Mortgage Lending examines federal and state restrictions on the origination and terms of mortgage loans, and federal preemption of the state restrictions. It focuses on underwriting, appraisals, mortgage brokers, third-party fees, interest rates and other loan terms, reverse mortgages and other less common types of mortgages, and litigating mortgage lending claims. Although some states distinguish between a mortgage and a deed of trust, this treatise follows the colloquial convention of referring to both types of security as “mortgages.”\(^1\) More particularly, this treatise covers the following topics:

- Analyzing a mortgage lending case, including gathering and understanding the documents, credit math issues, and abuses to spot;
- Federal claims that can be brought in a mortgage lending case, including Real Estate Settlement Procedures Act and Truth in Lending Act claims;
- State claims for mortgage lending origination abuses and unfair credit terms;
- Preemption of state claims as they apply to national banks and federal savings associations;
- Loan underwriting, steering, flipping, and appraisals;
- Regulation of loan brokers, broker compensation, and third party charges, including title insurance, private mortgage insurance, and attorney fees;
- Mortgage loan terms, including interest rates, points and other origination terms, adjustable rates, negative amortization, prepayment penalties, balloon payments, length of the loan term, and late charges and penalty interest rates;
- Reverse mortgages;
- Litigation of claims, including jurisdiction, arbitration requirements, settlements, third party liability, and the holder-in-being defense; and
- Claims against failed banks.

Footnotes

1 \(^{1}\) See Arnett v. Bank of Am., 874 F. Supp. 2d 1021, 1026 n.6 (D. Or. 2012) (noting that Oregon authorizes both mortgages and trust deeds, and that “the term ‘mortgage’ is used colloquially to refer to both”).

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