

## **Regulatory Compliance and the Quality Assurance Professional**

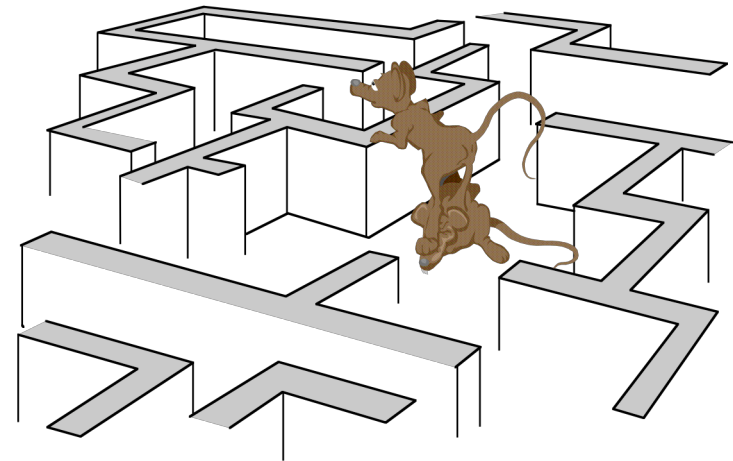
Everything you need to know...and why.....

**Penny A. Paplanus**  
**New Century Financial**

Add Your Company Logo Here

# What Does It Mean?

- In spite of years of legislating and regulating, there is no agreed-upon definition of “predatory lending” in 2006
- Concerns over potentially unfair and abusive mortgage lending terms and practices grew with the expansion of non-prime lending and higher-cost mortgage products



# And it Changes.....

The “p” word – first came into common usage in early '90's, to describe unfair and discriminatory mortgage lending

Used to describe unfair/abusive loan terms and practices, leading up to the enactment of the federal “high-cost home loan” law, HOEPA, in 1994

New life: North Carolina's groundbreaking high-cost home loan law in 1999 addressed at “predatory lending” (in the bill title)

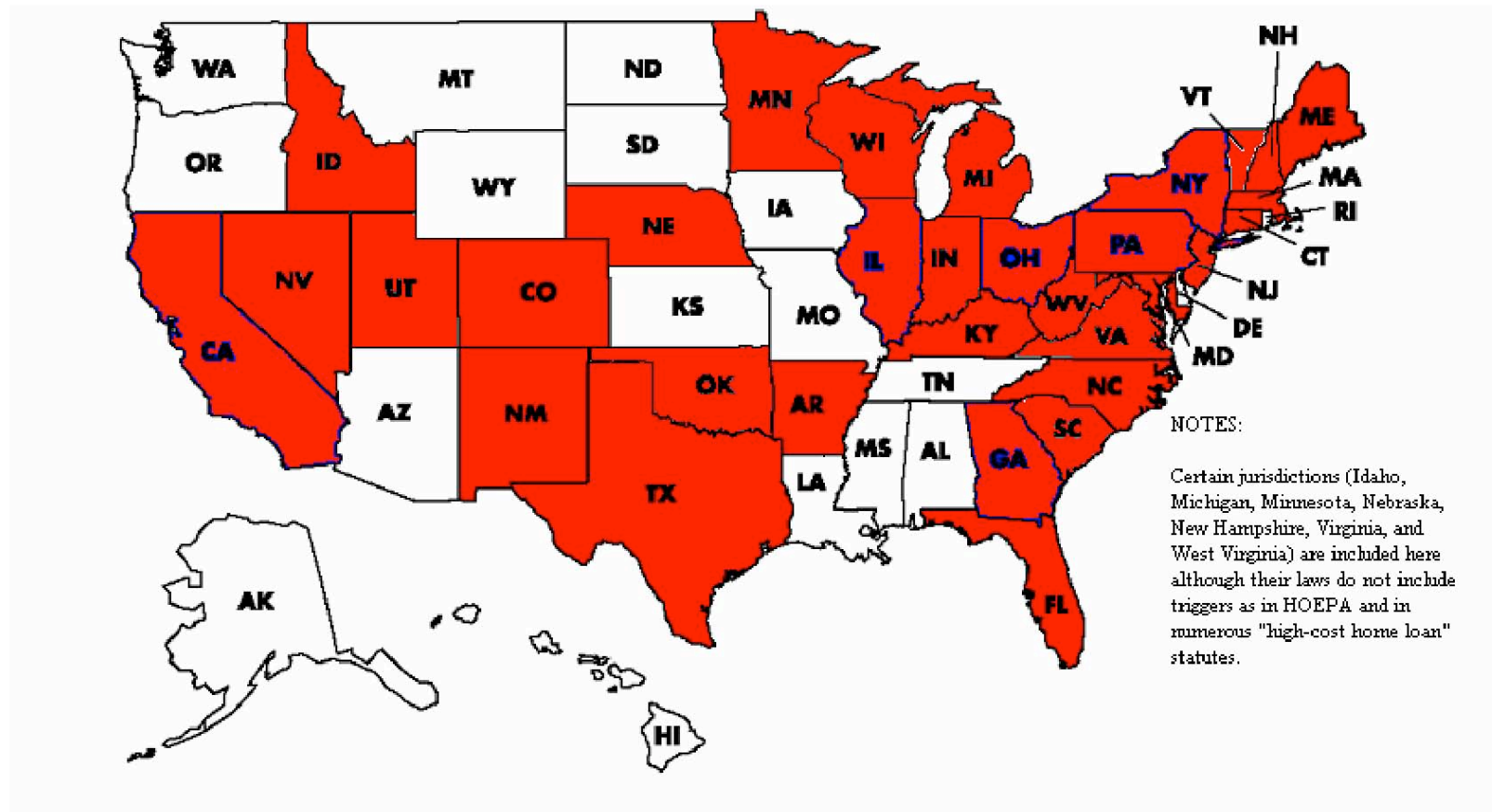
“Off to the races” as many other states and localities enacted (anti-) predatory lending and “predatory lending” became common usage

