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THE ROLE OF THE LENDING INDUSTRY IN RESIDENTIAL CONSTRUCTION

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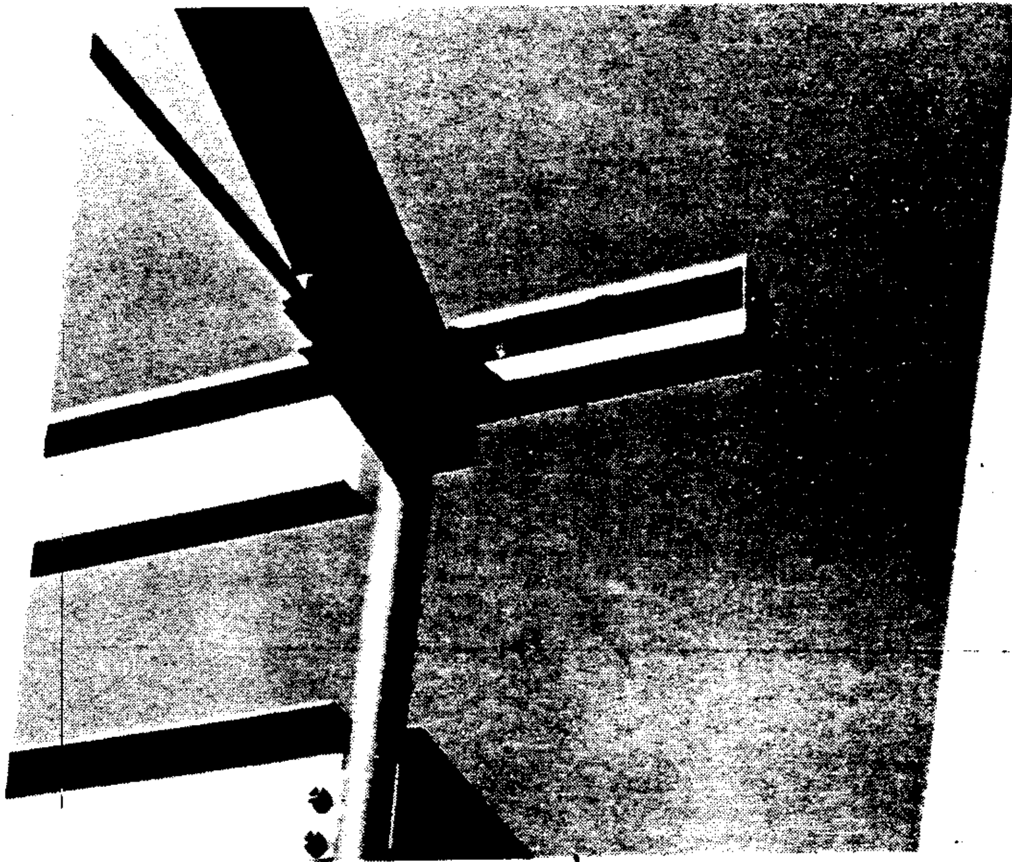

Principal Investigator: D. Linda Kone
Co-Principal Investigator: Dan E. Whiteman
Research Assistants: Lesbor A. Robles
Thomas A. Hall

School of Building Construction
University of Florida

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THE LENDING INDUSTRY'S ROLE IN RESIDENTIAL CONSTRUCTION

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Principal Investigator
D. Linda Kone
Assistant Professor

Co-Principal Investigator
Daniel E. Whiteman
Graduate Research Assistant

Graduate Assistants
Antonio Lesbor Robles
Thomas Hall

M.E. Rinker, Sr. School of Building Construction
University of Florida
Gainesville, Florida 32611

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EXECUTIVE SUMMARY

This report is a continuation of the study of the lending institution's role in construction lending begun by the previous BCIAC study entitled, "The Role of the Lending Industry in Construction" (R-89-4). This previous study concentrated upon the lending industry's role in commercial construction lending. Since residential construction contributes significantly to the health of the economy of the State of Florida, the construction industry considered a similar study for residential construction to be of the utmost importance.

The objective of this research report is to determine the role(s) played by the lending industry relative to the viability of the residential construction industry in the State of Florida for the purpose of increasing public safety and welfare through the decrease of damages incurred through incompetence, negligence, and fraud.

The report examines the problems inherent within the present structure of the methods and practices involved in the process of residential construction lending from the viewpoint of the developers and builders as well as the lending institutions. Business volume in residential building and development over time is compared with the recent changes in the process of residential lending and examined for any significant effects on the participation of any of the parties involved. In light of this, the changes brought about by the 1989 Financial Institutions Recovery, Reform and Enforcement Act (FIRREA) as well as subsequent influential laws are examined to determine the extent of the effect upon the residential industry.

The foundation of this report is a survey presented to residential builders and developers as well as lenders. The surveys were designed after numerous meetings with lenders and builders revealed the major concerns of all parties. Surveys were sent to two separate groups: residential builders\developers and lending institutions. Survey response by builders was 9.6 percent while that of lenders was 18.4 percent. A large portion of the questions on the surveys were identical. The intent was to present a fair assessment of the problems with the current system from all viewpoints. Where possible, recommendations have been obtained by the participants.

The ability to obtain financing for residential development is the determining factor in the number of units built and offered to the public by the residential construction industry in Florida. The ability to obtain financing has become increasingly difficult due to changes in lending practices because of the savings and loan crisis, the subsequent increase in the requirements for developers and builders to prove financial stability,decreased loan-to-value ratios, and the proliferation of increased documentation required for proving project feasibility.

Several aspects of the lending process have been identified as stumbling blocks to a more equitable and efficient method of financing residential projects. These include the increased restrictions concerning the proof of financial capability, the role of the appraisal in setting loan-to-value ratios, the lack of qualified lending personnel to evaluate residential projects, the attitudes of all parties toward commingling of funds, and the lack of disclosure of borrower default to affected subcontractors. These results are discussed in detail in Chapter 5, Survey Analysis.

Obtaining Copies: A copy of this report may be obtained by contacting:
Executive Secretary, BCIAC, M.E.Rinker, Sr. School of Building Construction
FAC 101, University of Florida, Gainesville, Florida 32611
(904) 392-5965

INTRODUCTION

When a construction loan is made on a residential project, it is frequently a result of an inexact and variable process of review and approval of the borrower's competence, financial responsibility, and the project's feasibility. Because the loan is based upon a nonexistent product, there are no tangibles to mitigate the failure of the loan venture to sustain itself or make a profit. Therefore, the potential for loss from the standpoint of the public, the developer/builder, the participating professionals, and the lending institutions themselves is greater than that for most conventional business loans.

The specialized knowledge required to adequately judge the viability of the borrower and the project is not commonly found in the personnel of loan departments except perhaps in those of larger institutions. This can result in the potential failure of the project or the capabilities of the builder to be accurately evaluated. Financial losses associated with the failure of residential projects decrease the public's confidence in both lending institutions and construction professionals.

It is imperative that the process of lending monies for residential development and construction be fair to all parties. The methods for evaluating the risks and returns for a particular venture should rely upon the most current and reasonable methods possible. The checks and balances inherent in the system should enhance the potential for project success while providing security measures against project failures.

If the system is based primarily upon evaluating risks while ignoring the implementation of measures designed to increase project success, the potential for successful outcome is diminished. Conversely, a system based primarily upon measures to increase project success which ignores inherent risks is equally open to failure. This latter attitude which prevailed throughout the 1980's is largely responsible for the massive failures of the savings and loan institutions. This in turn created the need for the Federal Institutions Reform and Recovery Act of 1989 (FIRREA).

This act significantly changed the way in which residential projects were funded and has caused an enormous impact on residential construction and development. One of the objectives of this report is to examine and evaluate the changes brought about in residential development and con-

struction as a result of Firrea and subsequent legislation in order to determine the areas where recommendations concerning changes to the lending process are needed. It is hoped that this might lead to a more efficient and overall viable lending process which encourages the development of viable residential projects while protecting the interests of all parties involved.

BACKGROUND OF THE STUDY

This report represents a continuation of the BCIAC study entitled "The Role of the Lending Industry in Construction", R-89-4. This study investigate some the major problems in lending for the construction of commercial and multi-family projects. The study focused around a survey that was developed from numerous consultations with participants of the commercial construction process to find the issues of highest concern for all those involved. The results from this survey were then tabulated and used to describe the present state of the industry. These results also provided suggestions on how procedures in the commercial construction lending process could be changed to increase public safety, and welfare and to decrease damages due to negligence and fraud.

The report was well received by the commercial construction industry and since its introduction it has met with tremendous success. It has generated such interest that laws in the State of Florida have been altered as a direct result of the information it generated. One example of the legal impacts of this study was the Committee Substitute for Senate Bill 972 which was passed on the last day of the regular session of the 1992 Florida Legislature. The law includes the creation of a new section in the Construction Lien Law entitled Lender Responsibility. This section requires lenders to notify the contractor, subcontractors, or suppliers, who have given the lender a Notice to Owner, if the lender decides to discontinue funding under the construction financing agreement.

A Notice to Owner is a document submitted to the owner, but also to the lender, by the contractor(s) requesting timely payment for work already done, but not compensated. Basically, this requirement obligates lenders to inform contractors of their intent to freeze funding of the owner. The contractor then has the option to stop work to minimize losses in the event he/she receives no further payment. There are also restrictions on the owner and the lender from reducing the construction budget more than 5 percent or $100,000 whichever is less, without prior notice to the

contractor, subcontractor and suppliers who have filed Notices to Owner with the lender.

The benefits this study provided were numerous. First, it provided evidence of the need for greater cooperation among all groups involved with the commercial construction lending process. Second, it established the need for a greater awareness, by the lending industry, of the information available through the Construction Industry Licensing Board, that has here-to-fore, for the most part, been unused. Third, as has been mentioned above, it also served as evidence supporting the need for legal change. Finally, it has served to bring to all players involved in the commercial construction lending industry a greater understanding of one another and how each must do their part so that all may prosper.

FOCUS OF THIS STUDY

This new study seeks to expand upon the previous report without overlapping efforts. First, a literature review is provided. Additionally, an in-depth discussion of the events leading up to problems being faced in the lending industry today is provided to offer a better understanding of

the complexity of the issues.

This study focuses on both the builder's and the lender's view point regarding the residential construction lending process. This approach provides a detailed assessment of the issues from the viewpoints of the major participants. Also, this report investigates the problems involved only with the financing of residential construction in the State of Florida. This includes the problems involved with the acquisition and development of land for residential projects. The time frame for this project was established at one year which was begun on January 3, 1993 and was concluded on December 15, 1993.

It should be made clear at this point that this report, while focusing primarily upon construction lending, will also address acquisition and development lending. Mortgage loans and other secondary long term financing holding tangible property as collateral will be excluded. Also, to be excluded will be interim financing which is occasionally needed during a construction project.

OBJECTIVES OF THE STUDY

The purpose of this study is to determine the role(s) played by the lending industry within the residential construction industry for the purpose of increasing public safety and welfare as well as for decreasing damages incurred through incompetence, negligence and fraud on the part of all parties affiliated with the residential construction process. This report will examine the problems unique to the lending industry as well as the policies, procedures and methods in place to deal with those problems.

The objectives are as follows:

1. To investigate the processes and procedures that are utilized by the lending industry in carrying out residential acquisition, development and construction loans.

2. To investigate recent legislation affecting lending institutions and the lending process to see how this has affected their relationship with the residential construction industry.

3. To identify the areas of concern in residential construction lending from the view point of both builders and lenders that require further study.

RESEARCH BENEFITS

The major beneficiaries of this research will be the citizens and the construction industry of Florida. The potential economic benefits of the reduction in the number of non-performing or perilous loans will have the potential of increasing the ability of a viable project to be funded resulting in a safer financial position of the lending institution and a healthier construction industry in the State of Florida. Other benefits include:

1. Improved communication between all participants of the residential construction lending process.

This will produce less misunderstanding and less conflict between those involved. With increased communication and cooperation, the residential construction industry will become more efficient, especially throughout the construction lending process.

2. Reduction of project failures and potential financial losses for the general public through increased lender responsibility and safer lending procedures.

3. Creation of information that may change laws to improve re-sponbility and accountability, not only for lenders, but for builders as well.

This will cause the development of greater trust among those affiliated with the construction lending process. The tangible benefits include fewer failures among construction companies that fail to get paid on time through negligent, fraudulent and incompetent behavior by those who manage the construction payment draws.

In cooperating with one another and in assuming a fair share of the risks involved, the residential construction lending industry and everyone involved in the process will share a better future. However, if the industry participants attempt to prosper, and succeed at the disadvantage of others in the industry, it is clear that all will eventually suffer.

METHODOLOGY

The procedure for carrying out this study was organized into four consecutive phases:

Phase I -Information gathering

Phase II - Survey development

Phase III -Survey dissemination

Phase IV - Tabulation and analysis of survey data

Phase I was begun on January 3, 1993 and was concluded on February 28, 1993. Basically, these 2 months were devoted entirely to the accumulation of published data having anything to do with the role of lenders in residential construction. The purpose of this phase was to pinpoint areas of concern that have not been studied and that warrant further investigation. In addition to a review of the published literature, personal interviews with those affiliated with the residential construction loan process were conducted.

Phase I also involved contacting trade organizations to inquire what published information they offered to their members. The organizations contacted were:

The National Association of Home Builders (N.A.H.B.).

The American Bankers Association (A.B.A.)

The Mortgage Bankers Association (M.B.A.)

The Savings and Community Bankers Association (S.C.B.A.)

The Research Division of the State Comptroller's Office

Interviews with participants of the residential lending process limited to lenders and builders were then conducted.

Phase II included the development of two surveys targeted towards builders in one case and lenders in the other. The questions were based upon the information obtained through literature review and interviews. It began on March 1, 1993 and was concluded on April 21, 1993.

Once the initial surveys were created they were tested by industry experts to determine both if they contained the most important issues and were capable of producing valid and reliable results. The rough drafts of the surveys were first reviewed by the industry experts used in phase I.. The industry experts who reviewed the surveys were representatives from The National Association of Home Builders(N.A.H.B.), The American Bankers Association (A.B.A.), the Savings and Community Bankers Association

(S.C.B.A.), The Mortgage Bankers Association (M.B.A.) and G.L. Homes Corporation in South Florida.

Phase III of the project included the distribution of the surveys created in phase II. This phase was begun on April 28, 1993 and was concluded on June 24, 1993. The objective of this phase was to distribute the surveys to a random list of builders and lending institutions throughout the State of Florida. A number of trade organizations were relied upon to supply information on their members who might be willing to participate in this study.

The N.A.H.B., the A.B.A., the M.B.A., and the S.C.B.A. provided information on builders and lending institutions that were affiliated with them. Out of this list of members, a survey sample of 250 builders and 250 lending institutions were randomly selected. They were then mailed the survey with a letter stating briefly the purpose of the study. Also included in this phase was the survey follow up. This involved contacting each of the recipients by telephone to make sure they received the survey and to encourage them to return it.

Phase IV included the tabulation and analysis of the results. This phase was begun on September 1, 1993 and was finished on October 1, 1993. All of the information obtained from the literature review, the interviews and surveys was reviewed, compiled and analyzed.

