g., principal or interest rate reductions, lower payments or to stop foreclosure proceedings

Rulemaking Comments

75 comments received, including from:

- State Attorneys General and Regulators
- Consumer Groups
- MARS providers, including many attorneys
- State Bars and the ABA

Rulemaking Comments

- The Attorney Exemption:
 - 30 comments received from attorneys or organizations representing attorneys regarding proposed exemption.
 - Most recommend that the provision be broadened and exempt attorneys from advance fee ban and additional restrictions in the proposed rule (e.g., disclosures, recordkeeping)
 - NAAG recommends narrow exemption
 - Goal in proposal and any final rule is to balance consumers' ability to receive bona fide legal services with curbing deception and unfairness by MARS providers.

Rulemaking Comments

Advance fee ban:

- Some comments recommend prohibiting MARS from collecting fees for trial modifications
- Recommend setting specific benchmarks for loan modifications
- Highlight piecemeal services like "forensic audits"

Overview of the MARS Rule

- Prohibits deceptive representations and requires certain disclosures
- Bans the collection of fees until results are achieved
- Prohibits assisting and facilitating violations
- Limited exemption for attorneys

MARS Who is Covered?

- For-profit entities that offer to work with lenders (or servicers) on behalf of consumers to obtain mortgage loan modifications or other relief to avoid foreclosure.
 - Includes those claiming they will review consumers' files for "robo-signing" mistakes
- **Exempt**: Lenders, servicers & bona fide nonprofits.

Who is Covered?

Real Estate Brokers & their Agents

- Forbearance on FTC enforcement of MARS Rule regarding required disclosures & ban on collecting advance fees for Short Sales transactions
- Applicable to real estate professionals if:
 - Licensed & in good standing
 - In compliance with state laws
 - Assisting with Short Sale transactions
- Liability for misrepresentations and other types of mortgage relief services provided which are covered by the Rule & Section 5 of the FTC Act

Prohibited Representations

- Prohibited from instructing consumers not to contact or communicate with lenders or servicers.
- Prohibited generally from misrepresenting any material aspect of MARS.

Required Disclosures

- Must disclose, in all general ads, that they are not affiliated with the government or approved by lender
- In subsequent individual communications with consumer, must disclose:
 - Their for-profit status and non-affiliation with the government or consumers' lenders
 - The total cost/fee of the service
 - The lender may not agree to concessions or a modification

MARS Advance Fees

- **GENERALLY** To collect a fee, they must:
 - Achieve all results that were represented and that consumers reasonable expect; and
 - Provide <u>documentation</u> of the results
- LOAN MODS To collect a fee, they must:
 - Obtain a "mortgage loan modification" i.e., one that results in substantially lower monthly payments and lasts more than 5 years (or a trial mod that, if successful, lasts more than 5 years).
 - Provide documentation i.e., a written offer from the lender/ servicer

Attorneys

- Attorneys exempted from advance fee ban if they:
 - Are licensed in the state where consumer resides
 - Comply with state laws & regulations
 - Collect fee in connection with a bankruptcy petition or other litigation filing
- Exempted from ban on cease communication instruction if licensed to practice in state where consumer resides

Additional Provisions

- Prohibition against substantial assistance
- Recordkeeping and compliance requirements

Coordination and Cooperation

- Among Federal Agencies
 - Treasury
 - The Fed
 - DOJ & U.S. Attorneys Offices
 - HUD
 - SIGTARP
- State
- Local
- Task Forces

Criminal Liaison Unit

- Criminal prosecutions of FTC mortgage fraud defendants
 - Operator of HUD rip-off loan modification website sentenced to 6 months probation (impersonating federal agency)
 - Local criminal prosecution of Orange County mortgage assistance relief operation sued by FTC
- US Attorney's Offices working more than a dozen FTCreferred mortgage and other debt-related fraud cases

Consumer Education and Outreach

- The FTC advices consumers who are behind on their mortgage payments to contact their mortgage servicer.
- The FTC also warns consumers about mortgage-relief scams that charge hefty fees.
 - Consumer can do it themselves through their mortgage servicer directly
 - Or they can obtain free help through non-profit organizations like the Hope Now Alliance.