Now, the term is used (and abused) to describe any kind of loan terms, practices or outcomes that are thought to be unfair to the borrower



# So Many Rules.....

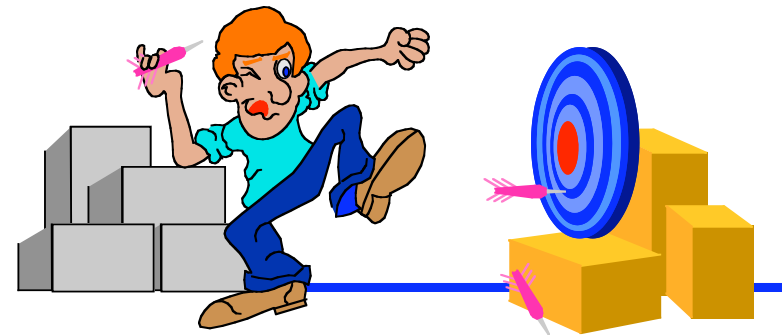
## Enacted Anti-Predatory Lending Laws: December 31, 2005



- LOS – does it have the capabilities
  - Use what they have
  - Build additional functionality
  - How do you keep up with changes
- Point of Sale Systems
  - Many to choose from
  - What to look for
  - Decisions, decisions decision

## Using systematic programs to alert you when you are approaching the high cost loans or predatory lending level

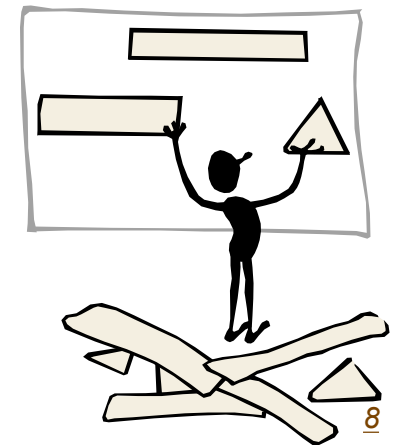
- Are we there yet?
  - What do you document?
  - What do you test?
- Training
  - Who?
  - What?
  - How often?



- Basic Math
  - What is covered?
    - Federal – owner occupied, refinance only
    - State – varies by state. All cover refinance transactions. Many include purchases. All are owner occupied, some include 2nd or vacation homes, there currently are none that cover non owner.
    - County and City – varies. All cover refinance transactions. Many include purchases. All are owner occupied, some include 2nd or vacation homes, there currently are none that cover non owner.
  - Calculating Points and Fees
    - The calculations are identified specifically in the regulation whether federal, state, county or city.
    - What are the differences from State to State and compared to Federal?

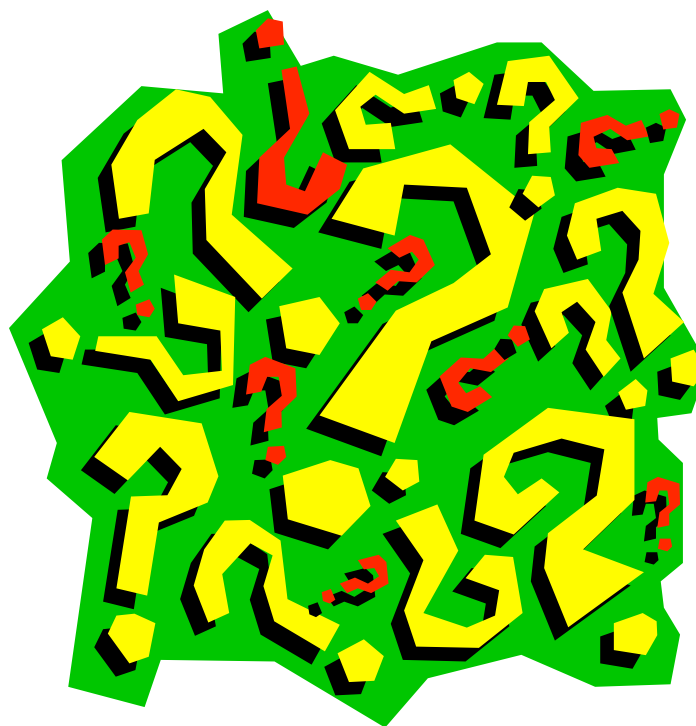
# Building manual checks and balances in the process (cont.)