CHAPTER ONE

Literature Review

INTRODUCTION

Residential builders and developers depend on the lending industry to provide much of the capital used in the development and construction process. The following pages outline issues that have been identified as concerns for residential builders and developers regarding the lending process. These issues have been extracted from a literature review as well as from interviews with industry participants. The literature review also provided significant insight into the background and effect of various laws that have had great impact on the lending process. The information gathered has not been quantified according to the significance of the issues. The intent was to begin with a grass roots approach to discover common concerns for the purpose of developing the surveys.

LITERATURE REVIEW

From the literature available, it was discovered that the topic of this study has never been directly investigated. The published literature can

be grouped into two areas: Literature dealing with problems in residential construction from the viewpoint of builders and literature dealing with problems in residential construction from the viewpoint of lenders. The problems in these two areas were then compared to see what common concerns existed between them in order to focus on these for the investigation.

BUILDER VIEWPOINT

When reviewing literature written for builders, it was found that the primary concerns of residential contractors are regulatory constraints, rising land costs and greater difficulties in attaining financing. (Heinly 1990 a). Residential contractors feel that congress and local government has put excessive regulatory pressure on them through restrictive zoning laws and codes, rising impact fees, slow construction permit approval procedures, and unrealistic growth moratoria. In addition to these, contractors also complain of the increased burden of documentation required by recent banks in loan applications. This not only requires more time but also more money for the contractor. The end result, they point out, is that housing costs rise and will continue to rise. In the articles

the term "regulatory recession" (Heinly 1990 a) was used frequently to express that the regulatory burden, and not the economy, has actually stifled the residential industry.

Rising land cost was the greatest concern for the small home builders in Florida. The residential industry is one in which the profits earned are usually based on the volume of units built. The small residential builder can only finance a limited amount of land expense and is forced to either buy less land and build fewer units or buy the same amount of land and absorb the added expense. In either case, the result is still reduced profits. With the existence of today's thin profit margins, this problem has the potential to ruin many small builders. Rising land costs coupled with increased requirements to prove financial capability have forced many builders to seek alternative financing sources.

Regarding project financing, the issues of greatest concern are the lingering effects of the savings and loan predicament and the subsequent legislative action such as the formation of the Resolution Trust Corporation and the Financial Institutions Reform, Recovery and Enforcement Act of 1989 that served to virtually remove the S&Ls from the residential

construction lending business. The consequences of the above have been the enforcement of even tougher lending requirements than ever before. Contractors with very good credit ratings have had their acquisition, development and construction financing (A,D&C financing) drastically reduced or even denied.

LENDER VIEWPOINT

The literature on problems being faced by lenders in the construction lending process was very sparse and much of it was directed towards commercial construction. That small portion of the literature that applied to residential A,D&C financing was either written from the builder's viewpoint or was applicable because it dealt generally with all construction loans (Shleifer 1989).

This served as an indication, right from the outset, that most banks probably did not provide residential construction loan departments separate from other commercial loans departments. This has a tendency to limit their ability to assess risk in analyzing residential construction loans. Also, most of the articles discussed methods to reduce risk in construction lending in terms of contract administration or construction

management (Macomber 1989). However, few articles approached this topic by discussing the role of lending institutions and their responsibility to initiate policies to protect all participants involved. Appraisal fraud and the dilemma of poor appraiser accountability also was evident in the literature (Warren 1992). However, there was no effort made to tie this subject directly to the savings and loan crisis, or to lender responsibility.

Again, there was much mention of FIRREA and its effects on the economy. The literature did, however, make it clear that small builders could be harmed by this more than large builders. It was apparent that there was a lot of confusion about FIRREA since it is not clear who or what is responsible for its enforcement (Gasteyer 1990). Both the Office of Thrift Supervision and the Comptroller of the Currency oversee parts of it but none is in charge of the entire act. Throughout the literature, the relationship among FIRREA, the reduction of available credit, the loan administrative process, and the appraisal process was largely ignored.

The most important study found related to this topic was the Acquisition, Development and Construction (A,D&C) Financing Survey that was conduct-

ed in 1990 by the Economics and Housing Policy Department of the National Association of Home Builders. The survey, which included only builders throughout the United States, investigated the various sources of funding used for acquisition, development and construction loans. It also investigated how recent changes in lending practices have affected these builders. It presents a perspective on what is occurring in the residential lending industry, on a national level as a result of FIRREA and subsequent changes in lender policies.

According to the survey results, 50% of the builders indicated that thrift institutions have reduced their loan amounts for the acquisition, development and construction of residential projects. Of those responding, thrift institutions will no longer make acquisition loans for 52%, development loans for 46% and construction loans for 46% . Also, one third of the builders stated that thrifts are now requiring unreasonable amounts of paper work and documentation to prove project feasibility and financial security. The reasons given for these changes are higher capital requirements, or the amount of depositor funds that must be used as security instead of investment capital, and new limits on loans to one borrower ratio which is the restriction on the number of outstanding loans that can

be held by one person.

For banks, the survey reported that 25% of the builders could no longer obtain acquisition loans, 22% could no longer obtain development loans and 15% could no longer obtain construction loans. In the survey, 50% of the builders financing acquisition and development projects, and 46% financing construction projects are being asked for more equity. More than 30% of the builders, are being required to produce greater documentation than before. The reasons cited for these changes are tougher regulators and examiners, higher capital requirements, and a greater concern for liability. This survey is very thorough but it is difficult to understand the driving forces behind all of this change. This promoted the idea to involve lenders in the Florida study.

The literature, as a whole, has a few recurring areas of concern throughout. First, the biggest problem, as seen by the literature, facing the residential construction lending industry is FIRREA. It is an ambiguous and relatively new law and there are few experts on this subject (Bortel 1980). What is known is that it is stifling the lending and residential construction industry (Endicott 1980). Also, it has removed the S&Ls as a

primary lender in residential A,D&C financing and it has limited their role tremendously (Bortel 1989) Second, bank policies, to tighten standards due to the lending crisis, are overly zealous in reducing risk to the point of starving the construction industry of investment capital and hindering the lending industry from worthwhile investments. Third, the lack of security against inaccurate appraisal is a big concern. All of these items were chosen to be included in the survey. This was not only to find out what is being done, but also to get suggestions from lenders for possible solutions.

CHAPTER TWO
Statement of the Problem

INTRODUCTION

The lending industry plays an important role in the land acquisition, development and construction of residential property. The industry supplies most of the investment capital without which few developer/contractors can produce residential projects. Since lenders supply most of the capital they bear most of the risks and will seek to minimize their risk by dictating the terms of the contract and even refusing to finance if risks are perceived to be too great. Developer/ contractors depend on borrowed capital and will usually accept these terms since they need to obtain the loan. This set up puts the lender in a key position within the residential construction industry to protect the industry's participants, not only itself.

One of the problems in the process is the failure of all industry participants, particularly lenders, to assess, manage and even reduce the risk in residential construction, due primarily to a lack of information or

construction expertise. Managing these lending risks is very difficult for lenders to do given the nature of the business. Financing the land acquisition, development and construction of residential space (A,D&C financing) presents lenders with a unique set of circumstances that make it much more difficult to assess the risks as compared to the traditional, less risky, commercial lending process.

For example, in commercial lending the loan is usually based on the market value of an existing, tangible product e.g. an automobile, a sail boat, etc. In A,D&C financing, loans are based on a product that does not yet exist such as an idea to build a tract of single family homes. In this case, lenders must make a decision to finance a project based on a set of architectural drawings and contract specifications, a property appraisal, a feasibility study, a developer's track record, a record of pre-sales and other information that is not conclusive in establishing real asset value. To make matters worse, lenders may not always have access to a contractor/developer's track record regarding construction competence or financial responsibility.

If the above issues are not taken into account, the results will be an

increase in unsuccessful projects brought about by a lack of financial responsibility, accountability, and unethical behavior by all members involved in the residential lending process. A contractor's inability to perform will usually result in a bad loan and subsequent default and foreclosure. Lenders ultimately have a responsibility to their depositors, to the industry and to the public to see that this does not happen. In the recent past this has not been the case and the resulting consequences have been disastrous to the financial well-being of individuals and to local and state economies throughout Florida and other states.

In this chapter, the problems will be described in detail. However, before the problems can be discussed, a broad background must be given to better understand the forces affecting both builders and the lending industry today. The S&L crisis and the subsequent legislative changes that took place must be discussed, as well as the changes in the lending industry that these two phenomena brought about. It is important to have this background since most of the problems in the construction lending process today are considered by many to be a direct consequence of these events. A discussion of acquisition, development and construction loans will also be given to understand what each entails and how each have changed after

the above events. Finally, a detailed discussion will be provided of problem areas that must be addressed at this point and through out this study.

FINANCIAL INSTITUTIONS IN THE 1980'S

The problems of the Savings and Loan institutions began even before the 1980's. These institutions have had to withstand many difficulties due to the structure of their operation. Basically, they accepted short term deposits that offered market interest rates and invested these deposits in long term fixed interest rate mortgages.

This worked as long as interest rates remained low, but the minute they rose these institutions faced deep operating losses. In addition, they were allowed to invest only in long term low risk, low earning investments, such as home mortgages, as opposed to the high earning investments of commercial banks. Thus, not only were they unable to compete with depositor interest rates offered at banks, but they were unable to protect themselves from volatile interest rates.

There were some problems with this set up but it was not until between 1977 and 1981 that the problems became serious. By 1978, market interest rates jumped four points to 9% which had crippling effects on the net worth of S&Ls. During this time the best interest rate they could offer was 5.5%, in order to avoid ruin. Despite these efforts, depositors were lost to investments offering market interest rates. At this point the S&Ls were severely weakened. By the 1980's The Reagan Administration had to step in and provide what was seen as the only alternative which was to deregulate the lending industry.

At this point, S&Ls could function similar to banks offering the same type of services and participating in the same type of investments as commercial banks, without neglecting their involvement in the home mortgage lending market. S&Ls could now issue credit cards and offer consumer loans, commercial real estate loans and secured and unsecured commercial loans. Most importantly they could invest in short term securities and riskier higher yielding instruments and thus offer higher depositor interest rates to attract depositors.

This seemed to fix all of the problems for the S&Ls. With this new found

freedom, with the security of being insured by the Federal Savings and Loan Insurance Corporation(FSLIC) and especially with the weakened condition of their assets, many S&Ls embarked on very risky investments to generate high returns and to recoup their previous losses. Most of their investments were carried out with a "we have nothing to lose attitude" (White 1991). Things went very well for a while. Interest rates fell between 1982 and 1983 and continued to be relatively low until 1985.

The thrifts grew tremendously in assets from 1982 to 1985 but this was also due to the economic recovery after the recession in the early 1980's. Despite their brief recovery, S&Ls exposed themselves to a great amount of risk, throughout this time, much more so than banks. First, S&Ls had never had the freedom to make these high earning investments and did not have the expertise nor the familiarity to avoid the pitfalls as did banks. Second, S&Ls were in a desperate situation and were willing to risk much to recover losses. Third, S&Ls, unlike banks, experienced a tremendous amount of fast growth. Fast growth is usually associated with large change and greater risk (White 1991).

Finally, the events that put the S&Ls at most risk and eventually set up

their down fall were the changes in the tax laws and in the oil prices throughout the 1980's. The Economic Recovery Tax Act of 1981 attempted to stimulate investment growth by offering accelerated depreciation, along with the tax shelter. These two procedures eventually created problems because they made it almost impossible to lose money on a real estate investment. Accelerated depreciation shortened the depreciation period for all types of real estate.

This meant investors could depreciate more over fewer years. The "tax shelter" allowed for any losses incurred in real estate to be used as an expense together with the exaggerated depreciation to reduce on financial statements the investor's ordinary taxable income. When interest expense was combined with exaggerated depreciation expense and other losses, even income producing real estate showed negative income or losses. Investors would be seen as making less money than they were actually making and would be taxed much less. In addition, the increase in oil prices at that time with the later drop in interest rates made real estate investors and developers predict continued growth throughout the 1980's and rapid appreciation of real estate.

Even though real estate investments showed losses they were actually making money through capital gains or appreciation of market value. The ability to show exaggerated "paper losses" through real estate despite its rapid appreciation produced high after-tax earnings. Some developers made investments in unsound projects that had negative before-tax cash flow because the after tax benefits would compensate the losses with a good rate of return on investment.

In a situation like this, both the construction industry and the S&Ls that financed their projects seemed unable to make any mistakes even with poor projects. S&Ls in many cases approved construction loans either with a superficial assessment of the risk involved or with simply no assessment at all. At this point, it was relatively easy to obtain financing for residential projects.

The 1986 Tax Reform Act changed all of this. This act essentially removed the real estate tax shelter by designating real estate losses and earnings as passive losses and earnings. Essentially real estate losses could now be used to reduce taxable income of real estate only. The depreciation period was again lengthened to its original duration. Finally,

Institutions, Reform, Recovery and Enforcement Act of 1989.

FIRREA

By 1989, it was apparent that the nation's savings and loans institutions were in deep trouble. In an attempt to rescue this industry the newly elected Bush Administration announced a new program which was sent to Congress to be approved. This new plan, **The Financial Institutions, Reform, Recovery and Enforcement Act of 1989** would change the lending industry drastically. This plan has cost over $100 billion dollars, part of which has been subsidized by taxing the healthy part of the industry.

The plan was meant to protect the solvent S&Ls, salvage the industry, and restructure their regulatory standards to protect them from more fraud and abuse. FIRREA also attempted to reduce the risk of the FSLIC (recently changed to the Savings Institution Insurance Fund). However, the results thus far have been so restrictive that even S&Ls with good track records have been hurt (Bortel 1990).

S&Ls are now drastically limited as to how much, on what projects, and to whom they may lend (Bortel 1990). The most drastic of these changes has been that S&Ls have had their role, as major contributors of capital in the residential construction industry, drastically weakened.

EFFECTS OF FIRREA ON BUILDERS

The Acquisition, Development and Construction (A,D&C) Financing Survey done by the Economics and Housing Policy Department of the National Association of Home Builders adequately displays the effects of FIRREA felt by home builders throughout the United States. According to the NAHB's survey, 60% of the builders admitted that the quantity of their construction activity had been altered due to changes in lender practices. Those affected stated that the results from these changes included reducing the number of homes they built per year, and delaying their projects. Some are claiming that they have had to lay off workers, close down their operations temporarily and even shut down their business entirely.

The effects of FIRREA have had stronger impact on builders in the

Northeast with 69% of the respondents stating they have had to alter their building activity for 1990. The South was second with 66% of the respondents admitting having to change their building activity. A study in Florida that confirms this information was done by Professional Builder Magazine for July 1990. In this study a large number of industry leaders are surveyed on key issues. When asked about the S&L crisis and FIRREA, 80% of the builders admitted that they were affected by it in some way.

The consensus of the industry in reaction to FIRREA is strong and clear. Builders are being hurt by the shortage of investment capital and the difficulty of replacing the role of the S&Ls in residential construction lending. In many respects, FIRREA was meant to save an industry, but its approach has been seen by many as an overreaction to the fear which created it (Endicott 1990). In the information phase of this report the investigator met with a prominent builder of the North Central Florida area, who has wished to remain anonymous. When asked what was the most serious problem for him at the time, he responded, "...that is easy...where do I get my next loan from ?...".

