



# SAFE Act, TRID, and ECOA Requirements for the HOME Program

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Updated: 12/20/2019

# SAFE Act

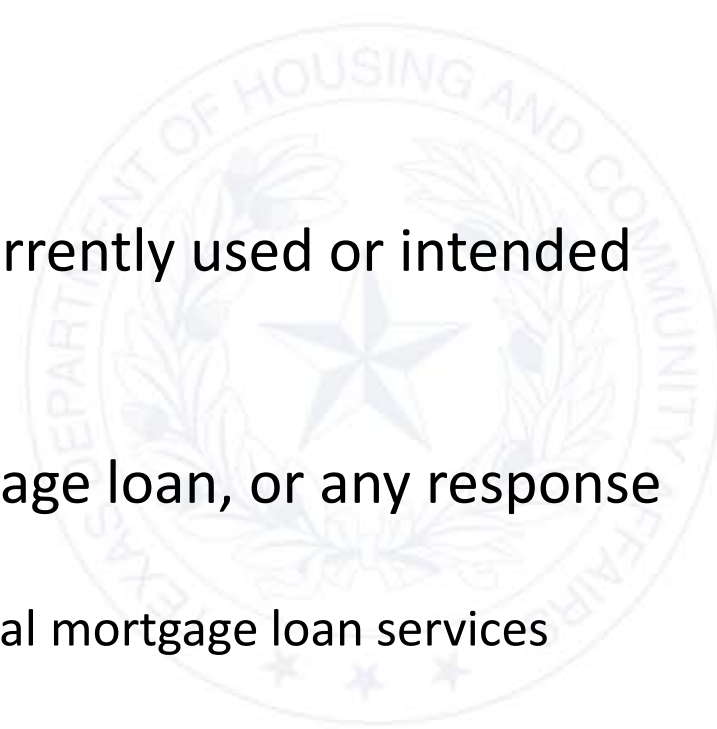


# Secure and Fair Enforcement for Mortgage Licensing (SAFE Act)- Background

- The “Secure and Fair Enforcement for Mortgage Licensing Act” (SAFE Act) requires that any person who accepts applications or discusses terms for residential lending must be licensed as a Residential Mortgage Loan Originator (RMLO)
  - Designed to enhance consumer protection and reduce fraud by setting minimum standards for licensing of mortgage loan originators
  - Assist with economic recovery and revitalization of the residential housing market
  - Facilitate responsible behavior in the mortgage market place
  - Encourage comprehensive training and education
- RMLO licensing information is maintained in the Nationwide Mortgage Licensing System and Registry (NMLS)
  - [www.mortgagenationwidelicensingsystem.org](http://www.mortgagenationwidelicensingsystem.org)

# Definitions

- Residential Mortgage Loan – a loan secured by property that is currently used or intended to be used by the borrower as a homestead/residence/dwelling
- Application – any request from a borrower for a residential mortgage loan, or any response by a borrower to a solicitation offering residential mortgage loans
  - Affirmative marketing of the HOME Program constitutes offering residential mortgage loan services
- Loan Originator – an individual who accepts a residential mortgage loan application, or offers/assists/arranges/negotiates in obtaining or applying for a mortgage loan for direct or indirect compensation or other monetary gain
  - Advising loan terms – rates, fees, time, costs
  - Preparing loan packages
  - Collecting information on behalf of the consumer



# Texas Agencies

- [Texas Department of Savings and Mortgage Lending \(TDSML\)](#)
  - Mortgage Banker Registration
  - Mortgage Company License
  - Financial Services Company Registration
  - Credit Union Subsidiary Organization License
  - Auxiliary Mortgage Loan Activity Company License
  - Independent Contractor Processor/Underwriter Company License
  - Mortgage Banker Branch Registration
  - Mortgage Company Branch License
  - Credit Union Subsidiary Organization Branch License
  - Mortgage Loan Originator License
- [Texas Office of Consumer Credit Commissioner \(TOCCC\)](#)
  - Property Tax Lender License
  - Property Tax Lender Branch License
  - Mortgage Loan Originator License
- [Texas Department of Banking \(DOB\)](#)
  - Money Transmission License