- APR test
  - What is the calculation?
  - What are the differences from State to State and compared to Federal?
  - See sample worksheets at the end of this lesson.
  
- Set-up; Processing; Underwriting; Docs and Funding
  - Checking at all steps is essential
  - Training



# So Now what?

- Are you going to make High Cost loans?
  - Disclosure requirements
  - Timing
  - Counseling



# What else to worry about?

- Net Tangible Benefits
  - What are the
    - Four main reasons that borrowers refinance are to:
      - Reduce Cost
      - Raise Cash
      - Reduce Monthly Payments
      - Reduce Interest Rate risk

# Examples of What is New Today

- Illinois Predatory Lending Law – HB 4050
- Legislature mandates submission of detailed loan applicant data to the regulator
  - Regulator decides if applicant needs counseling, etc.
  - Pilot program aimed at inner-city Cook County (Chicago) zip codes – 10 zipcodes 60620, 60621, 60623, 60628, 60629, 60632, 60636, 60638, 60643 and 60652
  - Elimination of discrimination or “big brother”?
  - Database not up and running yet, but 9/1/06 is targeted date

- Montgomery County, Maryland Ordinance
  - Began as “predatory lending” bill but morphed into comprehensive amendments to local fair housing law
  - State law (Maryland) preempts local predatory lending laws but not anti-discrimination ordinances
  - Court sided with industry in AFSA v. Mont Cty lawsuit & granted preliminary injunction against effectiveness and enforcement – hearing in July – waiting for Judge’s ruling

## Ohio SB 185, effective 1/1/07

- The logic: Ohio #1 in foreclosures, need strong laws on origination to stop foreclosures
- The idea: make Ohio's Consumer Sales Practices Act apply to mortgage lenders
- Lots of problems with that, legally – untold damages, vague standards of liability



## THRESHOLDS

1. The APR thresholds remain the same,
2. Total "Points and Fees" exceed:
  - A. 5% of the "total loan amount" if the "total loan amount" is greater than or equal to \$25,000, 8% of the "total loan amount" if the "total loan amount" is less than \$25,000.

**Note:** The "total loan amount" means the principal of the loan minus points and fees that are included in the principal amount. For transactions under an open-end credit plan, the "total loan amount" shall be calculated by using the total line of credit allowed under the loan at closing.

## POINTS AND FEES

1. "Points and Fees" includes:
  - A. Single premium credit insurance,
  - B. All compensation paid directly or indirectly to a mortgage broker from any source,

**Note:** Up to and including 1% YSP may be excluded from the "Points and Fees" calculation.

- C. For Open-End loans:
  - I. Fees paid to access the line of credit,
  - II. Fees paid to utilize the maximum amount of credit available.
2. "Points and Fees" excludes
  - A. Fees paid to a federal or state government agency that insures payment of some portion of the loan,
  - B. Up to 1% in indirect mortgage broker compensation paid by any source.

## Broker Act requirements:

- Installation of amended Loan Disclosure Statement
- disclosure of borrower's credit score and report
- disclosure of a copy of the AVM report, if used
- installation of addendum to the Good Faith Estimate containing the required language
- installation of the property tax escrow and monthly payment breakdown disclosure
- programming new state-specific re-disclosure tolerances and triggers
- installation of the choice of settlement service providers disclosure

## CSPA requirements:

- print Attorney General information pamphlet with Ohio loan
- documents implementation of “tangible net benefit” documentation,

- Tenn Home Loan Protection Act, Ch. 801 (HB 3597), eff. 1/1/07
- The product of years of contentious debate
- North Carolina-type high-cost home loan law
- A ‘flipping’ prohibition for all loans

# Will Congress Act in '06?

- Ney-Kanjorski v. Miller-Watt
- Rep. Bachus has been trying to bring the sides together (in House FS Committee)
- Be careful what you wish for: “suitability” could emerge
- Prospects for 2006? The price will be (intolerably) high for a “single national standard”



And it continues.....



Questions?