THE EFFECTS OF THE ECONOMY

It should be remembered that not all of the negative effects seen in the residential construction industry lately were caused by the savings and loan crisis and FIRREA. Another cause of the sluggish residential construction industry has been an economy that has not been conducive to growth. According to a quantitative study done by Lewis Goodkin of Goodkin Research Corporation, it was found that the growth in housing starts was a function not only of credit availability but also of population growth (Diez 1990).

According to a study done by R. Thomas Powers, executive vice-president of Goodkin Research Corporation, other variables that influence housing starts are employment growth, population growth, monthly mortgage payment levels in comparison with rents and the nominal level of mortgage interest rates (Powers 1990). The most important of these indicators being levels of employment or employment growth and mortgage interest rates.

Taking into consideration the recession in the late 80's and early 90's, it

is clear why housing starts have dropped throughout this time as depicted in Figure 2-1. However, housing starts have risen 13% from 1991 to 1992. Also, according to the National Association of Home Builder's Forecast of Housing Activity for 1993, housing starts are estimated at an 18.9% increase. Figure 2.1, Housing Starts 1990 shows the housing activity level in 1991.

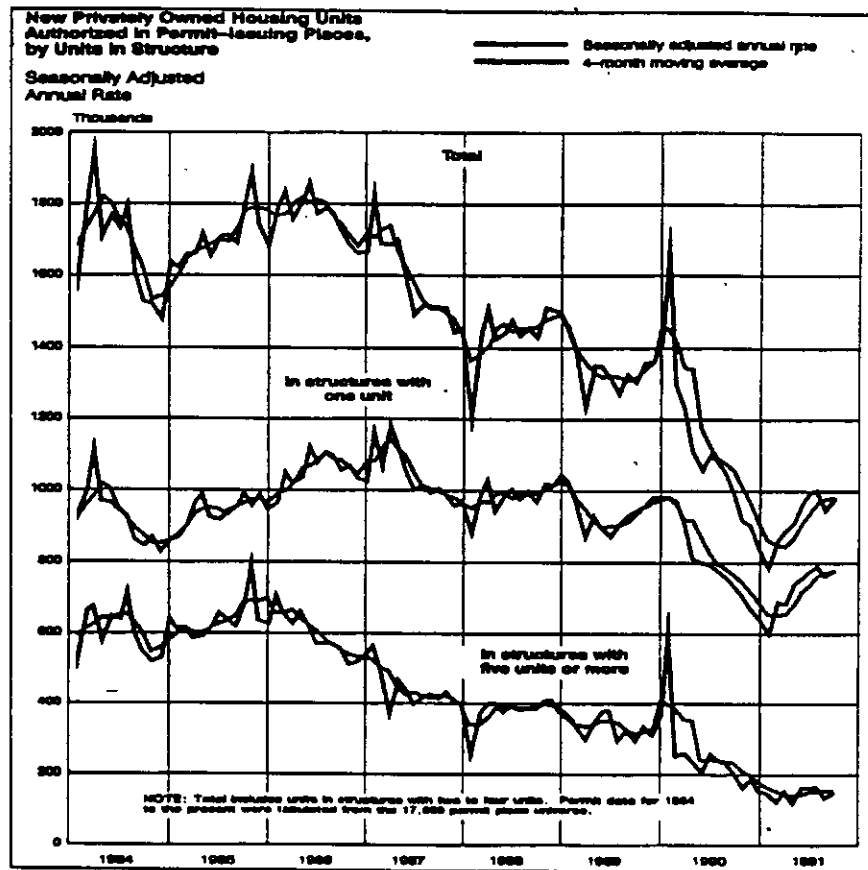

Figure 2 Housing Starts [Source: U.S. Department of Commerce 1991]

Figure 2-1 Housing Starts 1990. [Source: U.S. Department of Commerce 1991]

Between 1989 and 1990, housing starts dropped due to the delicate relationship between the demand versus supply that existed in the residential construction industry which was violated in the early 1980's. At this time, benefits from the Economic Recovery Tax Act of 1981 made residential development more lucrative. (Etter and Schmedemann 1991). The results were an over supply in the market. Also, by creating excess supply, the laws of economics state that, assuming demand is constant, the market value of existing projects will fall. With a low market value on existing projects it is difficult for new construction projects priced at actual value to be competitive.

RECENT CHANGES IN LENDING PRACTICES

Due to the above problems in the residential construction lending industry it should be no surprise that lending institutions are not lending the way they use to. From the literature, it is seen that builders are feeling this change. Not only are lending institutions lending less, they are requiring more paper work, mandating stricter policies and, in general, being much more cautious.

S&Ls have been hit directly by FIRREA's restrictions but banks also are being watched closely and are being subjected to the overall attitude that safer is better (Endicott 1990). At this point it should be made clear that not all banks in Florida have felt the effects of FIRREA. One bank representative interviewed in the information phase of this report stated that he had always maintained safe, and often restrictive policies even before the S&L scandal and before FIRREA (Seymour 1993). He also stated that he was aware of many other banks that had not felt these changes.

However, it should be emphasized that these lenders represent a strict minority. The rest are noticing a big change. Although, the change is to varying degrees around the country, the trend toward a more cautious approach is evident. To better understand the significance of these changes, a description of the present industry in Florida would be helpful in providing a picture of what is going on.

DESCRIPTION OF THE LENDING INDUSTRY IN FLORIDA

To understand the state of Florida's lending industry, institutions were contacted directly. Lenders were interviewed in Phase I and by telephone

following survey dissemination. From phone conversations with over 250 presidents, vice-presidents, chief financial officers and senior lending officers of lending institutions, a good picture of what was occurring in the industry began to emerge.

Overall, there is tremendous change taking place in the industry as confirmed by the literature. It was discovered that many presidents and senior staff had retired or left to work for other lending institutions. Many banks had merged with other lending institutions in order to group assets and gain strength. Others had been swallowed up through corporate take overs by stronger banks. More alarmingly, a number of banks and S&Ls had closed within the last year. Finally, one savings and loan had been taken over by the Resolution Trust Corporation (RTC).

It was evident that lending institution employees were weighted down with oppressive amounts of paper work and extensive documentation requirements. This confirms that they are taking greater care to record procedures and document transactions than ever before in order to more accurately analyze loan requests.

CHANGES IN THRIFT LENDING PRACTICES IN THE SOUTH

As has been seen, the S&Ls have been severely restricted by FIRREA and their policies and procedure have been changed. Their role as the primary residential construction lender has been weakened and for some institutions it has been taken away. Although these changes have been well intentioned they have caused hardship for the industry in the South and in Florida.

According to the NAHB's 1990 Acquisition, Development, and Construction Financing Survey, it is clear that builders feel that S&Ls have changed. To show this, the survey organized builders into groups pertaining to the Northeast, the Midwest, the South, and the West. This allowed the study to observe what part of the country has had the most changes.

The study asked the builders to state whether S&Ls are no longer making loans, asking for more equity , requiring excessive documentation, asking for additional collateral or are charging higher fees/interest rates for all types of residential lending. Equity should not be confused with collateral which is a personal asset of the investor, promised to the lender, if the

investor cannot pay the loan.

Throughout the country the responses suggested strong change to all items. However some regions responded stronger to some items than did others. In reviewing the results it is apparent that the South has responded the strongest to the majority of the items.

For land acquisition loans, Southern builders led the pack with 54% stating that S&Ls reduced the amount of lending, 56% no longer making loans for acquisition, 37% require excessive documentation, and 37% no longer permitting joint or equity ventures but preferring investors to enter the loan agreement as individuals.

For development loans, the South had again been the hardest hit. Southern builders responded the strongest with 52% stating S&Ls have reduced the amount of lending, 51% no longer making these loans, 47% requiring more equity on loans, 41% require excessive documentation and 35% no longer doing joint or equity ventures.

For construction loans, the South was also the region with the most

changes. Southern builders led the responses with 55% claiming that S&Ls have reduced the loan amounts, 45% requiring more equity on loans, 42% requiring excessive documentation, and 26% no longer allowing joint or equity venture.

According to the survey, many reasons were given for the changes in residential acquisition, development, and construction lending policies. However, the strongest responses pertaining to all types of lending across the country were consistent. These reasons included the new limits on loans to one borrower ratio or limits imposed on how much lenders may loan to a single entity, higher capital requirements, RTC takeovers of the S&Ls, tougher regulators/examiners and the financial institutions concern for liability.

In responding to the reasons for S&L policy changes, the builders in the South were again among the strongest in the country. It is evident from this survey and from the literature that regulators are attempting to limit the S&Ls from residential A,D&C lending and are attempting to revert them back into the traditional one- to four- family residential mortgage loans (Bortel 1989). This will not only lower their risk levels, but it will

cause them to focus on what they are good at, which is issuing long term residential mortgages.

CHANGES IN BANK LENDING PRACTICES IN THE SOUTH

Even though FIRREA has targeted the S&Ls primarily, the banking industry has not escaped the lending industry's movement towards safer and more conservative lending practices. Banks are creating stricter policies, not only due to the S&L crisis, which sent shock waves throughout the industry, but also due to state regulators, such the Comptroller of the Currency, that fear something similar may happen to banks. (Endicott 1990).

Referring again to the NAHB's 1990 Acquisition, Development, and Construction Financing Survey, builders across the country were also asked to state how banks have changed their policies towards them. Similar to the above case of S&Ls, builders were grouped into the same regions throughout the country to compare responses.

Builders were again asked to respond whether or not banks have changed

using the same categories as those used to inquire about S&Ls. Once more, builders suggested strong change to all categories. However certain regions gave stronger responses to the majority of the items. In this case, the South provided the strongest responses for residential acquisition loans, while both the Northeast and the South gave the strongest responses for residential development and construction loans.

For acquisition loans, southern builders provided the strongest responses with 52% stating that banks are asking for more equity, 42% of the banks are requiring excessive documentation, 36% are asking for additional collateral and 25% are charging higher fees/interest rates. For development loans, southern builders provided the strongest responses to two categories. They responded above the rest with 41% stating that banks are asking for excessive documentation and 38% stating that banks are asking for additional collateral.

For construction loans, southern builders also provided the strongest responses to the same categories as in development loans. Southern builders responded with 40% stating that banks were requesting excessive documentation and with 33% stating that banks are requesting excessive

collateral. It is clear from this study that banks although not targeted directly by FIRREA, have been drastically affected. Banks in the South, according to builders, have been among those to reflect the most change.

The overall effect of this movement in the industry has been a tighter credit situation that has been felt throughout the country. Also, with the S&Ls being pushed out of the residential construction lending market and with banks exercising extra caution, it is evident why housing market analysts predict a slow to negative growth in housing starts over the next few years (Diez 1990).

CHANGES IN MORTGAGE BANKER LENDING PRACTICES

Most of the information obtained from mortgage bankers was gained through telephone conversations with mortgage bankers throughout the State of Florida. It was found that few mortgage bankers issue residential A,D&C loans. For the most part, they are brokers of these loans between the developer/builder and the bank or the S&L (Kilpatrick 1991).

Usually, the bank or the S&L is contacted first by the mortgage broker on behalf of the developer/builder early on to talk about the possibility of funding the project. For this reason, mortgage bankers have a good idea of what loan requests would be acceptable and which ones would not, as well as, what lenders are looking for in a builder. This made it important to recognize the mortgage banker as much as possible in this study. However, it should be understood that the main players in the residential A,D&C financing game have always been banks and S&Ls.

Since mortgage bankers serve largely as a third party participant between the developer/builder and the bank or the S&L, they are subject to the same restrictions as those facing each of these lending institutions. The result of this is that developer/builders have had their traditional sources of capital severely restricted. They have had to use and will have to continue to use non-traditional sources of funding.

NON TRADITIONAL SOURCES OF CAPITAL

As investment capital becomes more difficult or even impossible to obtain, developers and builders will scramble to secure A,D&C financing

through alternative sources. These alternative sources are called non-traditional sources since the traditional methods have always been banks, S&Ls, or mortgage banks. Developers and builders may obtain capital from non-traditional sources by seeking it from international investors, pension funds, insurance companies, and wealthy landowners. Also, large construction companies may possibly obtain this type of capital by attracting additional stockholders or equity investors. Finally, developer and builders may unite with other builders on joint ventures. Each of these sources represent a burden of increased effort on the part of developers and builders to secure financing.

A survey done by Professional Builder Magazine for July 1990 shows strong evidence that investors are struggling to get financing through alternative sources. This study states that 20% of the builders surveyed have found needed capital through joint ventures, another 20% through pension funds, 17% through foreign investors, and less than 14% have been able to rely on their own financing subsidiary (Heinly 1990 b).

The NAHB's Acquisition, Development & Construction (A,D&C) Financing Survey of 1990 provided a clear confirmation of the above data. In the

survey, 72% of the builder/developers stated they had sought alternative sources of financing for residential acquisition loans, 73% had sought it for residential development loans, and 66% for residential construction loans. Out of those that had sought alternative sources of financing, only 32% had been successful in obtaining acquisition loans, 33% in obtaining development loans, 42% in obtaining construction loans. It is the small builder that is expected by many to face the most uncertainty (Heinly 1990 b).

TYPES OF RESIDENTIAL LOANS

As has been stated previously, the focus of this investigation is the construction loan. However, the land acquisition loan and the land development loan will also be dealt with but to a limited degree. The loan for acquisition and development of residential land goes toward purchasing land, paying legal, engineering, and design fees as well as other miscellaneous overhead expenses. This loan also covers all sitework.

The acquisition and development loans are the first to be sought by

developers and builders. When a lot is developed and ready for construction, it can be sold to a builder or transferred from the development to the building division in a company and the development loan is repaid. Once the acquisition and development loan is paid, the lender will release the note of the developer so that the construction lender will have first lien on the property. The loan duration is usually between 2 and 3 years depending on the size of the project.

Due to FIRREA, the S&Ls have had great obstacles in issuing these loans since they are rated as risky under this act (Kilpatrick 1991). In addition, the loan-to-value ratios for both banks and S&Ls required by FIRREA and other very recent legislative acts have made it difficult for developers and builders to generate enough equity to proceed with the loan.

Before the S&L crisis and the subsequent regulatory restrictions, the loan-to-value ratio for acquisition and development loans was as high as 85% for some lending institutions. In post-FIRREA times, this ratio has been lowered by some lenders to as low as 65-70%. Essentially, the burden of generating equity capital has almost doubled for today's developer and this has caused many to drop out of the land development

business.

THE CONSTRUCTION LOAN

Construction loans follow the same basic steps and procedures as the acquisition and development loan but there are a few differences between the two. The lender will disburse the amount of the loan throughout the construction period in the form of periodic draw payments as opposed to a single lump sum payment. The construction lender will require first mortgage on the property so that if for some reason the borrower cannot pay the loan, it will be first in line to collect the debt ahead of all other lien holders.