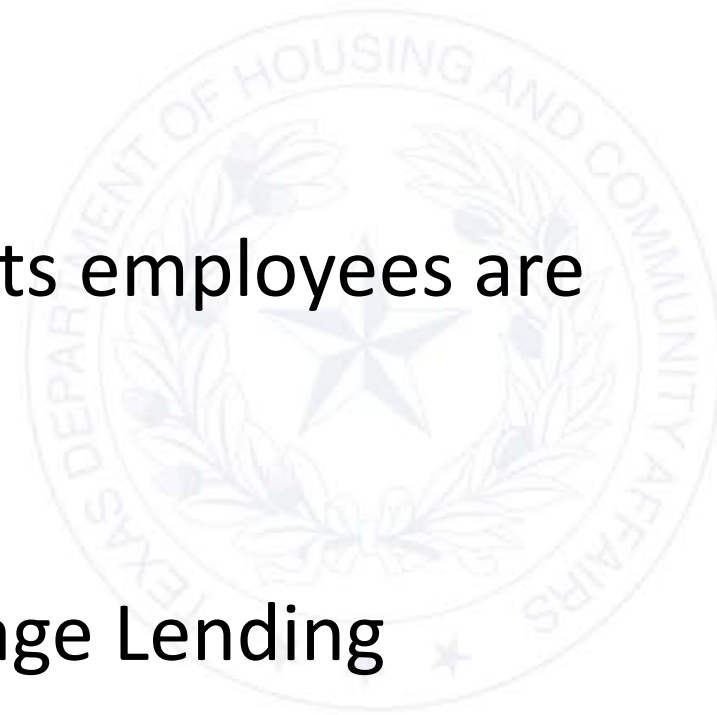
# NMLS Identifier Numbers

- NMLS identifier numbers are required for:
  - Individuals - Loan Originator (LO); and
  - Entities - Loan Originator Organization (LOO)
- NMLS identifier numbers are legally required for the following documents:
  - Loan applications
    - The Loan Addendum to Intake Application includes a section for loan origination information.
      - Homeowner Rehabilitation Assistance (HRA)
      - Homebuyer Assistance with New Construction (HANC)
      - Homebuyer Assistance (HBA)
      - Contract for Deed Conversion (CFDC)
      - Single Family Development (SFD)
  - Notes
  - Security instruments
  - Applies to superior and subordinate liens



# Who is Subject to Licensing Requirements?

- Your organization must determine whether it or its employees are subject to state or federal SAFE Act regulations
  - TDHCA cannot make this determination for you
- Contact Texas Department of Savings and Mortgage Lending (TDSML)
  - Document any communications from TDSML regarding your licensure status in your HOME Program files
  - [www.sml.texas.gov](http://www.sml.texas.gov)



# Exempt from Licensing Requirements

- Governmental employees (city/county/state) are **EXEMPT** from licensing requirements
  - Your legal counsel must determine if your entity is a governmental entity as defined by the SAFE Act legislation
  - Retain written documentation of exempt status in your HOME Program files
  - TDSML does not provide letters indicating exempt status
- Exempt organizations must ensure character, fitness, and criminal background requirements are met and provide training to employees engaging in loan application procedures
  - Contact TDSML for additional information





# Not Exempt from Licensing Requirements

- The following organizations are **NOT EXEMPT** from licensing requirements:
  - Nonprofit organizations: are subject to licensing requirements
    - Bona fide nonprofit must be designated as an “Auxiliary Mortgage Loan Activity Company”
    - “Qualifying Individual” must be sponsored by the entity and become licensed
    - Exempt status may be available for nonprofit self-help organizations in which the borrower contributes construction labor to the project – contact TDSML
      - Example: *Habitat for Humanity* organizations may qualify for exemption - contact TDSML
  - For-profit organizations: are subject to licensing requirements
  - Consultants: are subject to licensing requirements

# Getting Licensed: Eligibility Standards

- LO licensing standards:
  - No previous Loan Originator licenses revoked
  - No felonies within the past 7 years
  - No felony ever involving fraud, dishonesty, breach of trust
  - Must demonstrate financial responsibility
  - Must meet minimum net worth or surety bond requirements



# Licensing Procedures

- Complete an approved pre-licensure education course
  - 20 hours including federal law, regulations, ethics, fraud, consumer protection, fair lending practices, and non-traditional mortgages
- Submit fingerprints to NMLS
  - FBI criminal background check
  - Credit report
- Pass a national written exam – minimum score 75%
- After licensing: complete 8 hours annually of approved continuing education courses and maintain your licensing through NMLS



# Origination Information

- Revised Intake Application includes a section for loan origination information
  - Required for all loan projects
  - Support documentation verifying LO status must be provided

<b>B. ORIGINATION INFORMATION – To be completed by individual accepting the Intake Application</b>	
Loan Originator (LO) Name: Sally Smith	
Loan Originator (LO) Identifier Number: EXEMPT	Phone: (817) 122-4444
Loan Origination Organization (LOO): City of Somewhere	
Loan Origination Organization (LOO) Identifier Number: EXEMPT	Phone: (817) 122-4444
Loan Origination Organization (LOO) Address: 123 Elm Street, Somewhere, TX 71234	