Consumer Education & Outreach

- The FTC has produced informative fact sheets and a video regarding loan modification and related scams.
 - "Real People, Real Stories" is a 3.5 minute video that features people targeted by foreclosure rescue scammers sharing lessons learned from their experiences.
 - Fact sheets are available through the Commission's website.
 - Money Matters Microsite



Foreclosure Rescue Scams

The possibility of losing your home to foreclosure can be terrifying. The reality that scam artists are preying on the vulnerability of desperate homeowners is equally frightening. Many so-called foreclosure rescue companies or foreclosure assistance firms claim they can help you save your home. Some are brazen enough to offer a money-back guarantee. Unfortunately, once most of these foreclosure fraudsters take your money, you lose your home, too.

You can save yourself money and more heartache by avoiding any business that:

- guarantees to stop the foreclosure process no matter what your circumstances
- advises you not to contact your lender, lawyer, or credit or housing counselor
- collects a fee before providing any services
- · accepts payment only by cashier's check or wire transfer
- encourages you to lease your home so you can buy it back over time
- · tells you to make your mortgage payments directly to it, rather

Your Home

- » Mortgage Payments
- » Foreclosure Rescue Scams
- » Reverse Mortgages
- » Mortgage Servicing

Consumer Complaint? Report it to the FTC

Video

Real People, Real Stories: Avoid Foreclosure Rescue Scams



The FTC's Complaint Database

- Consumers complain to the FTC in several ways.
 - Consumers can go to the one of several FTC's websites and fill out a complaint form.
 - Consumers can call the FTC's toll-free numbers, and speak with an information specialist who takes down complaint-related information.
 - Consumers can send a complaint to the FTC via US mail.

Sentinel Information

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Consumer Sentinel Fact Sheet

Members

Reports

Newsletters

Consumer Tips

Data Contributors

Econsumer.gov

Consumer Sentinel/Military

Consumer Sentinel Video

Consumer Sentinel is the unique investigative cyber tool that provides members of the Consumer Sentinel Network with access to millions of consumer complaints. Consumer Sentinel includes complaints about:

- Identity Theft
- Do-Not-Call Registry violations
- Computers, the Internet, and Online Auctions
- Telemarketing Scams
- Advance-fee Loans and Credit Scams

- Immigration Services
- Sweepstakes, Lotteries, and Prizes
- Business Opportunities and Work-at-Home Schemes
- Health and Weight Loss Products
- Debt Collection, Credit Reports, and Financial Matters

Consumer Sentinel is based on the premise that sharing information can make law enforcement even more effective. To that end, the Consumer Sentinel Network provides law enforcement members with access to complaints provided directly to the Federal Trade Commission by consumers, as well as providing members with access to complaints shared by data contributors.

Consumer Sentinel is free and available to any federal, state or local law enforcement agency. In addition, Consumer Sentinel information is also available to select international law enforcement authorities. Find out more about becoming a Sentinel member.

How Does My Law Enforcement Agency Become A Consumer Sentinel Member?

During the registration process, your application must be completed for your organization or subgroup in a single session. Please review the **checklist** and ensure you have all the required materials before beginning the application process.

What Are Consumer Sentinel's System Requirements?

For More Information About Consumer Sentinel:

Please visit us at register.consumersentinel.gov, or call the Consumer Sentinel HelpLine at 1.877.701.9595.

Consumer Sentinel Leading Partners and Data Contributors



Reporting Mortgage Fraud, Loan Modifications and Foreclosure Prevention Scams

Presented by *Tom Stokes*Acting Chief, Community Affairs
Federal Deposit Insurance Corporation

