

# CAPITOL·TITLE

## IS PROPERTY “FLIPPING” ILLEGAL?

The term “property flipping” refers to a transaction in which an investor contracts to purchase property and then enters into an agreement to resell the property, immediately or within a very short period of time, at a higher sales price, resulting in a profit to the investor. When a transaction is properly constructed, with full disclosure to all relevant parties (and lenders,) and in the absence of fraud, property flipping is legal. A recent Freddie Mac publication states that, “Flipping is a legal and ethical practice when all representations of the property condition and value are true and accurate.”

In recent years, the term “flipping” has become a term associated with illegal transactions in which an investor contracts to purchase property and, through a variety of fraudulent practices, arranges to sell the property for a significantly higher price in a short period of time. Some of these fraudulent activities include:

- a. Manipulating appraisals in an effort to buy for less and sell for more;
- b. Falsifying down payments and lease agreements to enable unqualified buyers to obtain loans to purchase the property;
- c. Structuring a “cash-out purchase” in which the purchase price is artificially inflated to enable the purchaser (investor) to obtain an inflated loan, with the excess sales proceeds being paid to the purchaser (investor) by the seller, outside of closing;
- d. Falsifying records to reflect non-existent home improvements to support inflated sales prices;

In an effort to combat illegal flipping on properties utilizing FHA financing, HUD instituted (in 2003) an “anti-flipping” rule which imposed certain requirements and time restrictions on re-sales of properties (not less than 90 days from acquisition by the seller) to be financed with FHA insured mortgages. In 2010, in an effort to speed the resale of foreclosed properties, HUD issued a temporary waiver of the anti-flipping time restrictions. **The temporary waiver was scheduled to terminate on December 31, 2011 but today (December 29, 2011) HUD has extended the anti-flipping waiver through 2012.**

**Even if a transaction constitutes a LEGAL property flip, real estate licensees should exercise extreme caution and ensure that full disclosure, and provision of all material facts and documentation, is made to all parties, lenders and title agents involved in the transaction. Title insurance is not available unless the transaction meets certain requirements. If you or your clients are contemplating participating in a "flip" transaction, we strongly suggest contacting your nearest CAPITOL TITLE office to determine if title insurance will be available.**



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