- *Example 1:*

*Sally Smith is an employee of City of Somewhere, an exempt governmental entity self-administering its HOME award. Sally worked with the Johnson household, providing application documents and information about the HOME Program. City of Somewhere must identify the Loan Originator (LO) as Sally Smith and the Loan Originator Organization (LOO) as City of Somewhere. Insert “Exempt” as the LO and LOO numbers. Submit an ‘Acknowledgement of Licensing Status’ form.*

# Origination Information

B. ORIGINATION INFORMATION – To be completed by individual accepting the Intake Application	
Loan Originator (LO) Name: Larry D. Lender	
Loan Originator (LO) Identifier Number: 1234567	Phone: (817) 123-4567
Loan Origination Organization (LOO): Bigg Management Company	
Loan Origination Organization (LOO) Identifier Number: 9876543	Phone: (817) 456-7890
Loan Origination Organization (LOO) Address: 123 Pinetree Lane, Somewhere, TX 71234	

- *Example 2:*

*Larry D. Lender is a consultant for Bigg Management Company administering the HOME Program on behalf of the City of Somewhere, an exempt governmental entity. Larry worked with the Jones household, providing application documents and information about the HOME Program. Larry D. Lender must be identified as the LO and Bigg Management Company must be identified as the LOO. Submit print-outs verifying licensure status.*

# Origination Information

- If the LO or the LOO has EVER at any time received an NMLS number, the NMLS number must be identified on the loan documents, even if the organization is now exempt.

- *Example 3:*

*The LOO is City Habitat, an exempt nonprofit, which was previously issued NMLS license #12345 as an Auxiliary Mortgage Loan Activity Company. The Intake Application must identify the LOO as City Habitat and the NMLS #12345 must be included, even though the organization is now exempt. The LO must also be identified by name and, if he/she was previously individually licensed, that LO number must be provided. Submit an 'Acknowledgement of Licensing Status' form.*

- *Example 4:*

*Jane Goode is employed as an LO by Rural Habitat, an exempt nonprofit. Jane was previously employed by a non-exempt organization and received her NMLS license #56789 through that employer. Even though she is now working for a different, exempt LOO, the Intake Application must identify Jane Goode as the LO and include her previously-issued NMLS #56789. The LOO must also be identified by name as EXEMPT. Submit an 'Acknowledgement of Licensing Status' form.*

# Acknowledgement of Licensing Status

- If Administrator is not licensed or is exempt, an '*Acknowledgement of Licensing Status*' form must be submitted with the Loan Packet
  - Required for each project
  - Will be available on TDHCA website



# Verifying NMLS Registration and Licensing

- Support documentation confirming the license information provided in the Intake Application must also be submitted with the Loan Packet
- NMLS Consumer Access: <https://www.nmlsconsumeraccess.org/>
  - Enter the LO's name, LOO organization, and/or license number



NMLS consumer access

verify a financial services pro

Larry D. Lender

SEARCH

Example: John Smith Rockville MD 20852 Bank of USA

[+] Search tips...



# Verifying NMLS Registration and Licensing

- Screen identifying basic registration information

The screenshot displays the NMLS consumer access interface for a user named Larry D. Lender. The page includes a header with the NMLS logo and the text 'consumer access' and 'verify a financial services provider'. Below the header, there are navigation buttons for 'Back to Search Results' and 'Start New Search'. The main content area is divided into several sections:

- Profile Information:** Name: Larry D. Lender; NMLS ID: 1234567; Phone: 817-123-4567; Fax: 817-123-7654.
- Other Names:** Other Names: None; Prior Other Names: None; Prior Legal Names: None.
- State Regulatory Actions:** None posted in NMLS.
- Employment:** Authorized to Represent: Bigg Management Company; Engaged in other businesses: No. A button for '[+] View Self Reported Employment History' is present.
- Office Locations:** A table with columns: Company, NMLS ID, Type, Street Address, City, State, Zip Code, Start Date, and Go to Location. The entry for Bigg Management Company is shown with NMLS ID 9876543, Type Main, Street Address 123 Pinetree Lane, City Somewhere TX, State TX, Zip Code 71234, and Start Date 10/2/2000.
- State Licenses/Registrations:** (Displaying 1 Active of 1 Total). A table with columns: Regulator, Lic/Reg Name, Authorized to Conduct Business, Consumer Complaint, and View All Details. The entry for Texas - SML is shown with Lic/Reg Name Mortgage Loan Originator, Authorized to Conduct Business Yes, Consumer Complaint Submit to Regulator, and View All Details (+) View All Details. A red circle highlights the '+ View All Details' button, with a red arrow pointing to it.
- State Regulatory Actions:** While some state agencies may add actions taken in previous years against a licensee, the majority are adding only new actions from 2012 or later. To view complete information regarding regulatory actions posted by the state, click any regulator link. No regulatory actions have been posted in NMLS.