These types of loans have also been affected by FIRREA. FIRREA has used a variety of methods to make it difficult for S&Ls to issue these loans without careful assessment. Once again, the loan-to-value ratio is one of the methods that has limited both banks and S&Ls. Before FIRREA, the loan-to-value ratio required by most lending institutions for construction loans was around 90%. Now most lending institutions will refuse to lend with a loan-to-value ratio above 75%. In this case, as in the case for the

acquisition and development loans, the equity burden has become greater for the builder.

PROBLEMS TO BE ADDRESSED

Residential builders and developers in the state of Florida still largely depend on the lending institution for capital to finance projects. Figure 2.2 Changes in Builders' Plans 1990 shows the immediate effect of tighter credit for builders nationwide.

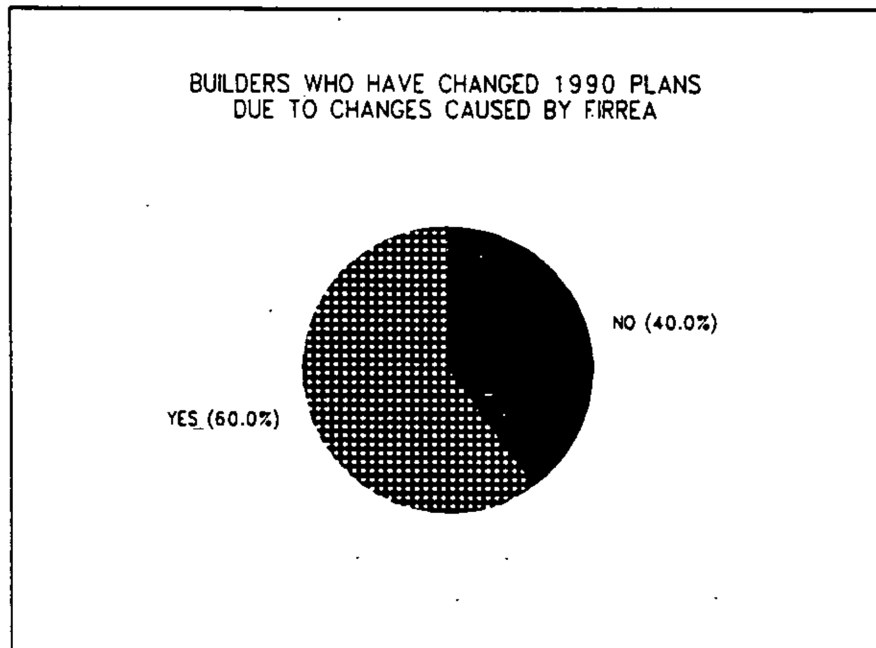

Figure 1 Changes in Builders' 1990 Plans [Source: Endicott 1990, p.27]

Figure 2.3 Changes in Builders' Plans 1990. (Source: Endicott, p.27)

Aside from the increasing difficulty to obtain financing, many parts of the process of acquiring residential loans and complying with the requirements of administering the loans were identified in this information gathering phase. They are outline below by category.

THE CONSTRUCTION LOAN DEPARTMENT

A 1993 survey of lending institutions revealed that only 23% of all Florida lending institutions administer construction loans through a separate construction loan department. (Eppes and Whiteman 1992). Of those lending institutions with Construction Loan Departments, 92.3% stated their staff was experienced in the construction industry. However, many also handle all other types of commercial loans. A,D&C financing is altogether different from any other type of commercial loan.

The loan is based on a product that does not yet exist. The construction lender must not only assess the builders financial strength but also his/her managerial, financial and technical abilities to finish the project. This will include reviewing the marketing information such as the developer/builder's pre-sales and feasibility studies. Finally, the lender

must assess whether or not the contractors selected will be able to complete the project within budget, on time, and with the specified quality. There is a question as to whether or not enough experienced staff is available in the lending industry to assess builder capability and to accurately gauge the scope of the work involved in a residential project for the purpose of honoring draw requests.

THE DISBURSEMENT PROCESS

The builder is given the total amount of the construction loan throughout the life of the construction project in the form of draw payments. There are a variety of methods to disburse draws in residential construction. Draws may be distributed at certain percentages of project completion or when particular items of the project have been completed. In addition, some draws schedules are distributed as a 4-draw or a 5-draw schedule. These schedules are designed by the lender.

In distributing payment draws, the potential for corruption is high when the parties involved become negligent. When the draw payments are based on the completion of given items in the project it is harder to be

unscrupulous because either the items that signal payment are installed or are not. It leaves no room for interpretation. However, when draws are based on percentage of the project completion, real expertise is required to determine the degree of project completion. Untrained inspectors who go to the site on behalf of lenders may have skills inadequate for estimating the percentage of work complete.

Builders need the full extent of the value of the work in place in order to pay subcontractors and vendors in a timely fashion. Lenders are concerned that the work in place does not represent the requested draw. If this occurs and the builder experiences financial difficulty and defaults on the loan, the lender will have paid more than the work actually completed to that point. This difference will have to be absorbed as a loss by the bank, or the bonding company, in foreclosing on the property and in selling of the assets.

In the interview stage, several builders stated that some lending institutions are now using an invoice only method of disbursing funds. In this method, funds are only distributed by the lender upon receiving written invoices from the builder indicating work that has been

completed. This method precludes the builder from using funds for any purpose other than that for which they were intended. This eliminates builders from using funds drawn for one project to pay costs for another. The issue of how payment is disbursed is obviously important to both builders and lenders and plays a key element in the administration of the loan during the project. For this reason it must be addressed in this study.

COMMINGLING OF FUNDS

Often builders carry on more than one project at a time. They might establish relationships with different lenders for financing the acquisition, development and construction of their projects. Throughout the life of the projects, builders receive draw payments at different times. Each of the lenders involved with the builder assumes that the loan draws will be used only on the project for which they were intended.

However, the developer/builder may find himself/herself involved in a project that is in need of money but with draw payments not expected for some time. The developer/builder may choose, at this point, to use the funds from another project to rescue the project that is in need. This

procedure is known as the commingling of funds and is prohibited by the laws in Florida. However, many builders still are willing to take the risk in order to keep a project from collapsing.

Builders may find themselves forced to commingle funds for a number of reasons. One of these may be due to the poor timing of payment draws. Most Builders may run many projects simultaneously, and manage them very well. However, the fact that draw payments are sometimes scheduled at inauspicious times makes it impossible to continue the project without having money from another source. Draws from another project are convenient to use and are much less expensive than additional financing.

Another form of diverting funds is when builders use money for "soft costs" that is intended for "hard costs". Soft costs are those costs considered indirect costs or overhead which includes marketing costs, sales fees, interest expense, etc. Hard costs are direct costs that go toward building the building such as labor, material, and equipment costs. The builder in this case is placing himself at greater risk since these funds, devoted for hard costs, are limited. This is another item that must

be addressed in this survey.

The fraudulent side of commingling funds originates from the poor management of a project that is over budget, overdrawn and in trouble. In this situation, builders may divert funds from another project that is doing well to save a project that is in trouble. However, by diverting funds from the other project, the builder is putting both the project and the lender in danger.

Commingling of funds may be a necessary part of the residential development process. Builders and developers are operating a single business and must meet all associated costs. Many builders and developers argue that to be successful, they must be able to use all incoming funds in whatever manner is necessary to keep each project running. One builder interviewed stated that at least 90% of all homebuilders use funds intended for one project to pay costs on a different project at one time or another. He further stated that many would go out of business if they did not do this occasionally.

THE APPRAISAL

The appraisal plays a very important role in the process of lending money for a project. The loan-to-value ratio is based on the appraisal. Lenders use outside appraisers contracted for this purpose. This is done to avoid conflicts of interest between the builder and the lender. There are basically three methods the appraiser may use to establish the value of the property. These methods include the comparison approach, the income approach, and the cost approach (Brooks 1976). They are usually used together but may be used alone depending on the situation.

In the comparison method, the appraiser finds the average of the sales prices of similar real estate in the given area over a designated period of time. The income approach establishes the amount of income a piece of real estate will generate and, based on that, analyzes how much capital it would take for a similar investment in real estate in the area to generate that income. The value of that capital would be the value of the real estate being appraised. Finally, the cost approach involves finding the actual cost of the real estate in terms of the resources used to build it such as materials, labor, equipment for replacement value purposes.

Although these approaches seem straight forward, they tend to be subjective and open to interpretation. To add the confusion, there is little uniformity among appraisers who use different forms and different procedures within each method outlined above. In the past, this subjectivity has put the appraiser in a position to be influenced by the various participants of the residential loan process for fraudulent purposes (Warren 1992).

A contributing factor in the S&L crisis occurred when appraisers were pressured into inflating the value of real estate to increase the loans for purchase. This not only raised property values, but it also increased the lender's risk by increasing the loan often above the value of the real estate. If the borrower defaulted, the lender, in this case, could not recover the loan by selling the property.

Due to past fraud in appraisals, legislators have included in FIRREA restrictive guidelines for appraisers working with federally insured lending institutions. These guidelines, called the Uniform Standard of Professional Appraisal Practice (USPAP), have made it easier to indict those who attempt to influence the appraisal. However, much is still

needed to clean up this process and create uniformity among appraisers (Warren 1992). The recent use of a new form, the Uniform Commercial-Industrial Appraisal Report Form, is a step toward improving the situation, but a lot must still be done (Warren 1992). Since the role of the appraisal is so important and appraisals are less than scientific, this issue must was included in the survey.

THE CONSTRUCTION LIEN LAW

"The Lien Law", as it is referred to, is one of the most important laws that pertain to both the lender and the builder regarding payments to subcontractors. The Construction Lien Law is defined by the Florida Construction Law Manual as follows:

"...a claim or charge against a property to secure a debt incurred for improvements of the property when certain procedural requirements have been done...."(Lieby 1988).

The purpose of this law is to make sure that builders, suppliers and others associated with the construction process get paid for their services. This

is done by periodically issuing a "Notice to Owner" which is a document submitted to the owner and lender requesting payment for the services completed to date. Once the owner pays the builder or subcontractor with a loan draw payment, the builder, or whoever has been paid, returns to the owner a lien waiver. This is a document stating that the builder gives up the right to place a lien on the title of the property for the amount of work already paid. If not paid, the lien on the property can be enforced in court whereby the court may seize and foreclose upon the property to pay the builder.

The lien law is important to the construction lender for a number of reasons. First, The construction lender is interested in making sure that every builder, subcontractor, and supplier gets paid fairly so that no liens are placed on the property. If liens are placed on the property during construction, it will jeopardize the possibility of getting the long term mortgage financing that will be used to pay for the construction loan (Tindall 1990).

When the property already has a construction lien, the long term mortgage lender will have to subordinate its claim to a second lien and this may not

be acceptable. By subordinating its lien, the lender will be second in line to get paid in the event the property is foreclosed upon. Second, the lender is interested in receiving timely lien waivers because if a lien is placed on the property then it will take priority over later construction loan payment draws if the property is eventually foreclosed (Tindall 1990). For this reason, many lenders will attempt to convince the builder to sign a subordination agreement that will subordinate any lien they may file to the lender's lien.

It may not be in the interest of the builder to subordinate his or her right to place a lien on the property. Builders should also investigate how to protect their rights under the Construction Lien Law. Three things must occur for builders to be protected by this law. First, they must submit Notices to Owner within 45 days of furnishing materials or services or before the earlier of the following: abandonment of the general contractor or the submittal of general contractors final affidavit (Lieby 1988). Second, after finishing all work, the builder must record claim of lien within 90 days (Lieby 1988). Third, the builder must give the owner a copy of the claim of lien no later than 15 days after recording it (Lieby 1988).

Many times builders may nullify their rights by not acting on time or by following procedures incorrectly. This provides an unfair advantage to lenders. In the study entitled "The Role of the Lending Industry in Construction", it was discovered that roughly 28.3 % of contractors and 25.7% of subcontractors in Florida are not familiar with the lien law (Eppes and Whiteman 1992). This is alarming because often the only way to protect their rights is by fully understanding this law.

CONCLUSION

The issues identified as potential impediments to making the lending process fair and efficient to all parties were derived through interviews with builders and lenders in Phase I of the investigation. A review of the literature supplied the background information and description of some of the problems. Chapter Three, Firrea and Other Influential Laws provides a discussion of the events that led to the major changes in the lending process that are affecting residential builders and developers today in the state of Florida.

CHAPTER THREE

Firrea and Other Influential Laws

INTRODUCTION

The difficulty Florida residential builders and developers are now facing in obtaining project financing has come about primarily as a result of the S&L crisis. In this chapter three very important legal changes affecting S&Ls and banks are discussed. First the creation of The Financial Institutions, Reform, Recovery and Enforcement Act of 1989 (FIRREA) and the policy changes that it enforces will be discussed. Basically, this act has targeted the savings and loan institutions, but banks have felt its effect indirectly.

Second, the Interagency Guidelines for Real Estate Lending Policies will be discussed. These guidelines were created by the Office of the Comptroller of the Currency, The Federal Reserve Board, The Office of Thrift Supervision, and the Federal Reserve Board in a joint effort to obligate lending institutions to create more thorough lending policies.

Third, a discussion will be given on a new law, The Financial Deposit Insurance Corporation Improvement Act of 1991, part of which took effect during this study. Although not much is known on this law or the effects it will have on the industry, information that is available will be presented. This law has been directed towards commercial banks and S&Ls to increase the ability of regulatory bodies to enforce policies on lenders to protect the public. FIRREA has created the most change and is the law most relevant to this study. Some of the effects FIRREA has had on the industry and on the economy will be presented.

ORIGINS OF FIRREA 1989

In an attempt to respond to the catastrophe of the collapse of the savings and loan industry, President Bush signed the Financial Institutions Reform, Recovery and Enforcement Act of 1989. At that time, a great number of projects were being foreclosed and thousands of lending institutions around the country were filing for bankruptcy. The government felt obligated to step in and minimize losses.

FIRREA was passed by Congress on the morning of August 5,1989 and it was signed into law by President Bush on August 9, 1989. However, the plan to save the S&Ls had been started on February 6, 1989, when The Bush Administration introduced an overview of the plan to close down or sell at least 350 insolvent S&Ls. Part of this plan included a reorganization of the regulatory system to cause it to provide greater protection against similar dangers in the future. From the start, the numerous changes brought about by this law were intended to maintain the solvency of the S&Ls, and to streamline and improve the way they are regulated, insured, and protected from fraud and abuse.

FIRREA produced an immediate impact on the acquisition, development and construction lending industry. This law served to practically eliminate the involvement of S&Ls in A,D&C financing by establishing requirements that would make it difficult for them to get involved. A majority of S&Ls are now being forced to turn down many builders who were issued loans in the past. This act has created new restrictions and procedural requirements that have changed the process by which these institutions make loans.

FIRREA has also reduced the maximum amount of loans that may be approved. The impact on residential builders has been felt strongly throughout the industry. According to the Acquisition, Development and Construction (A,D&C) Financing Survey of 1989 conducted by the National Association of Home Builders, 60% of the builders surveyed have had to alter their building plans for the year 1990.