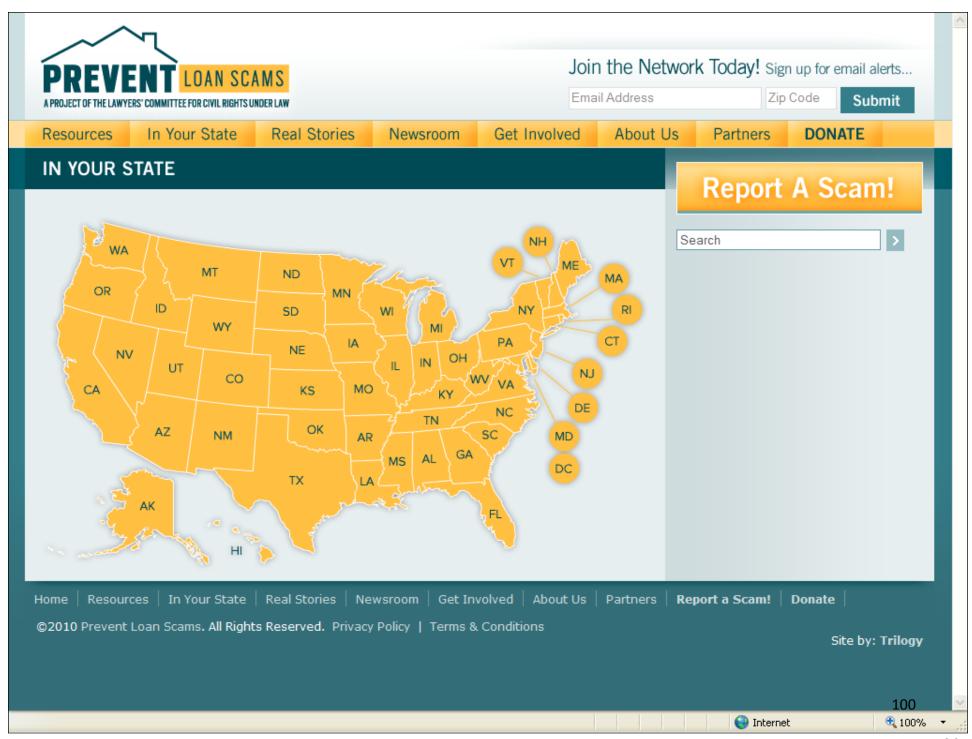


NeighborWorks' Loan Scam Alert Campaign

- Congress asked NeighborWorks to launch a national public education campaign
- Designed to:
 - Empower homeowners to protect against scams
 - Find trusted help
 - Report illegal activity to authorities
- http://www.loanscamalert.org

PreventLoanScams, A Project of the Lawyers Committee for Civil Rights Under Law

- Launched as a national clearinghouse by the National Loan Modification Scam Prevention Network
- Designed to:
 - Provide online complaint form to report scams
 - Find state-by-state trusted help
 - Support state and local enforcement authorities
- http://www.preventloanscams.org



The Financial Fraud Enforcement Task Force StopFraud Website

 Created in November 2009, the task force of law enforcement and regulatory agencies deploys resources to investigate and prosecute financial fraud.

Provides:

- Financial Fraud Enforcement Coordinators in each of the 94 US Attorney offices
- A website to report all financial fraud including mortgage related
- On line resources to protect consumers against fraud
- http://www.stopfraud.gov

Enter Search Term



HOME

ABOUT THE TASK FORCE

REPORT FINANCIAL FRAUD

PROTECT YOURSELF FROM FRAUD

NEWS

MULTIMEDIA

Home » Protect Yourself From Fraud » Mortgage, Loan, Lending and Related Fraud

PROTECT YOURSELF FROM FRAUD



Mortgage, Loan, Lending and Related Fraud

Resources on How to Protect Yourself | Reports Related Organizations and Web Sites | Publications

Traditional mortgage fraud includes situations in which homebuyers and/or lenders falsify information to obtain a home loan. Homebuyers should never sign mortgage documents that have incomplete or inaccurate information.

Mortgage Rescue and Loan Modification Scams: Many so-called foreclosure rescue companies or foreclosure assistance firms claim they can help struggling homeowners save their home from foreclosure. Some are brazen enough to offer a money-back guarantee. Unfortunately, most of these foreclosure fraudsters take your money and run.

Reverse Mortgage Scams: Reverse mortgages can be useful products, but have been associated with deceptive practices and allegations of high-pressure sales tactics and the risk of being steered into inappropriate loans and annuities.



STOPFRAUD GOV

Reporting Suspected Fraud

The Financial Fraud Enforcement Task Force maintains a wide list of resources and information dedicated to helping find and report suspected cases of financial fraud.

REPORT FRAUD

- PROTECT YOURSELF FROM FRAUD
- WHAT IS THE TASK FORCE?

Resources on How to Protect Yourself

5 Tips for Avoiding Foreclosure Scams

Federal Reserve Board, 2009

WHAT IS FINANCIAL FRAUD?