- Click on “View All Details”

# Verifying NMLS Registration and Licensing

- Screen expands to identify current licensing status

State Licenses/Registrations (Displaying 1 Active of 1 Total)		
Regulator ?	Lic/Reg Name	Authorized to Conduct Business ?
<a href="#">Texas - SML</a>	Mortgage Loan Originator	Yes
Lic/Reg #: None	Original Issue Date ? : 1/31/2012	
Status ? : Approved	Status Date: 1/31/2012	Renewed Through ? : 2015
Currently Authorized to Represent ?		
Company Bigg Management Company		
NMLS ID: 9876543		
Start Date: 1/31/2012		

- Include print-out of the expanded screen with the loan packet

## Q & A

The SAFE Act applies to lending, but my organization has only provided HOME Program grants. Why must I be concerned about SAFE Act licensing requirements?

Even though to-date you may have only provided HOME assistance in the form of a grant, circumstances may arise which require HOME assistance be provided in the form of a loan

- If an unlicensed individual has taken the initial application, and it is later determined that a loan is required, then the SAFE Act regulations have been violated
- In order to avoid this unintended violation, only licensed LOs should be accepting applications if your organization is subject to SAFE Act requirements
  - If your organization is exempt but you have engaged a consultant, ensure your consultant is licensed

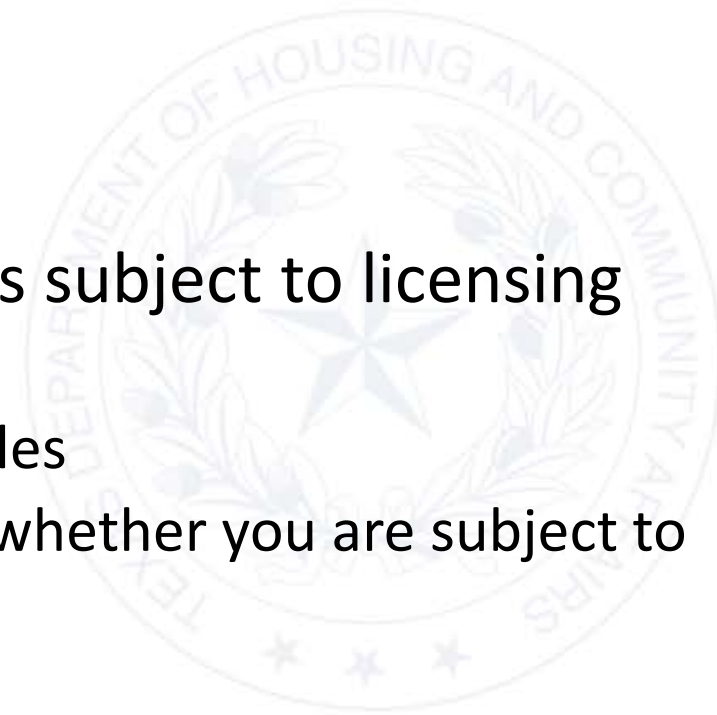
# Circumstances Triggering a HOME Loan

- The following circumstances trigger the requirement for a HOME Program loan:
  - Manufactured Housing Unit (MHU) to site-built structure
  - Any housing unit being replaced on another site, including relocation of a unit out of a floodplain
  - Any project that includes any amount of refinancing of existing debt
  - Reconstruction of structures which prior to setup were deemed uninhabitable, hazardous, or were condemned
  - Any project that requires a federal affordability period



# Summary: Complying with the SAFE Act

- Contact TDSML to determine whether your organization is subject to licensing requirements
  - Document the TDSML determination in your HOME Program files
  - Retain a copy of your legal counsel's written opinion regarding whether you are subject to the SAFE Act in your HOME Program files
- If your organization requires licensing, begin the licensure process now!
- Additional information on the SAFE Act can be found online:
  - [www.tdhca.state.tx.us/safe-act.htm](http://www.tdhca.state.tx.us/safe-act.htm)
  - <http://mortgage.nationwidelicensingsystem.org/safe/Pages/default.aspx>
  - [www.sml.texas.gov](http://www.sml.texas.gov)
  - <http://www.statutes.legis.state.tx.us/Docs/FI/htm/FI.180.htm#180.001>