On the other hand, not all builders feel negatively concerning this new law. For example, in a survey done by Professional Builder Magazine for July 1989, some large builders found FIRREA beneficial because it has helped to reduce some of the competition (Heinly 1989 b). However, most builders do not feel this way. The majority feel that it has brought about negative results to the industry through the reduction of investment capital, the increase in documentation, the increase in project delays in searching for other sources of capital and through other negative effects that will be discussed in this chapter.

REORGANIZATION OF THE BANKING SYSTEM

One of the leading criticisms of FIRREA has been the speed with which it

proceeded to implement such drastic changes. In an article written on FIRREA, Martin Perlman, the President of the National Association of Home Builders at the time, commented negatively regarding this aspect of the law. His main complaint was that although everyone in the industry was in favor of a longer transition period to implement this act, none in the industry were effectively making an effort to do so. The sudden implementation of this act was considered by many to be a terrific shock due to the immediate increase in loan restrictions that it brought about.

Another issue has been the fear of what many consider to be an impending "regulatory recession" caused by extreme government intervention into the lending process. Extreme government intervention has not only limited the involvement of lenders in construction, it has starved builders by creating a shortage of badly needed investment capital.

FIRREA has also been a burden for lenders due to its sudden and drastic changes. It has left S&Ls struggling to rearrange their balance sheets and their investment portfolios to conform to new requirements. This burden will continue to be endured long into the future as regulators begin to define the details of the law and to implement the standards which

congress has established. Many S&Ls have since been forced out of the acquisition, development and construction lending business altogether.

ORGANIZATIONAL CHANGE

FIRREA has caused a drastic reorganization of the entire banking system. Many of the existing regulatory agencies have been disbanded and have been replaced by entirely new organizations. The most drastic change created by this act has been the complete elimination of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation (FSLIC). In the past, these agencies both regulated and insured the deposits of all S&Ls throughout the country. FIRREA then distributed the responsibilities of these two agencies among a variety of other agencies, some of which had not existed before.

The first change to the regulatory structure occurred with the creation of the Office of Thrift Supervision (OTS), established under the Treasury. Its responsibility is to manage all emerging, new and existing charters of S&Ls, including state charters and thrift holding companies. The director of the OTS has also replaced the chairman of the Federal Home Loan Bank

Board as the chief regulator of the entire savings and loan industry.

The second change involved the Federal Deposit Insurance Corporation (FDIC), which regulated and insured commercial banks and mutual savings banks. With this new law, the FDIC was to take control of two newly created insurance funds. The first of these was the Savings Association Insurance Fund (SAIF) which is now responsible to insure the deposits of the former Federal Savings and Loan Insurance Corporation (FSLIC). The other was the Bank Insurance Fund that is now in charge of insuring deposits for commercial and mutual savings banks. This took away the FDIC's primary regulatory responsibilities and replaced them with secondary responsibilities (White 1991). That is, it regulates as it did before but now it does it through separate entities. This served to centralize the insurance of bank and S&L deposits.

The third change was the establishment of the Federal Housing Finance Board (FHFB). This board replaced the bank boards oversight of the Federal Home Loan Banks (FHLB). The FHFB now has five members which includes the Secretary of Housing and Urban Development and five other members. The FHFB is also in charge of regulating the process by which FHLBs

allocate credit.

Finally, FIRREA established the notorious Resolution Trust Corporation (RTC) which took over the responsibility to dispose of the S&Ls and their assets that had become insolvent before 1993. This responsibility was previously handled by the FSLIC. The RTC is presently scheduled to disband in 1996 after it is through disposing of all mismanaged S&Ls. Despite its relatively short life, it was given funds totaling $50 billion provided by the Treasury and by the Resolution Funding Corporation (Ref Corp).

The Ref Corp was created to borrow up to $30 billion from the public to give to the RTC. It is also in charge of paying the interest on the $30 Billion. The RTC is now managed by the FDIC and is considered to be a branch of it, although never designated as such (White 1991). FIRREA also established the RTC Oversight Board that is to set policies and review the actions of the RTC. This board consists of a five member committee which includes the Secretary of the Treasury, The Secretary of Housing and Urban Development, the Chairman of the Federal Reserve Board and two appointed members.

CHANGES IN DEPOSITOR INSURANCE

With the FSLIC no longer in existence and the SAIF now responsible to insure deposits, there have been some important changes in the way in which the deposits of the S&Ls are insured. The SAIF is now being controlled by the FDIC which means that depositor insurance for both banks and S&Ls have been centralized under the oversight of the FDIC. This will not only allow the FDIC to influence S&L depositor insurance, it will also provide greater uniformity in this area throughout the lending industry. The SAIF has also been given the authority to adjust S&L insurance premiums higher or lower. These premiums are used to build up insurance fund reserves until they equal at least 1.25 percent of total insured deposits. The FDIC board may also deem it necessary, through the SAIF, to create reserves equal up to 1.5 percent of total insured deposits. If the FDIC goes beyond the required fund reserves, it is required to pay rebates to S&Ls for any money above the reserve amount. In addition, the premiums imposed on all lending institutions are now calculated on the basis of risk as opposed to a set fee across the industry.

CHANGES IN LENDING REQUIREMENTS

FIRREA has changed the lending policies of S&Ls in basically four areas. These areas are not only the most criticized by builders but they are also the main instruments used by this law to alter lending policies for the S&Ls. These areas include lender capital requirements, limits on the loan to one borrower rule, the qualified thrift lender (QTL) test, and real estate equity requirements. A brief discussion on each of these will be provided to show the impact each has had on the lending process. In all of these areas, the objective is the same. They represent an attempt to severely limit or even terminate the involvement of S&Ls in the area of A,D&C financing.

CHANGES IN CAPITAL REQUIREMENTS

All S&Ls are required to meet stiffer, risk-based capital requirements that are at least as stringent as those standards that are enforced on banks by regulators. The Office of Thrift Supervision is responsible for enforcing these requirements on S&Ls. Capital requirements basically are a form of insurance for lending institutions. Lenders collect and hold

deposits and in return they pay depositors market interest rates.

Meanwhile, lenders invest these deposits in the securities markets or by issuing loans to generate a return higher than the rate given to depositors. What is left over, after depositors and overhead is paid, is considered profit. However, the lenders are restricted as to how much of the depository funds may be invested. The moneys that must be retained and not invested are called capital requirements. Basically, the riskier the investments that lenders make, the more capital is required to be kept on hand and the less may be invested. Although capital requirements make lending institutions safer, they also make them less profitable.

Within 120 days after FIRREA was enacted , S&Ls were required to maintain capital requirements of not less than a 3% ratio of core capital to assets, as defined for national banks. Of this required capital, at least half has to be tangible, meaning it has to be in liquid form such as cash, securities, or other assets that are easily converted into cash without reducing their market value. Under the act, core capital includes 90% of the market value of the S&L's purchase mortgage service rights. S&Ls are also required to maintain 1.5 percent of tangible capital on hand or 90% of

the market value of purchased mortgage-servicing rights. S&Ls that are found not to comply with these requirements are now subject to limits on asset growth and face the possibility of having their depositor insurance taken away.

To increase capital, lending institutions can do four things. They may increase earnings or profits, raise outside capital, restructure their balance sheets, or consolidate with another institution. However, some of these options may require S&Ls to sell off some of their assets which can include mortgage backed securities or selling their branches.

The largest inhibitor of A,D&C financing are the risk-based capital rules. Under this system, assets considered less risky will require less capital to be kept on hand by the institution. For example, all assets are given a weight commensurate with risk. This weight is multiplied by the 8% capital required for every $100 in assets to calculate the total for capital requirements. A,D&C funding has been given a 100% weight rating while other assets such as mortgage-backed securities like Freddie Mac and Fannie Mae are weighted at 20%. Five times more capital requirements are mandated for A,D&C financing than for regular home mortgage loans.

It is evident that this requirement is a powerful deterrent for S&Ls to stay away from A,D&C lending.

S&Ls have reacted by refusing to lend to builders or by offering loans at much higher costs to make up for the additional cost of having money tied up in capital requirements. The capital requirement quotas will be met by S&Ls. However, most lenders will refuse to use additional depositor funds as capital requirements. This will only reduce the money they can invest and the profits they can earn in the financial markets. Instead, lenders will demand that the borrower put up the money in the form of lending fees, to satisfy their requirements. In this way, lenders will pass the costs on to the consumer.

LOANS TO ONE BORROWER (LTOB) RULE

FIRREA has reduced the amount of loaned dollars that a single borrower may be issued. Before, the lending institution could issue the borrower up to 100% of an institution's capital but now only 15% of the institutions capital may can be borrowed. The borrower limit did increase to 25% for loans involving readily marketable collateral but it was not allowed for

real estate.

S&Ls were given a minimum LTOB limit of $500,000. This has put S&Ls ahead of banks which have a lower limit. However, this is no consolation to builders who have had to suffer the loss of the S&Ls due to more restrictive requirements of FIRREA. There is another exception to the general LTOB. Lenders may increase their LTOB to 30% or $30 million dollars, which ever is less, for residential development. This exception is only allowed if S&Ls have obtained fully the capital requirement of 3% core capital to assets ratio and an overall 8% risk based capital requirement.

In Addition, S&Ls must have permission from the OTS, and have a limited aggregate amount of loans made under this exception. However, only about 1000 thrifts, out of the many existing nationwide, meet these requirements. This brings some comfort to builders in need of loans but obviously there will not be enough financing for everyone.

Adjusting to this law was difficult since it became effective as soon as it was established. This meant that S&Ls had to perform a major

reorganization process to their loan portfolios. To add to the confusion, FIRREA changed the definition of capital on which the LTOB was based. The new limit is based on real or actual capital whereas in the past capital was interpreted to mean net worth. This has changed things dramatically since the previous definition was, for the most part, an overstated figure whereas the new definition is closer to the actual amount of capital held by an institution.

THE QUALIFIED THRIFT LENDER (QTL) TEST

The Qualified Thrift Lender Test is basically a requirement to ensure that S&Ls devote a certain percentage of their assets to housing related investments. FIRREA has served to tighten this requirement by obligating S&Ls to invest at least 70% of their total assets in housing related loans. Before FIRREA, the QTL test was 60%. It should be noted that construction loans are considered to be a housing related investment though acquisition and development loans are not.

There are some disadvantages of not complying with the QTL test. If an S&L's QTL test results with less than the required percentage, the

institution will no longer be eligible for tax benefits and will no longer be eligible to access low interest advances from the Federal Home Loan Banks. In addition, it will lose its charter and will have to convert to a more restrictive bank charter or remain a thrift and limit its investments and activities to those of a national bank. In either case, it would remain insured by the SAIF but it would lose access to Federal Home Loan Bank monetary advances.

REAL ESTATE EQUITY INVESTMENTS

After FIRREA, S&Ls were prohibited from making any direct equity investments in real estate. That is, S&Ls are not allowed to invest in property or generate a profit through the direct sale or purchase of real estate. They are still allowed to organize joint ventures and equity participations, but their involvement is limited by the new capital requirements. These requirements obligate S&Ls to capitalize these subsidiaries separately from the parent S&L 5 years after the enactment of FIRREA. Further, the S&L may no longer lend any amount of money to this type of financial subsidiary. Therefore, undercapitalized S&Ls are likely to rid themselves of these subsidiaries in order to free up their

assets for use in other less restricted and more lucrative investments.

EFFECTS ON THE ECONOMY

Many residential builders accustomed to obtaining investment capital from their S&Ls have been highly restricted as to the terms of the loan and the loan amount. Some builders were even denied all lending privileges altogether.

According to the Acquisition, Development and Construction (A,D&C) Financing Survey of 1990 done by the NAHB, 60% of all builders around the country had relied on S&Ls to finance their projects. Of those builders 52% in acquisition, 46% in development and 30% of construction are no longer able to obtain capital from S&Ls. Banks have also been restrictive due to the overall climate of caution having been established in the lending industry.

FIRREA has been accused of creating what has been regarded as the crippling "credit crunch" (Heinly 1990 b). Now most builders are able to find little, if in any, A,D&C financing through the traditional sources which include S&Ls and banks. Surprisingly, this survey revealed that the

hardest hit of these have been the large builders. This was not expected since it was believed that the larger builders were well financed and had good existing relations with lending institutions. However, all builders, not just large ones, have been hit hard in one form or another.

As a results of this credit crunch, notable changes have taken place in residential construction. An example of this is exhibited by housing start activity throughout the country. From late 1989 to 1990 housing starts dropped from a peak of around 1750 to a low of 790. This is believed to be the result of FIRREA and other important factors in the economy, that have worked together to produce a negative effect in the residential construction industry. Some of these other variables can include population growth, unemployment rate, interest rate, inflation and the like.

Many believe that the sudden drop is caused only by the changes in the economy during those years. However, FIRREA has played a large part in this as well. The drop in housing starts between 1989 and 1990 caused many to go out of business temporarily or permanently. Even builders, considered well established, were limited due to new lending

requirements and economic conditions not conducive towards growth.

Fortunately, housing starts have leveled off in the beginning of 1991. This can be attributed to some builders being able to obtain investment capital from alternative or nontraditional sources and to the drop in the interest rates. However, the problem of obtaining financing is not over for builders. Despite the economic improvement, many are still scrambling to gain the capital they were accustomed to having before FIRREA. Many have even closed their doors after being starved of their investment capital.

IN SEARCH OF INVESTMENT CAPITAL

Due to FIRREA it is evident that traditional forms of A,D&C financing will be hard to come by. In many articles, it was pointed out that in the 90's new ideas will be needed in the area of housing related finance due to the shortage of capital now being faced (Bortel 1990). In the survey done by Professional Builder, one builder had to go as far as Japan and Australia to find investment capital for residential construction projects (Heinley 1990 b). In the same survey, many builders responded by saying that they were out scrambling for money or busy trying to develop new

relationships with people who have access to large amounts of investment capital. It is clear for most builders, at this point, that if they ever expect to have the same amount of A,D&C financing as before, they will have to obtain it through other nontraditional sources.

THE INTERAGENCY GUIDELINES FOR REAL ESTATE LENDING POLICIES

On March 19, 1993, The Interagency Guidelines for Real Estate Lending Policies were instituted for all lending institutions across the country. These guidelines were a result of a joint effort of The Federal Deposit Insurance Corporation, The Office of the Comptroller of the Currency, The Federal Reserve Board, and The Office of Thrift Supervision. The focus of the guidelines was to order all lending institutions to establish strict and formal lending policies that would be subject to periodic review. This directive sent to all lending institutions makes reference to FDICIA which is the next law to be discussed in this chapter.

The guidelines address basically three topics which includes the

loan-to-value ratio, the establishment of formal lending policies, and the supervisory review of policies. The purpose of the guidelines is to create within both banks and S&Ls a more cautious attitude, and a more systematic procedure for issuing loans.

THE LOAN-TO-VALUE RATIO

Before the Interagency Guidelines, loan-to-value ratios were already low due to the S&L crisis, FIRREA, and industry apprehension towards risks due to the first two events. The Interagency Guidelines served only to formalize the lower loan-to-value ratio limits since the previous limits had become obsolete. In conversations with a bank lending officer in the North Central Florida area, it was learned that the guidelines were not restrictive on most banks. The new loan-to-value ratios represents a ceiling limit and most lenders have now become so cautious with their lending policies that they are now well below these limits (Cameron 1993).