Financial Fraud encompasses a wide range of illegal behavior - from mortgage

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Consumer Information and Resources

Presented by *Tom Stokes*Acting Chief, Community Affairs
Federal Deposit Insurance Corporation

- Reporting con-artists and suspicious schemes help prevent others from becoming victims.
- Contact:
 - Federal Trade Commission
 - Your State Attorney General's Office
 - State & Local consumer protection agencies
- Legal Help
 - http://www.findlegalhelp.org

- Federal Trade Commission
 - www.ftccomplaintassistant.gov
 - www.ftc.gov/ftc/contact.shtm (877)FTC-HELP or (877)382-4357
- State, County and City Consumer Protection Offices
 - -www.consumeraction.gov/state.shtml

 Reporting suspected mortgage fraud through the Consumer Financial Protection Bureau

www.consumerfinance.gov

www.lsc.gov

- Reporting suspected fraud for legal enforcement by state attorney generals.
- www.naag.org
- - www.nationalforeclosuresettlement.com

- Reporting internet or e-mail hoax to FBI Internet
 Crime Complaint Center
- Learn about common scams and tips on preventing mortgage fraud
 - http://www.fbi.gov/about-us/investigate/ white collar/mortgage-fraud

Report Scams

- Reporting suspected fraud involving HUD programs or operations.
- Report suspected fraud to HUD Hotline 800-347-3735.
- Link to StopFraud.gov
 - http://www.hud.gov/offices/oig

Financial Institution Letters

- Institutions encouraged to help raise consumers' awareness on foreclosure prevention/anti-scam resources
- Reminder of FinCEN Guidance to Financial Institutions on Filing Suspicious Activity Reports regarding Loan Modification/ Foreclosure Rescue Scams
- www.fincen.gov

- Nationwide Mortgage Licensing System & Registry
 - www.nmlsconsumeraccess.org
- Making Home Affordable a program of the Departments of the Treasury and Housing and Urban Development.
 - www.makinghomeaffordable.gov

- Fannie Mae. Helping Homeowners and Communities
 - www.fanniemae.com
- Freddie Mac. Homeowner Resources
 - www.freddiemac.com

- Federal Deposit Insurance Corporation (FDIC)
 - www.fdic.gov/foreclosureprevention
- Federal Reserve Bank of Atlanta
 - www.frbatlanta.org/commdev/frc

• Federal Housing Administration - FHA Resource Center

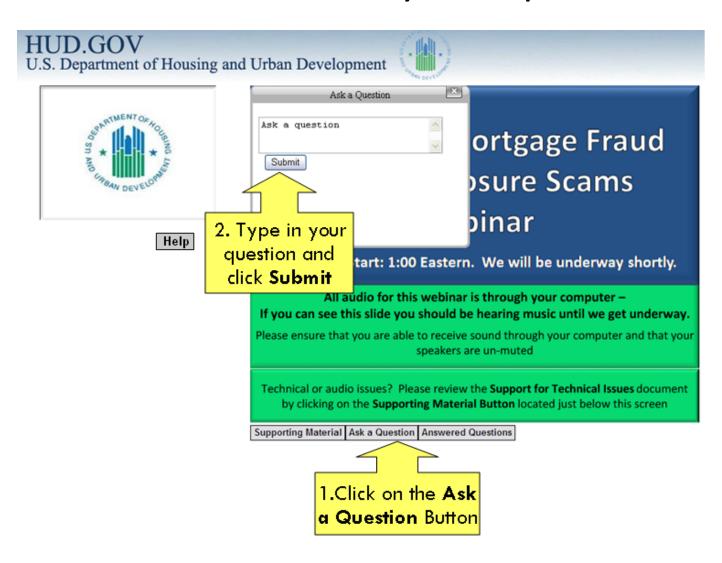
Telephone: 1-800-CALLFHA (1-800-225-5342)

Email: ANSWERS@HUD.GOV

FAQ Site: <u>WWW.HUD.GOV/ANSWERS</u>

Question and Answer Session

Moderator: Dave Dwyer, Dept. of HUD



Poll Question 5

Training Evaluation

Click on your response or X out of the poll to return to the presentation slides

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WRAP UP/CLOSING

- Thank you to today's presenters and to all participants for joining this session!
- If you have topical suggestions for future sessions, or any questions about this program, please feel free to contact us.
- Information about future sessions will be posted on our website along with archived materials from past sessions.
- Active within two hours of the end of the live broadcast
- Individuals can access the archive via:
 - the same link they used to register for the live event (within 2 hours)
 - the HUD Archive Site (within 24-48 hours)