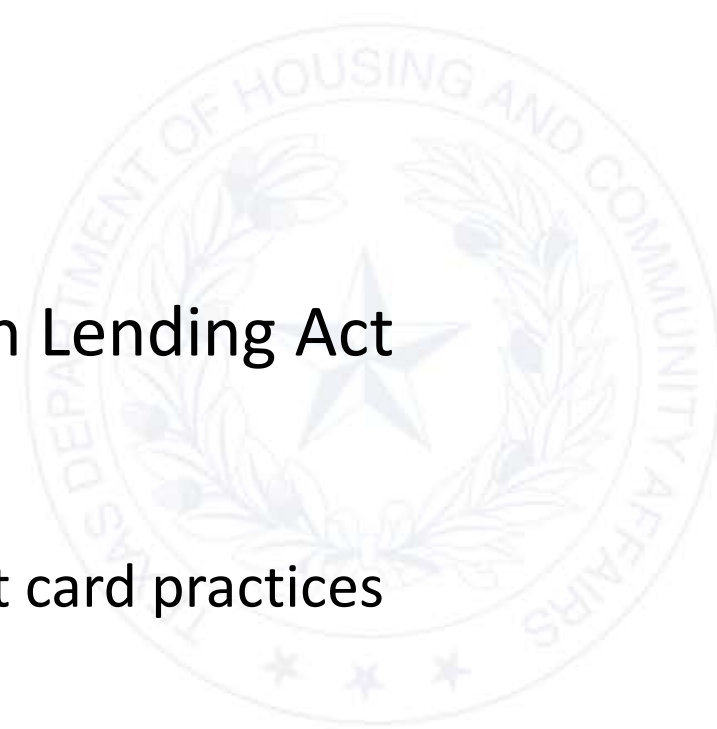




**Truth in Lending Act (TILA),  
Real Estate Settlement Procedures Act (RESPA) &  
TILA RESPA Integrated Disclosure (TRID)**

# Truth in Lending Act (TILA) - Background

- HOME Program Administrators are subject to the Truth in Lending Act
- TILA ensures that consumers are:
  - Protected against inaccurate and unfair credit billing and credit card practices
  - Treated fairly
  - Protected in their dealings with lenders and creditors
- TILA requires that lenders provide the consumer with loan cost information so they can comparison shop for certain types of loans
  - Does not apply to grants



# Real Estate Settlement Procedures Act (RESPA) - Background

- HOME Program Administrators are subject to the Real Estate Settlement Procedures Act (RESPA)
  - Applies to any residential mortgage loan secured by real property
  - Does not apply to grants
- RESPA ensures that consumers are:
  - Informed about the cost of mortgage loans for which they apply
  - Protected from unnecessary and unreasonable settlement costs
  - Protected from abusive settlement practices
- RESPA requires that consumers seeking loans receive disclosures at various times throughout the settlement process
  - Does not apply to grants





# TILA RESPA Integrated Disclosures (TRID) - Background

- HOME Program Administrators are subject to TRID Guidelines
- TRID is a series of guidelines that:
  - Closes loopholes that some lenders have used in the past to trick consumers
  - Dictates what information mortgage lenders need to provide to borrowers and when they must provide it
  - Regulates what fees lenders can charge and how those fees change as the mortgage matures
- TRID intends to help borrowers better understand their mortgage options and more effectively choose a mortgage lender that has their best interest in mind

# Required TRID Documents

## Loan Estimate (LE)

- **Administrators** originating TDHCA's loans must provide to all HOME loan applicants within 3 business days of receiving completed application
  - Homeowner Rehabilitation Assistance (HRA)
  - Homebuyer Assistance with New Construction (HANC)
  - Homebuyer Assistance (HBA)
  - Single Family Development (SFD)
  - Contract for Deed Conversion (CFDC)
- Title company must provide at least one business day before loan closing
- "Closing Disclosure" form must be provided at least 3 business days before loan closing

## HUD special information booklet *"Shopping for Your Home Loan"*

- **Administrators** originating TDHCA's loans must provide within 3 business days of receiving application to all HOME loan applicants for acquisition (purchase with or without construction) transactions
- Does not apply to HRA

# Required TRID Documents

## Mortgage Servicing Disclosure

- Administrators originating TDHCA loans must provide the initial disclosure at the time of in-person loan application or within 3 days after submission of the loan application
- Must be subsequently provided upon transfer of the loan by the transferor servicer 15 days before and by the transferee servicer not later than 15 days after the effective date of the transfer