The loan-to-value ratio for the purchase of raw land is now 65%, to develop raw land it is 75%, to construct commercial, multifamily and

other non-single family residential it is 80%, to construct 1-to 4- family residential it is 85%, and to improve property it is 85%. However, lenders are encouraged to set their own loan-to-value ratios, within the above limits. These ratios must be set relative to the risk involved for each type of loan. If, for example, a lender issues loans under any of the above categories that is riskier than the overall category, then its loan-to-value ratio should be lower than that required.

FORMALIZING LENDING POLICIES

The Interagency Guidelines were created to insure that lending institutions create, maintain and review formalized policies establishing limits and restrictions for the issuance of loans and all extensions of credit related to real estate. The guidelines take into consideration that each institution is different and allows each to create lending policies that best suit its needs and risk factors. However, the policies established by the various lending institutions must follow the broad requirements of this regulation. In addition, each institution's policies must be comprehensive and consistent with sound lending practices.

According to the guidelines, the lending policy must contain a broad overview of the scope and organization of the institution's credit facilities as well as the method in which loans are given, managed and collected. Basically the institution's real estate lending policies should include the following: the geographic areas in which loans will be made, a loan diversification policy, the appropriate terms and conditions for real estate loans, loan origination and approval procedures by loan type, prudent and measurable underwriting standards, review and approval procedures for exception loans, loan administrative procedures, such as documentation, disbursement, collateral inspection, collection etc., real estate appraisal and evaluation programs, and programs to review the loan portfolio.

The Interagency Guidelines also requires the lending institution to take into consideration external factors involved in lending, not just internal items directly related to the loan application. In issuing loans, the institution should bear in mind its size and financial strength. It should also consider its level of expertise and size of lending staff. Also, it should avoid undue concentrations of risk and it should comply with all real estate laws and regulations.

The institutions should also monitor local market conditions within the lending area to allow fast reactions to changes in the economy. In lending, the institution should bear in mind the following market variables: Demographic and economic indicators, zoning requirements, current and projected vacancy, construction and absorption rates, current and projected operating expenses for different projects, current and projected lease terms, rental rates and sales prices and current figures used for the valuation of property, such as the discount and direct capitalization rates.

For issuing loans in development and construction projects, lending institutions should establish lending policies that are well suited not only for the size of the project to be funded but also for the types of loans issued. For A,D&C financing, the Interagency Guidelines specify that lender policies must cover the following: requirements for feasibility studies and sensitivity and risk analysis, borrower equity requirements, standards for net worth, cash flow and debt service coverage of the borrower, standards for accepting non-amortized loan, pre-sale requirements, limits on recourse and nonrecourse loans, requirements for guarantor support, requirements for takeout commitments and covenants for loan agreements.

It is evident that this regulatory requirement is very open ended. It gives each lending institution the freedom to generate their own policies. However, institutions must create policies that contain a sufficient amount of detail so that all of the areas mentioned above may be adequately covered. This will not only protect the lending institution and its depositors but it will also clear up ambiguities and loopholes in lending policies. According to a representative of the Office of the Deputy Comptroller of the Currency, in Atlanta, Georgia, this part of the guidelines represents an effort among many regulatory bodies to formalize policies and procedures of all lending institutions to create, within the industry, a greater sense of caution and control over daily operations.

SUPERVISORY REVIEW OF LENDING POLICIES

The Interagency Guidelines also require financial institutions to have their lending policies periodically reviewed. The board of directors of each lending institution is to make sure that the policies not only conform to safe lending practices and standards but also that the institution follows those standards.

For the most part, the lending policies of financial institutions will be reviewed by regulatory examiners during the course of their annual examinations. Examiners must ensure that these policies are consistent with safe lending practices, the Interagency Guidelines and the requirements of all banking regulations. During examinations, examiners will take into consideration the following items: Market conditions, nature and extent of lending activity, size and strength of the institution, the effectiveness of the institution's internal and administrative controls, and the expertise and the size of the loan department staff. Examiners also will review each loan made that did not conform to the lending policies and will expect extensive documentation providing sufficient justification for it.

It is evident that this law had some effect on lenders. However, it did not create as much commotion as did FIRREA. Compared to FIRREA, many would agree that The Interagency Guidelines for Real Estate Lending Policies have had a small effect on A,D&C financing. However, it has created change for construction lenders and therefore it was necessary to discuss it in this chapter.

FDICIA of 1991

This new law is called The Federal Deposit Insurance Corporation Improvement Act and was passed on December 19, 1991. However, the law was not implemented all at once. Parts of it have been phased in over time and there are parts still waiting to be implemented. The intent of the law was to:

"...require the least cost resolution of insured depository institutions, to improve supervision and examinations [of lending institutions by regulators], to provide additional resources to the Bank Insurance Fund, and for other purposes...."(FDICIA 1991).

It was discovered through interviews that lending officers and bank executives knew little or nothing of this law. Members of regulatory agencies, that are affiliated with the law, were then contacted to gain more information. From these consultations it was discovered that FDICIA is a very complex law and it is still too early to tell what effects it will have on lending institutions or the economy. Although there are opinions among lawyers affiliated with congress who have read and

understood the law, there is still not enough literature written in this area that expresses these opinions in detail.

Another reason why little is known about this law is that the changes it is bringing about are much more subtle than the other laws discussed in this chapter. One lawyer in a regulatory agency, wishing to remain anonymous, stated that "FIRREA brought about changes with a sledge hammer compared to FDICIA which brought change with a surgeon's scalpel".

Changes created by FDICIA are less dramatic and not as controversial as those of FIRREA. According to this lawyer, FDICIA was intended to give the Federal Deposit Insurance Corporation, more regulatory power to control, manage and sanction all lending institutions around the country. It was not intended to restructure lending institutions a great deal nor was it intended to restructure the banking system

It is FIRREA that has created the greatest disturbance in the lending industry. FDICIA and The Interagency Guidelines for Real Estate Lending Policies have been more subtle in their approach and the changes brought on by these two have not been extremely restrictive nor have they been a

burden to the construction industry. FDICIA and The Interagency Guidelines may produce complications in the residential construction lending industry in the future. However, lenders and residential builders are busy with the more immediate concerns of FIRREA.

HIGHER COST OF FINANCING

The end result of FIRREA and the changes it has brought about will undoubtedly increase the cost of construction the way most restrictive regulations have done in the past. First, the costs of construction will increase with the extra time and effort dedicated to obtaining A,D&C financing. Builders may have to increase the cost of construction to pass their added costs on to the consumer. Second, there will be an increase due to the added cost of borrowing money from two or three sources as opposed to only one. Third, banks as well as all other sources of financing are requiring more documentation.

This also will increase the time and money expended by builders. In the end, the result will be an increase in the cost of housing. According to the survey in Professional Builder Magazine for July 1990, one builder stated

the following:

"...It is critically important to communicate to home buyers that we[builders]are not responsible for a good portion of the costs...so they can start to put pressure on their elected officials...."(Heinly 1990 a).

Increases in lending restrictions may not be the sole cause of increases in housing prices. However, these, together with other variables such as inflation and the shortage of materials, have served to increase the cost of housing.

CONCLUSION

Three recent legislative changes that have produced a variety of changes have been discussed throughout this chapter. These three laws include The Financial Institutions Reform, Recovery and Enforcement Act of 1989, The Interagency Guidelines for Real Estate Lending Policies, and The Federal Deposit Insurance Corporation Improvement Act of 1991. Out of these, FIRREA provided the most change to the lending industry and the greatest shortage of funds to the residential construction industry. It is

FIRREA that has generated the most controversy while the rest have, for the most part, remained obscure or have attracted very little interest.

Almost every change brought about by FIRREA has been directed toward limiting or removing the S&Ls from A,D&C financing. The result has been a tremendous shortage of investment capital in the residential construction industry. It has also been FIRREA and the restrictions it has brought about, together with other economic variables, that have drastically reduced the number of housing starts from the end of 1989 to the beginning of 1991. Although the economy is expected to pick up in the coming years, FIRREA may make it difficult to obtain the capital to make the turn around.

CHAPTER FOUR

Survey Development and Distribution

INTRODUCTION

This chapter describes the design and dissemination of the surveys. The creation of the surveys occurred in phase II of this project with distribution completed in phase III. The formulation of the representative sample, the selection of the survey group, the quantification of the responses, and survey validity will be presented in this chapter. Due to the initial low response, two rounds of survey follow up were required. The appendices contain the mailing lists and surveys as follows:

Appendix A	Builder Mailing List
Appendix B	Lender Mailing List
Appendix C	Builder Survey
Appendix D	Lender Survey

CREATION OF THE SURVEY

The process of creating the survey was begun on March 1, 1993 and was concluded on April 21,1993. The intent of the surveys was to present the

issues derived from initial investigation in Phase I to builders and lenders to determine the impact on the residential construction industry in Florida from both viewpoints. Information found either in the literature or acquired through interviews with builders and lenders was incorporated into the surveys. The surveys were limited to two double-sided pages. Postage paid return envelopes were supplied to all participants to make the return of the survey as effortless as possible.

After the initial surveys were completed, they were reviewed by faculty members at the University of Florida and a number of professional organizations such as The National Association of Home Builders (NAHB), The American Bankers Association (ABA), the Savings and Community Bankers Association (SCBA), and the Mortgage Bankers Association (MBA). Individuals participating in the initial phase also reviewed the survey. In addition, G.L. Homes Corporation in South Florida was sent the survey and provided many helpful comments to improve it. Based on suggestions from these sources, the surveys were redesigned.

REPRESENTATIVE SAMPLING

The first stage consisted of determining the representative sample that

would be used to obtain a valid response for the survey. The conclusions derived in the study sought to represent the opinions of all types of builders and financial institutions in A,D&C lending through out Florida. Therefore, an attempt was made to include in the survey a representative group consisting of large, small and medium builders, commercial and community banks, savings and loan institutions, and mortgage banks. The budget could support 250 surveys to be sent out to each group. Out of these it was believed that a minimum response rate of 18.1% would be required to generate a sample that would represent the industry accurately. This percentage figure was determined after consulting with response rates of similar studies done in this area. This response rate would include 38 survey responses from each group.

SELECTION OF THE SURVEY GROUP

From the start, an attempt was made to make the selection of the survey group in the most cost efficient manner. A number of professional organizations in Florida were relied upon to provide lists of mailing addresses of affiliate members. These professional organizations included The NAHB, The ABA, The SCBA, and The MBA.

Builder Mailing List

The initial mailing list was provided by the NAHB and included 1110 NAHB members throughout the state of Florida. In order to achieve a valid representation without exceeding project budget constraints, every fourth member on the mailing list was chosen. A copy of the builder mailing list appears as Appendix A in this report.

Lender Mailing List

The recipients of the survey were organized into three categories which included banks, savings and loans and mortgage bankers. Once divided the total mailing addresses for banks was 865, for S&Ls it was 60, and for mortgage banks, 282. The total number of mailing addresses received were 1,208, out of which 250 were selected at random to receive the survey. In distributing the survey, 150 of the surveys were sent out to banks, 50 were sent out to savings and loans and 50 were sent to mortgage banks. Banks were given this priority in representation because the S&Ls were no longer a primary lender in the acquisition, development and construction process due to severe restrictions imposed by FIRREA. Also, mortgage banks serve mainly as brokers of funds between the developer/builder and banks or savings and loans. Therefore, by nature,

they play a smaller role than other lenders.

The quantities required for each lender type were randomly drawn out of 3 baskets, each of which contained separately the total number of mailing addresses for banks, S&Ls and mortgage bankers. A copy of the mailing list used for this study is included in Appendix B of this report. Through out this time, it was difficult to find an extensive number of S&Ls to participate in this study. For this reason, only 60 S&Ls were used from which to draw the 50 S&Ls required to participate in the survey. This served to confirm the large decline of the S&L industry within Florida. It became apparent that the S&Ls still in existence were among the most conservative in their lending policies and in their investments.

INITIAL RESPONSE: BUILDERS

Builders were given two weeks to fill out the survey. After a three week period, the following responses occurred:

Surveys distributed	250
Surveys returned undeliverable	0
Net surveys distributed	250

Surveys returned complete	15
Percentage distributed\returned	6%

INITIAL RESPONSE: LENDERS

All lending institutions were given two weeks to fill out and return the survey. The number of surveys returned were the following:

Surveys distributed	250
Surveys returned undeliverable	0
Net surveys distributed	250
Surveys returned complete	11
Return response rate	4.4%

It is important to note that out of the initial 11 responses, 8 were from S&Ls. This could be due to the fact that they have been hit the hardest in the last few years with the crisis experienced in their industry and because of the subsequent restrictions imposed by FIRREA.

The response rates were short of the targeted 18.1% response rate. At this point, greater effort was employed to increase the number of the surveys returned. Each recipient was contacted a second time by telephone to encourage the person responsible for filling out the survey to return it.

Survey Follow-up

A month was spent in following up on the surveys by telephone. After the end of this phase, there were people who were unable to be reached through any attempts. Many messages were left but never returned and, in general, it seemed that many builders and lenders had little enthusiasm about this study. Alternative means were sought to obtain a larger survey response.

Builders

From telephone calls, an additional 50 surveys were sent to builders. From these, 9 surveys were returned, bringing the total response rate for builders to 9. 6%. Four local homebuilders' associations in Florida were

contacted for permission to distribute surveys at their next meeting. The four were the North East Florida Home Builders Association, the Gainesville Home Builders Association, the Marion County Homebuilders Association, and the Mid-Florida Home Builders Association. These were chosen for the expediency of travel to distribute surveys and for their varying sizes.

The actual number of surveys sent to be distributed during meetings was as follows:

Gainesville Home Builders Association	15
North East Florida Home Builders Association	50
Marion County Homebuilders Association	50
Mid-Florida Home Builders Association.	50

Three of the representatives contacted failed to retrieve the surveys after the meeting, thereby relying upon the members to return the surveys themselves. The fourth could not be reached by telephone. None of the surveys from this follow up effort were returned.

Lenders

Lender organizations were reluctant to distribute surveys during meetings. It was discovered in the follow up phase that the majority had not even seen the survey and many admitted that it might have gotten thrown out with the other "junk mail". At this point, a commitment from the lending institutions to return the survey filled out if the investigator would send it in the form of a facsimile transmission (FAX) was obtained from many contacted. Others who wanted to respond, but did not want to receive a FAX, were mailed another survey.

At this point, an additional 24 surveys were mailed out and 49 Faxes were transmitted. Out of these, 35 additional financial institutions responded. These responses greatly improved the study's results for the lenders. The response rate after these new surveys were received was as follows:

Surveys distributed	250
Surveys Returned undeliverable	0
Net surveys distributed	250
Surveys returned complete	46
Return response rate	18.4%

This response rate was considered enough to adequately describe residential A,D&C lenders in Florida. The majority of the surveys returned were from banks. Banks were represented by 31 surveys or 67% of the total returned. It was important for this to be the case since commercial banks are the primary lender in residential A,D&C financing after the enactment of FIRREA. Therefore, they had to be allowed a greater representation in this survey. The S&Ls had the next greatest number with 11 surveys or 23% of the total returned.

