

November President's Message

Changes are now the norm in our industry. If our products aren't changing then market conditions are. If our product base and markets are stable, well then the laws must be changing. And change they have. On October 1st of this year some major changes took place within our FS 494. In an effort to keep our members on track the Government Affairs Chair, Mr. Mike Gilmore, and I sent out a letter of guidance to our database.

Many of you have already read our letter. If you have read it, feel free to skip this message and enjoy the Mortgage Press. If you have not read it, I have had it reprinted as my Presidents message. Please take a few minutes to read through this letter. The letter follows in it entirety.

The Florida Association of Mortgage Brokers offers guidance on how to comply with the changes to FS494 regarding disclosing the exact dollar amount of yield spread premium to the customer.



D. Ritch Workman , CRMS
Workman Mortgage Company

Dear Member,

On October 1, 2007, significant changes to FS494 will become effective that will impact every licensee regarding the type and timing of disclosures made to the consumer. The FAMB has received countless inquiries from licensees, both members and non-members, asking how best to meet the new disclosure requirements. Specifically, the greatest concerns have focused on the actual form of disclosure. Many of our members expressed concern that this would force a new "broker-only" YSP disclosure, again highlighting our wholesale earnings and resulting in an "un-level playing field". Others were concerned this change would require a new mortgage brokerage agreement to be signed, which in essence, could open the renegotiation of our fees.

We are pleased to report that we have met with the Office of Financial Regulation to gain a better understanding of their expectations with regard to the new disclosure requirements. The following highlights the major changes and offers some suggestions on how you can remain compliant under the new statutes.

1. **Mortgage Brokerage Agreement:**

Any fee paid to the mortgage brokerage business, by the lender (YSP), must be stated as a maximum dollar amount. Further, the mortgage brokerage agreement must be signed by the business and the borrower within three business days of application. We recommend all licensed mortgage brokers review their current agreements to ensure the proper language is present. You may no longer disclose your YSP as a percentage range. We have confirmed that both EllieMae and Calyx have modified their respective Mortgage Broker Contracts to reflect this change.

2. **Disclosure of exact YSP to the Borrower once known:**

According to the revisions to FS494.0038 (2) "The exact amount of any payment of any kind by the lender to the mortgage brokerage business must be disclosed in writing to the borrower within 3 business days after the mortgage brokerage business is made aware of the exact amount of the payment from the lender but not less than 3 business days before the execution of the closing or settlement statement. The licensee bears the burden of proving such notification was provided to the borrower. "

This paragraph of the law creates the requirement that mortgage brokers disclose (or re-disclose) the exact dollar amount of the YSP once becoming aware of the exact amount. This typically occurs at the time the broker receives a rate lock confirmation from the lender. Although many members have expressed concern that a completely new disclosure form will be required to satisfy this requirement, FAMB does not believe this to be the case. During our discussion with the OFR, they agreed in principle that simply using the existing "Good Faith Estimate of Closing Costs" is an acceptable form to use. Furthermore, the OFR does not currently have plans to establish an approved form of broker disclosure. Other forms of disclosure are also acceptable.

Although the law says you only need to provide proof of notification to the borrower within 3 business days of knowing the exact amount of the yield spread, the FAMB strongly recommends that you compare the actual lender charges against the estimated lender charges in the initial good faith estimate and revise those figures to the exact amount on the revised good faith estimate. We further recommend that you have the borrower sign and date the revised good faith estimate.

As a business owner, originator and / or licensed mortgage broker it is incumbent upon you to read, understand and apply the new laws that regulate your business. A full copy of the statute is available at the FAMB website along with a complete summary of all the changes to help members understand the steps they must take to adjust their business practices to remain compliant.

The new laws place the burden on the licensee to prove that the disclosures were provided to a borrower in certain instances. Yet, in other instances the licensee must prove that the borrower received and approved of the disclosure item(s). Regardless of the circumstance, FAMB recommends that members establish the practice of having a borrower acknowledge receipt and acceptance of any good faith estimate and any other disclosure or re-disclosure required under the new law. Following this practice will ensure that you always meet or exceed the disclosure requirements effective on October 1st,, 2007

Your FAMB leadership feels that by following these suggestions you will satisfy the disclosure and re-disclosure requirements of Florida Statute 494, specifically 494.0038 including 494.004(8)(a) and 494.0067(12)(a). These suggestions come from a face-to-face meeting between key members of your FAMB leadership team and the OFR. Please go to www.famb.org to read a complete summary of all the changes to 494 and to learn when the next FAMB class on FS494 will be coming to your area.

If you are still asking "What has FAMB done for me lately?", please read this memo again and consider what might have happened if it were not for the FAMB's involvement in our industry- related issues. We look forward to your continued support and value your membership in the Florida Association of Mortgage Brokers.

This document is provided for informational purposes to the membership of the FAMB and should not be relied upon as a legal opinion of the FAMB.

A handwritten signature in blue ink, appearing to read "Ritch Workman".

Ritch Workman, CRMS
President

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