## Escrow Account Operation and Disclosure

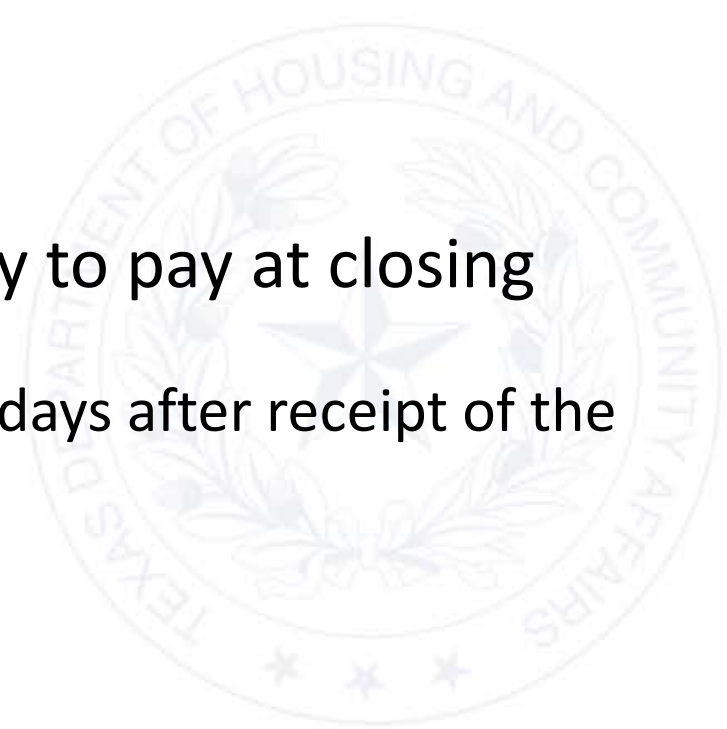
- Escrow is required for TDHCA loan acquisition transactions with monthly amortized payments
- Initial disclosure is provided by lender (TDHCA) at closing or within the next 45 days of closing
- Also provided annually by mortgage loan servicer (TDHCA)

# What is the Loan Estimate (LE)?

- A [Loan Estimate](#) is an estimation of the principal, interest rates, closing costs and mortgage features that the borrower qualifies for.
  - Though Loan Estimates may change from the beginning of the mortgage process to the end, the lender cannot significantly vary the agreement terms and must provide this good faith estimate shortly after application.
- Loan Estimate identifies the charges the borrower is likely to pay at closing
  - Administrator must provide to the applicant within 3 business days after receipt of the application
    - Document the date the complete application is received
    - If application is deemed ineligible within 3 days, the LE is not required
- If TDHCA is lending institution then TDHCA will issue the LE within 3 days.
  - For estimate purposes, the borrower will receive the LE for review.
  - It will be signed at the closing stage.

# What is the Loan Estimate (LE)?

- Loan Estimate identifies the charges the borrower is likely to pay at closing
  - Administrator must provide to the applicant within 3 business days after receipt of the application
    - Document the date the complete application is received
    - If application is deemed ineligible within 3 days, the LE is not required
  - HOME Program loans – costs are zero
  - Required for:
    - Homeowner Rehabilitation Assistance (HRA)
    - Homebuyer Assistance with New Construction (HANC)
    - Homebuyer Assistance (HBA)
    - Single Family Development (SFD)
    - Contract for Deed Conversion (CFDC)
  - Use estimated loan amount



# HUD Booklet – Shopping for Your Home Loan

- If HOME assistance involves a purchase transaction (acquisition), you must provide the HUD booklet

## *“Shopping for Your Home Loan”*

- Homebuyer Assistance (HBA)
- Single Family Development (SFD)
- Contract for Deed Conversion (CFDC)