Mortgage banks had the fewest number with only 4 surveys or 8% of those returned. The surveys from mortgage bankers were not enough to do a thorough analysis. Since mortgage banks are basically loan brokers and since S&Ls have been restricted in A,D&C financing, the mortgage bankers will mostly broker loans for banks, not S&Ls. For this reason, their surveys were included in with banks. Essentially, this survey will derive information about banks and S&Ls but will also take into account the little information given by mortgage banks.

VALIDITY OF THE RESULTS

The surveys can be considered valid regarding the results. Builders were sent faxes but none responded. After efforts to improve the response rate for builders were exhausted, it was decided to supplement the results by more personal interviews as could be allowed by time and budget constraints.

The lender survey was considered valid at 18.6%. Similar studies in this area have a survey response rate that is close to that obtained by this study. The Acquisition, Development and Construction (A,D&C) Financing Survey of 1990 done by the NAHB provided high validity with an 18.5% response rate. Also, a previous study entitled "The Role of the Lending Industry in Construction" achieved high validity when surveying groups provided an 18.1% response rate.

It is evident that the process of survey dissemination and response was difficult. Builders did not respond well to fax or mail. The unexpected low response rates of builders might be attributed to the fact that the surveys were sent during a season of significantly increased building

activity for builders in the state of Florida. For each recipient, there were fewer qualified personnel available to fill out surveys as compared with lending institutions which are generally larger organizations. However, it was determined by consulting a statistician that the 9.6% response rate could still be considered to give valid results if the sampling was representative and random. Because all reasonable means of obtaining data had been exhausted, it was decided that the responses from the builder survey could be validly compared with those in the lender survey.

The key questions that were identical to each survey were evaluated using the chi-square test. A chi-square test is "...a test of the significance of a difference between two sets of observations..." .(Balsley, 1979). The chi-square test is used in place of correlation analysis. It takes the difference between the two sets of information and squares it. Each of the squared differences is then divided by the value from the second set of information. The resulting values are added and the results are applied to a table. Values from this table determine the level of confidence with which one can state that there is no significant difference between the two sets of information. Each of the identical questions were tested with

the chi-square test and all showed the null hypothesis that there is no significant difference between the builders' statements and lenders' statements. In other words, all responses are true as they cannot be rejected at the 95% level of confidence.

BUILDER SURVEY

The Builder/Developer Survey, developed over a three month period, consisted of 51 questions and was designed in booklet form. The survey size was reduced to four pages and was printed on both sides of 11" x 17" paper folded to produce the booklet format. A separate page was included which contained optional questions, as well a place for respondents to include any concerns they might have regarding the role of lending institutions in residential construction.

Ten survey questions were included to develop a profile of the respondents. Thirteen survey questions were asked regarding lending institutions. Eight questions investigated the appraisal process. Six questions were asked regarding the disbursement of funds. Three questions were asked regarding the lender's role in the construction lien

law, while 3 additional questions investigate the builder or developer's knowledge of the construction lien law. Three final questions were asked regarding The Occupational Safety and Health Act of 1970 (OSHA).

PROFILE OF BUILDER SURVEY RESPONDENTS

The purpose of the first 10 questions was to establish a profile of the survey respondents. During the initial investigation no clear information could be found regarding a standard method of classifying builders and developers from any source, including the National Association of Homebuilders in Washington, D.C. Therefore it was decided that a method of profiling builders and developers would be established for this study.

During interviews with builders, it was decided to classify builders by dollar volume as small, medium, and large. Small builders would be those whose annual volume is less than $1 million. Medium builders would be those whose annual volume is between $1 million and $9.5 million, and large builders would be those whose annual volume is $10 million and above.

It was further decided to classify respondents based on the type of work. This was broken down into single family homes, multi-family homes for sale, multi-family homes for rent, remodelling, land development, institutional work, and other type of work as applicable. In addition to this, respondents were ask to state separately their building construction and development activity by dollar volume for 1992.

Respondents were also ask to list how many projects were started and completed in the last 5 years. This information was broken down into land development projects, residential units, and multi-family units, and included the number of foreclosures for the past 5 years in each of these categories.

The response group to the survey included 36.4% who considered themselves to be small builders, 45.5% listing themselves as medium-sized builders, and 9.1% listing themselves as large builders. The majority of the respondents, at 81.8% are involved in single family homes, with 13.6% being involved in multi-family homes for sale, 18.2% being involved in remodelling, and 13.6% being involved in land development

Approximately 41% indicated that their land development activity for 1992 was less than $1 million, with 13.6% stating that their 1992 land development activity was between $1 million and $3 million, and 9.1% stating that their 1992 land development activity was between $3 million and $9.5 million. Approximately 36% indicated that their building construction activity for 1992 was less than $1 million, with 36.4% stating their 1992 building construction activity was between $1 million and $3 million, 18.2% stating that their 1992 building construction activity was between $3 million and $9.5 million, and 4.5% stating that their 1992 building construction activity was between $10 million and $24.5 million.

Approximately 86.4% of the respondents have been involved in between one and ten land development projects in the last five years, with 4.5% stating they were involved in between 11 and 25 land development projects in the last 5 years. Approximately 18% of the respondents stated they were involved in between one and ten residential units in the last 5 years, 13.6% stating that they have been involved in between 11 and 25 residential units in the last 5 years, 13.6% stated that they were involved in between 26 and 50 residential units in the last 5 years, 13.6% stated

that they were involved in between 51 and 100 residential units in the last 5 years, 4.5% stated that they were involved in between 101 and 200 residential units in the last 5 years, and 18.2% stated that they were involved in excess of 200 residential units in the last 5 years.

Approximately 5% of the respondents stated that they were involved in between one and ten multi-family units in the last 5 years, 4.5% of the respondents stated they were involved in between 11 and 25 multi-family units in the last 5 years, 4.5% of the respondents stated that they were involved in between 51 and 100 multifamily units in the last 5 years, and 13.6% of the respondents indicated they were involved in excess of 200 multi-family units in the last 5 years. Only 4.5% of the respondents have been involved in between one and ten land development projects in the last 5 years that have gone into lender foreclosure.

This indicates that despite the problems in the residential construction industry in the period between 1989 and the present, foreclosures of land development projects have not been a serious problem in the state of Florida for the respondents to this survey. However, the respondents only represent a small portion of builders and developers in the State of

Florida, and do not represent builders and developers who may no longer be in business. Therefore, this information may not accurately represent the foreclosure rate in the State of Florida.

Approximately 9% of the respondents indicated they have been involved in between one and ten residential units in the last 5 years that have gone into lender foreclosure. None of the respondents indicated they had been involved in any multi-family units in the last 5 years that have gone into lender foreclosure.

LENDER SURVEY

The lender survey contained forty-two questions in all. The data presented throughout this study, particularly in all figures and tables, expresses information derived only from those lending institutions that responded to each given survey question. For this reason, the lender responses, expressed by percentages, sometimes do not add up to 100%. This is because not all lenders surveyed answered each question.

PROFILE OF LENDER RESPONDENTS

Lenders were divided into banks and savings and loan (&l) institutions. A vast majority represented in the survey group were heavily involved in residential lending. A large number of banks, 40%, stated that more than 75% of all of their loans issued are in residential and 52% stated that more than half of their loans are in this area. Approximately 11.4% reported less than 50% of their activity was in this area. No answer was given by approximately 25%.

As expected, S&Ls were more involved with 81% stating that more than 75% of all of their loans were in residential loans. Less than 9% reported activity under 25% for residential lending. These results may serve as evidence that the pressure FIRREA has exerted on S&Ls has forced most of these institutions to concentrate, as before, strictly in residential loans as opposed to commercial construction and other types of loans. However, some have also returned to this area due to bad experiences with other types of lending. As discussed in Chapter Two, most S&Ls do not have the experience, nor the expertise, to deal extensively outside of residential lending. For whatever the reasons, S&Ls are clearly concentrating on

residential lending.

Also, it was discovered that the majority of the lenders issue between $1 to $10 million in residential loans per year. Banks reported the following for the dollar amount of lending: 5.7% over 20 million dollars, 14.2% in the 10 to 20 million dollar range, 31. 6% in the 1 to 10 million dollar range, and 5.76% under 1 million dollars. Forty-two percent did not respond. It is interesting to note that overall more banks left this question blank than did S&Ls. It is assumed that persons filling out this information for banks either did not have access to this information or did not have permission give this information out.

The distribution of lenders according to size could be an influential factor in lender responses so it was necessary to obtain this information. For this question, the lenders rated their own size by small, medium and large according to the their particular type of lending institution. It is evident that the S&Ls were not as well distributed as the banks. Half of the S&Ls responding, 45.5%, were large institutions and the other half, 45.5%, were medium size lenders.

No small S&Ls were represented in this survey. The reason for this is because they are very hard to find. The majority of the S&Ls that have survived the crisis in the industry have been the stronger medium to large institutions. Most small or weak S&Ls have been swallowed up through takeovers, have gone bankrupt or have been liquidated by the Resolution Trust Corporation (RTC).

The majority, or 65%, of the banks surveyed were small. Since the surveys were sent out randomly, this may represent the most common size of bank in Florida. Also, all sizes of banks are represented in this survey, although some more than others. Medium size banks represent 14.3% of those surveyed and the large banks represent 5.7%.

The fact that all banks, especially small ones, are represented, unlike the S&Ls, is evidence that banks have not been hurt as badly as the S&Ls. Smaller banks are able to exist along side large banks without a great threat of being taken over or going bankrupt. The reason why so many of the banks dealt heavily in residential lending could be because most banks surveyed were small. If a greater number of larger banks had been involved, the response in the previous question may not have indicated

such a strong involvement in residential A,D&C lending.

The area of residential lending most of the surveyed lending institutions concentrated upon was divided into acquisition, development, and construction. In this case, it was also necessary to separate the responses of banks and S&Ls since their responses are different. It is clear that most banks and S&Ls prefer to deal in residential construction lending but are hesitant to issue development loans. Approximately 20% of the banks reported over 75% activity in acquisition loans and 17% in construction loans.

Out of those banks surveyed, 71.4% deal in construction loans, 65.7% in acquisition loans, and 37.1% deal in development loans. Banks seem to be less inclined to issue development loans because they may find these loans inherently riskier than the acquisition and construction loans. inspection, that the majority of the banks responding stated that most of their A,D&C loans represent less than 50% of their total residential loans. This can be seen by the fact that most of the responses of banks were on the bottom portion of the table. The reason this percentage is lower than that of S&Ls is because banks have not been restricted as much as S&Ls by

regulations. Unlike S&Ls, Banks are allowed to diversify most of their loans away from residential lending and make more risky investments. They may make more risky investments, such as commercial A,D&C lending, and therefore they do not need to deal as much in residential A,D&C lending.

The response of S&Ls differs greatly from those of banks. The majority of S&Ls, 90.9%, deal in residential construction loans as opposed to only 65% of banks. However, the involvement in other more risky forms of residential A,D&C lending has been limited. This is evident with only 36.4% of the S&Ls dealing in residential acquisition and 36.% in residential development loans. Also, 63.6% of all S&Ls have stated that residential construction loans made up more than 75% of their total residential loans.

The S&Ls depict clearly the effects of FIRREA that forced them to become more conservative in their lending policies. The Qualified Thrift Lender (QTL) Test has required these lenders to maintain at least 70% of their deposits in housing related investments. While residential construction is considered by FIRREA as housing related, acquisition and development

loans are not. In addition, since acquisition and development loans are considered more risky under FIRREA, S&Ls are forced to maintain greater capital requirements when investing in these loans. Since high capital requirements serve to reduce the profitability of a lending institution, they have moved away from these loans. S&Ls have obviously been discouraged in acquisition and development lending by FIRREA and this survey question has brought out evidence of this.

CHAPTER FIVE

Builder Survey Analysis

INTRODUCTION

This chapter presents the results of the builder \ developer survey. Questions found only on the builder \ developer survey are presented and analyzed. In addition, the questions that were identical to both surveys are compared according to the responses of both lenders and builders. The Builder Survey appears as Appendix C of this report. The lender survey is presented and analyzed in Chapter 6. The survey itself appears as Appendix D of this report. The tabulations of the responses of both surveys are found listed on the surveys in both Appendix C and D.

BUILDER SURVEY ANALYSIS

The first ten questions on the builder survey dealt with builder \ developer profile and characteristics in terms of project types, size, and

dollar amounts. Those results are summarized in Chapter 4. The remainder of the questions on the builder\developer survey are presented in this section according to the number listed in the original survey.

11. Please check your primary source of funding.
    [ ] Thrift Institutions
    [ ] Mortgage Company Commercial
    [ ] Bank
    [ ] Other

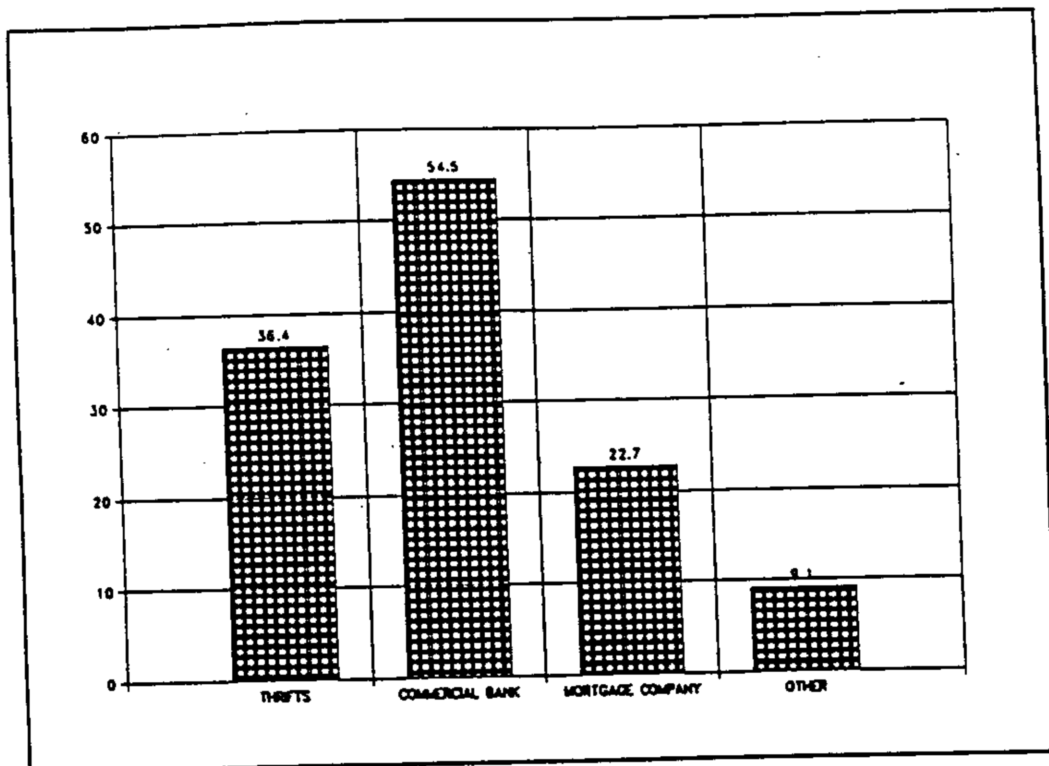

Figure 5.1 Primary Source of Funding

The survey results, shown in Figure 5.1 indicate the vast majority of builders and developers, at 54.5%, fund their projects through commercial

banks. Even with the drastic changes in the thrifts industry, thrifts, at 36.4%, are the second most common source of funding for the builders and developers surveyed. Mortgage companies are the third most used source for financing, with owner financing being listed as another source of funding for builders and developers.

