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*American Financial Resources, Inc.*



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## **Attention: AFR Lending Partners**

### **Topics in this edition of The AFR 411 include:**

- **Home Mortgage Disclosure Act (HMDA)**
- **Citizenship and Immigration Status Requirements**
- **Property Assessed Clean Energy (PACE) Update**
- **State Updates**
  - **New Jersey Application Disclosure**
  - **California Imposing New Fee**
  - **Maine Fannie Mae and Freddie Mac Form 3749**

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This 411 supersedes the current guidelines outlined in the applicable Program Matrices.

### **Home Mortgage Disclosure Act (HMDA)**

On October 15, 2015, the Consumer Financial Protection Bureau (CFPB) issued a final rule that significantly expands the data points to be collected and reported by lenders. The rule also changes the coverage requirement for institutions, transactions and reporting. The amendments include in the 2015 HMDA Final Rule take effect on January 1, 2018, January 1, 2019 and January 1, 2020.

For data collected on or after 2018, the HMDA Rule amends the requirements for collection and reporting of information regarding an applicant's or borrower's ethnicity, race, and sex.

Lenders are to collect the new data required by the rule for loan actions on or after January 1, 2018, and will need to report this data by March 1, 2019.

Additionally, the HMDA Rule adds a requirement to report how the institution collected the information about the applicant's or borrower's ethnicity, race, and sex. The institution will report whether or not it collected the information on the basis of visual observation or surname. Both the HMDA Rule and current Regulation C require the institution to collect information about an applicant's ethnicity, race, and sex on the basis of visual observation or surname when an applicant chooses not to provide the information for an application taken in person.

Second, for applicant or borrower information collected on or after January 1, 2018, institutions must permit applicants to self-identify their ethnicity and race using disaggregated ethnic and racial subcategories. The institution will report disaggregated information applicants provide. However, the HMDA Rule will not require or permit institutions to use the disaggregated subcategories when identifying the applicant's ethnicity and race based on visual observation or surname.

The new HMDA rule requires reporting on 48 data fields-adding 25 new data fields to the current 23-but also modifying 20 of the existing fields. The new data fields include those mandated by the Dodd-Frank Act, as well as fields required by the CFPB under its discretionary authority.

- Some of the new HMDA fields include:
- Age of the borrower;
- Credit score;
- Application channel;
- Mortgage loan originator NMLS identification;
- Automated Underwriting System (AUS) and Result;
- Combined loan-to-value (CLTV) ratio;
- Borrower's debt-to-income (DTI) ratio;
- Borrower-paid origination charges;
- Total Loan Costs or total Points and Fees
- Discount points;
- Lender credits;
- Loan term;
- Prepayment penalties;
- Introductory Rate Period
- Non-amortizing loan features;
- Interest rate; and
- Rate spread for all loans (other than assumptions).

AFR will require all 2015 HMDA Final Rule requirements on all applications dated on or after January 1, 2018.

See AFR [HMDA Q&As](#) on the AFR Resource Center for additional information.

### **Citizenship and Immigration Status Requirements**

AFR adheres to GSE (Fannie Mae and Freddie Mac) and Agency (FHA, VA, USDA) guidelines for citizenship and immigration status requirements. All non-permanent resident borrowers for all loan types must hold a valid visa that adheres to the GSE/Agency expiration guidelines. All Borrowers must provide evidence with required documentation to show lawful residency in the U.S.

Recently, The Justice Department announced it is ending the Deferred Action Childhood Arrival (“DACA”) Program and The U.S. Citizenship and Immigration Services has phased out the program. Due to the recession of this program, AFR cannot permit this category of immigration status unless the borrower(s) can provide proof of lawful residency in the U.S.

### **FHA Update – Property Assessed Clean Energy (PACE)**

To align with the [FHA Mortgagee Letter 2017-18](#), AFR will be following FHA guidance no longer permitting loans on properties encumbered with outstanding PACE obligations.

If subject property has a PACE assessment the obligation must be paid off with the new mortgage transaction. See FHA 4000.1 Handbook for rate/term and cash refinance requirements.

### **New Jersey – Application Disclosure Form**

The New Jersey Department of Banking and Insurance released its new “NJ Application Disclosure Form” that will take effect on January 1, 2018.

The new “NJ Application Form” is required on all applications taken on or after January 1, 2018. The new disclosure pertains to all retail, wholesale, and all correspondent channels that are not exempt under the New Jersey Residential Mortgage Lending Act.

[http://www.state.nj.us/dobi/division\\_banking/ocf/NJ\\_Application\\_Disclosure\\_Form\\_20170927.pdf](http://www.state.nj.us/dobi/division_banking/ocf/NJ_Application_Disclosure_Form_20170927.pdf)

### **California - Imposing New Fee as a Result of Building Homes and Jobs Act**

The state of California has recently enacted the Building Homes and Jobs Act that will go into effect on January 1, 2018. In addition to any other recording fees, a fee of seventy-five dollars (\$75) must be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded. The state of California will begin imposing a \$75 per transaction fee (not to exceed \$225) on recorded documents. This fee does not apply to purchase transaction and will require a county recorder to send revenues from this fee on a quarterly basis for deposit into the Building Homes and Jobs Funds.

For all loans that will close after December 31, 2017, there will be an additional \$75 recording fee that must be collected at closing and must be disclosed on the Loan Estimate. **Note:** AFR will begin disclosing the maximum fee of \$225 on the Loan Estimate since we are not certain at the time if any other documents may need to be recorded.

The actual fees that will be sent for recording must be charged to the borrower on the Closing Disclosure. It is the responsibility of all responsible parties to verify with the settlement agent whether additional documents will be required prior to closing in addition to the Security Instrument and charge the borrower accordingly on the CD a \$75 per transaction fee (not to exceed \$225).

**Maine - Fannie Mae and Freddie Mac MERS Mortgage Assignment (Form 3749)**

Effective for note dates on or after January 1, 2018, all mortgage loans secured by a property located in the state of Maine must use the new Fannie Mae/Freddie Mac MERS Mortgage Assignment (Form 3749) to assign such loans to MERS.

Important: Mortgage loans with a note date on or after January 1, 2018, that are secured by a property located in Maine are ineligible for delivery to Fannie Mae if the Maine security instrument (Form 3020) has been modified to name MERS as the original mortgagee of record solely as nominee for the lender, or if the loan has been assigned to MERS using an assignment form other than Form 3749.

**Reminder**

Correspondent Lenders must adhere to all state and federal requirements.