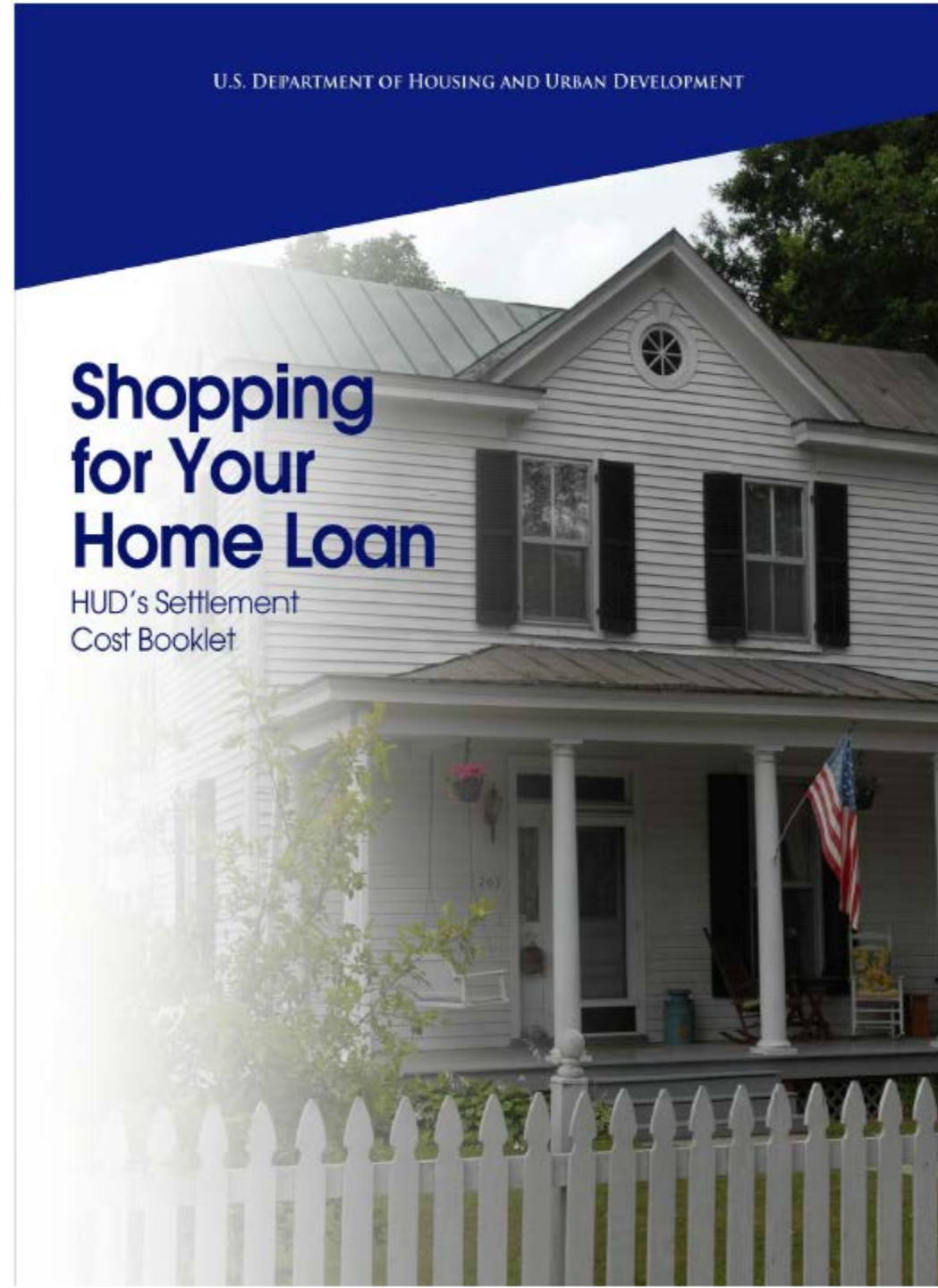
Copy and paste the following link into your browser to access the “Shopping for your Home Loan booklet”

[https://www.hud.gov/sites/documents/HUD\\_SETTLE\\_COST.pdf](https://www.hud.gov/sites/documents/HUD_SETTLE_COST.pdf)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Shopping for Your Home Loan

HUD's Settlement  
Cost Booklet

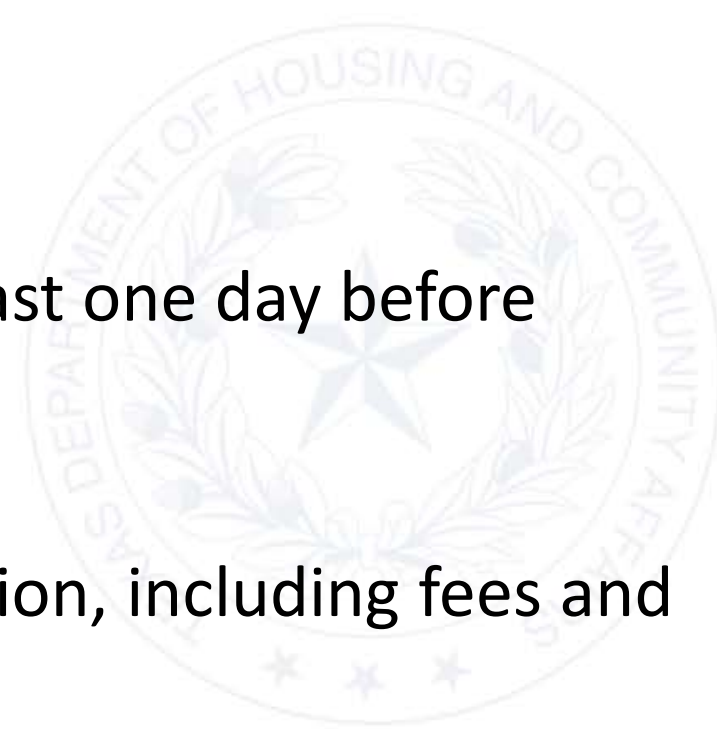


# Mortgage Servicing Disclosure

- A Mortgage Servicing Disclosure Statement discloses to the borrower whether the lender intends to service the loan or transfer it to another lender.
- Mortgage loan disclosure statements are required documents that are used to inform buyers about the costs associated with a mortgage.
  - This allows buyers to review the information and decide whether they'd like to continue and obtain the mortgage, or try another lender.
- Administrators originating TDHCA loans must provide the initial disclosure at the time of in-person loan application or within 3 days after submission of the loan application
- Must be subsequently provided upon transfer of the loan by the transferor servicer 15 days before and by the transferee servicer not later than 15 days after the effective date of the transfer

## Closing Disclosure (CD)

- The title company provides the CD to the borrower at least one day before closing.
- The CD shows the dollar amounts related to the transaction, including fees and services provided.
  - Loan terms stated on the CD are provided by lender.
- The CD replaces the LE at the closing stage.
  - There is only a 4% variance allowed between the CD and LE
- TDHCA generates the Closing Disclosure





# Escrow Account Operation and Disclosure

- Escrow is required for TDHCA loan acquisition transactions with monthly amortized payments
- Initial disclosure is provided by lender (TDHCA) at closing or within the next 45 days of closing
- Also provided annually by mortgage loan servicer (TDHCA)



# Summary: Complying with TRID

- Administrators originating TDHCA loans must provide:
  - Loan Application Packet must be submitted within 24 hours of signature
  - HUD booklet *Shopping for Your Home Loan* – provide with the application for acquisition projects
  - Mortgage Servicing Disclosure - at loan application if face-to-face meeting, otherwise within 3 days of application
- Forms and information about TRID can be found online:
  - <https://www.consumerfinance.gov/policy-compliance/guidance/tila-respa-disclosure-rule/>



# Equal Credit Opportunity Act (ECOA)

# Equal Credit Opportunity Act (ECOA) - Background

- The Equal Credit Opportunity Act (ECOA) protects persons applying for credit.
  - Prohibits discrimination based on race, color, religion, national origin, sex, marital status, age, or disability
  - Cannot refuse service or provide different terms and conditions because all or part of an applicant's income is from public assistance
- ECOA applies to persons who participate in making credit decisions (i.e. creditors)
  - HOME Administrators are considered creditors

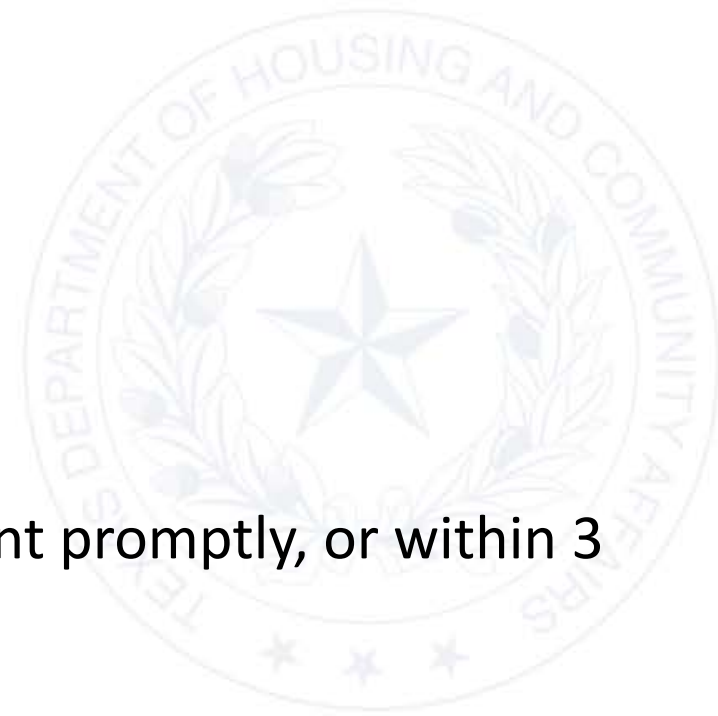
# Appraisals

- If an appraisal is conducted, creditors must provide applicants with free copies of their property appraisals or written valuation promptly upon the completion of the appraisal, but no later than 3 days before closing.
- If the loan application does not consummate into a loan due to ineligibility or other reasons, the appraisal must be provided within 30 days after such determination
- HOME Rules require an appraisal for all grants and loans



# Reminder

- After the appraisal has been conducted:
  - By law, a copy of the appraisal must be provided to the applicant promptly, or within 3 days prior to closing, whichever is earlier
- Appraisal is a HOME-eligible 3<sup>rd</sup> party cost
  - Not subject to a maximum
  - No charge to the applicant



For more information, contact your Performance Specialist or visit the following links:

[https://www.hud.gov/topics/buying\\_a\\_home](https://www.hud.gov/topics/buying_a_home)

<https://www.tdhca.state.tx.us/home-division/home.htm>