The 1990 National Association of Homebuilders's Acquisition, Development and Construction (AC&D) Financing Survey found that overall, 60% of builders and developers nationwide used thrifts as their primary source of funding for acquisition, development and construction loans. This survey further revealed that overall, 82% of builders and developers nationwide used commercial banks as their primary source of funding for acquisition, development and construction loans.

The results of the 1993 Builder/Developers Survey indicate that in the State of Florida thrifts are used as a primary source of funding approximately 40% less than they were nationwide in 1990. The survey results further reveal that in the State of Florida commercial banks are used as a primary source of funding approximately 34% less than they were nationwide in 1990. This indicates that thrifts and commercial

banks are decreasing significantly as a source of funding for residential construction and development.

12. What ways have your thrifts changed their lending practices?
    [ ] More equity required
    [ ] Increased documentation
    [ ] Personal guarantees
    [ ] Reduces amount of lending
    [ ] Decreased lending for residential developments
    [ ] No longer lending for residential developments
    [ ] No changes
    [ ] Other

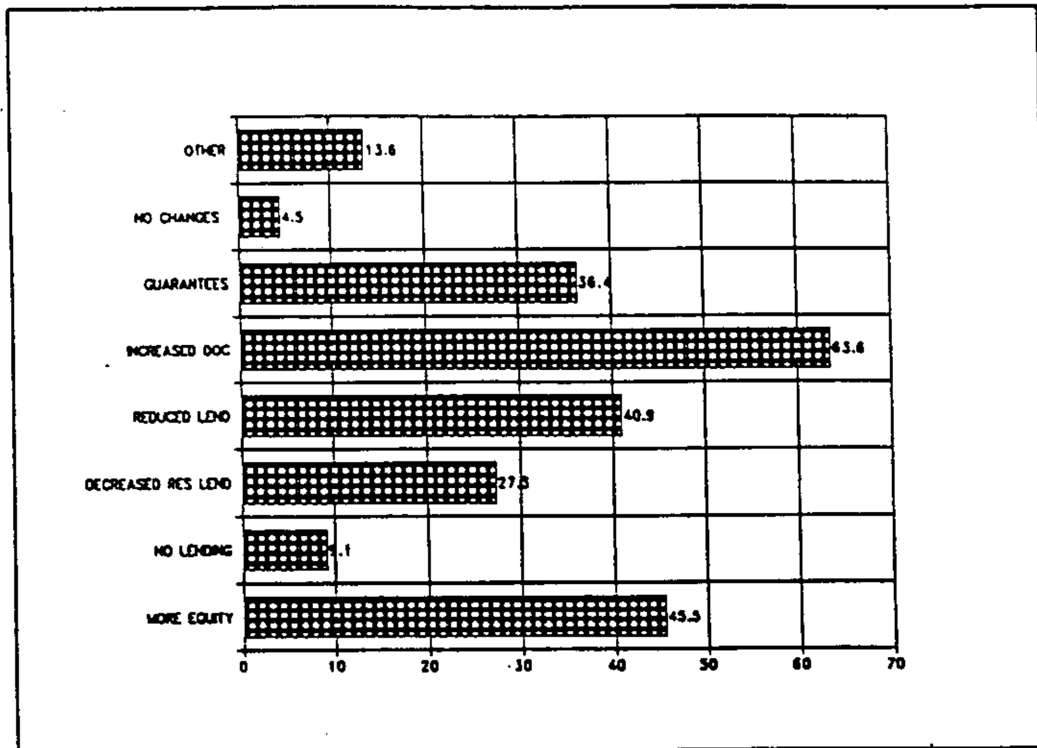

Figure 5.2 Changes in Thrift's Lending Practices

The changes brought about by FIRREA prompted thrifts to initiate drastic changes in their lending practices. The changes included severe restrictions on thrifts' capacity to lend. The most common change, as shown in Figure 5.2, has been increased documentation, with 63.6% of the respondents stating that their thrift has begun this practice. The second most common change, at 45.5%, is the requirement for more equity from the builder or developer when making a loan. This puts an increased burden on the builder or developer to invest a larger percent of company or personal cash into a project from the start.

Thrifts have also decreased the amount of lending overall, as well as decreasing lending for residential development. Requirements for personal guarantees were listed in 36.4% of the surveys as a change, although several respondents stated that personal guarantees were always required.

Only 9.1% of the respondents indicated that their thrift was no longer lending for residential development, with 4.5% stated that their thrift has made no changes in its lending practices. Other changes, listed by 13.6% of the respondents include less tolerance of poor credit, and tighter

ratios. In the 1990 NAHB survey 50% of the respondents revealed that thrifts had reduced the amount they could lend for future land acquisition, development or construction. Thrifts were asking for more equity on land development loans according to 44% of the respondents, and on construction loans according to 41% of the respondents.

Forty-six percent of the respondents to the NAHB survey stated that thrifts were no longer making land development loans for 46% of the respondents, and no longer making construction loans for 29% of the respondents. That survey further revealed that in the South, 39% of the respondents indicated that thrifts were reducing the amount they could lend to small volume builders. This information indicates that the S&L crisis and FIRREA has caused thrifts to become much more conservative in their lending practices.

However, with only 40.9% of the respondents to the 1993 Builder / Developer Survey indicating that thrifts had reduced the amount they could lend to builders and developers, there are less thrifts in the State of Florida reducing the amount they can lend than the 50% there were nationwide in 1990. The number of thrifts requiring more equity is

consistent with the number that were adding this requirement nationwide in 1993. Requiring more equity and personal guarantees allows only builders and developers with strong financial positions to acquire financing for their projects. With only 9.1% of the respondents to the 1993 Builder/Developer survey indicating that their thrifts were no longer lending to builders and developers, this has lessened as a problem in the three years since the nationwide NAHB study. This lower percentage may be due, however, to a reduction in the number of thrifts, as well as a reduction in the number of residential builders and developers who use thrifts.

Among the comments included by respondents to the survey were that thrifts now have "unrealistic underwriting requirements." One builder stated that "generally [the] bank file must be over-documented. Another said that "Interest rates are too low for bank's [thrift's] interest," with another stating that banks are "over-picky on clean applications." In reference to the loan application process, one respondent stated that thrifts take "way too long to process loans." All of these comments indicate that financing from thrifts for residential construction and development has become more difficult to obtain.

The Lender Survey, conducted at the same time and under identical conditions as the Builder/Developer Survey revealed that 35% of the thrifts surveyed were requiring more equity, 40% were requiring increased documentation, 15% were requiring personal guarantees, 15% were no longer lending for residential developments, and only 5% had made no changes in their lending practices.

13. If the thrift has changed its practices, what reasons did it give?
    [ ] Changes brought about by FIRREA
    [ ] Increased control by regulators
    [ ] The economy/recession
    [ ] No reason given

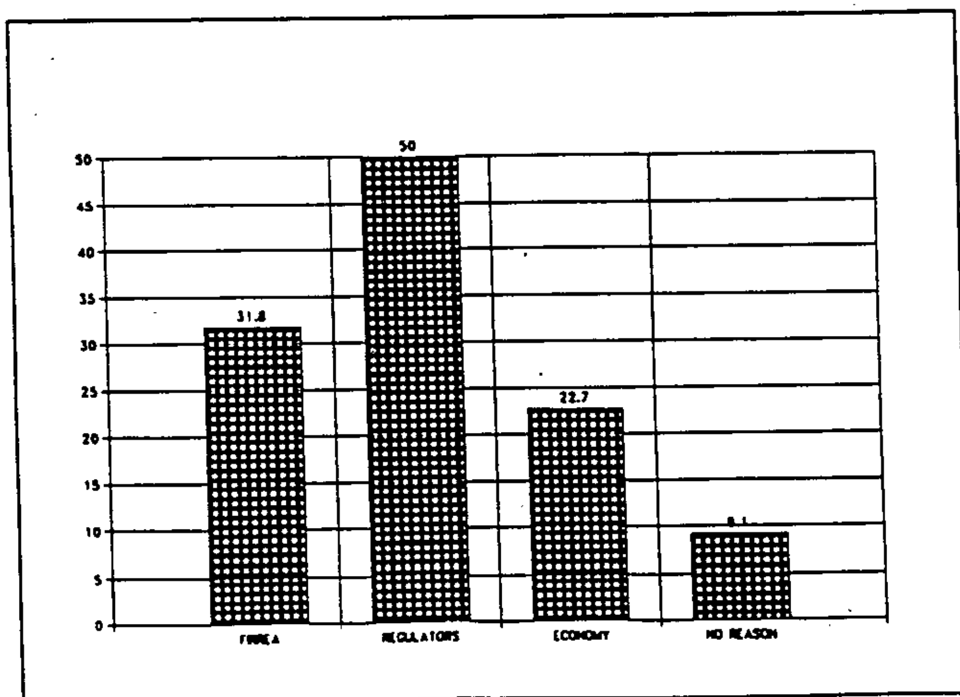

Figure 5.3 Reasons for Thrifts' Changes in Lending Practices

As shown in Figure 5.3, the largest response to this question, at 50%, indicated that increased control by regulators has caused thrifts to change their lending practices. FIRREA was the second most common response, at 31.8%,with the economy/recession being listed 22.7% of the time, and 9.1% of the respondents stated that no reasons were given by their thrift for changes in lending practices. This indicates that the banking crisis of the 1980's, and the subsequent laws and new regulations have restricted lending in the state of Florida for residential builders and developers.

14. Have you attempted to make other arrangements for financing as a result of problems with your thrifts?
[ ] Yes
[ ] No

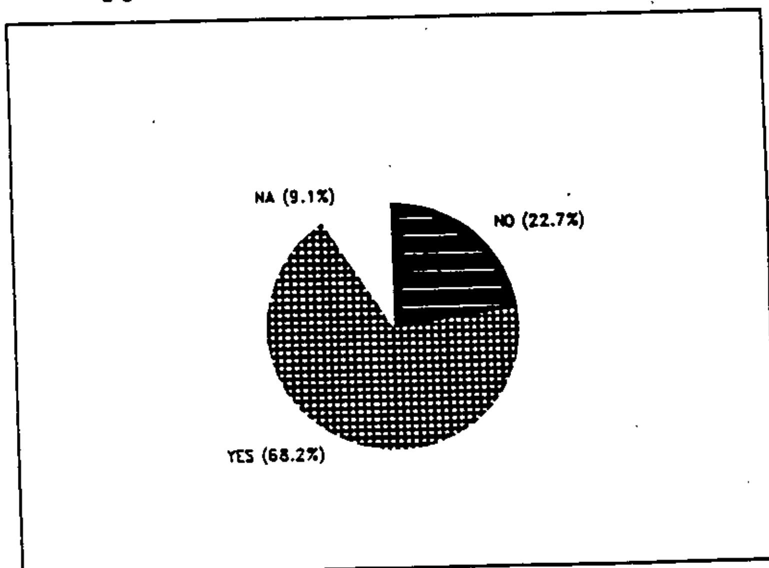

Figure 5.4 Builders Who Attempted to Find Other Financing

Due to FIRREA and its role in decreasing thrifts as sources for residential development capital, many builders have been forced to seek alternative sources of financing. As shown in Figure 5.4, 68 percent of the builders and developers surveyed indicated that they had attempted to make other arrangements for financing as a result of problems with their thrifts. In the 1990 NAHB survey more than 90% of the large volume builders, 70% of the medium volume, and 60% of the small volume builders had attempted to make other arrangements for financing for land acquisition, land development and construction due to problems with thrifts.

15. If yes, did you succeed in finding other financing?
    [ ] Yes
    [ ] No

As shown in Figure 5.5, 60% of the builders and developers who attempted to make other arrangements for financing as a result of problems with their thrifts were successful. Forty percent of the builders and developers who attempted to find other sources of financing were unsuccessful. In the 1990 NAHB survey approximately 33% were successful for land acquisition and development loans, and 41% were successful for construction. Problems with the thrift industry have left a

significant number of builders and developers in the state of Florida with limited sources for project funding.

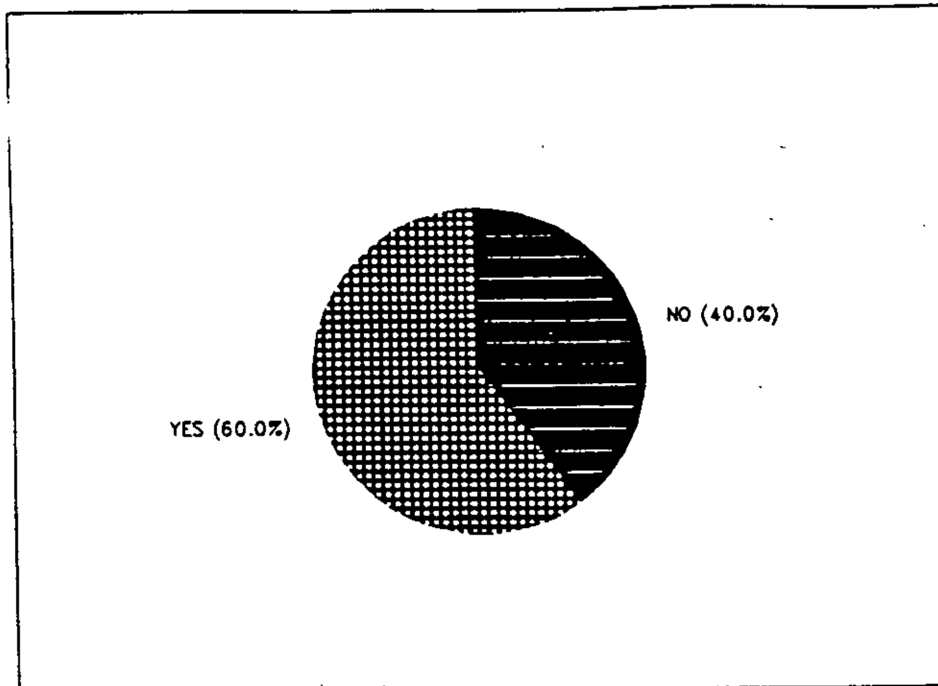

Figure 5.5 Builders Who Succeeded in Finding Other Financing

However, when compared to the nationwide situation in 1990, a significantly larger number of residential builders and developers in the State of Florida have been successful in finding other sources of financing due to problems with the thrift industry. Financing is still, however, a major concern for many builders and developers. One builder stated during the initial investigation that the biggest question facing residential builders and developers in the state of Florida was where to find their

next loan.

16. What were the sources of alternate financing?
    [ ] Commercial banks
    [ ] Private sources
    [ ] Personal/company cash
    [ ] Other
    [ ] New methods of lot sales and development

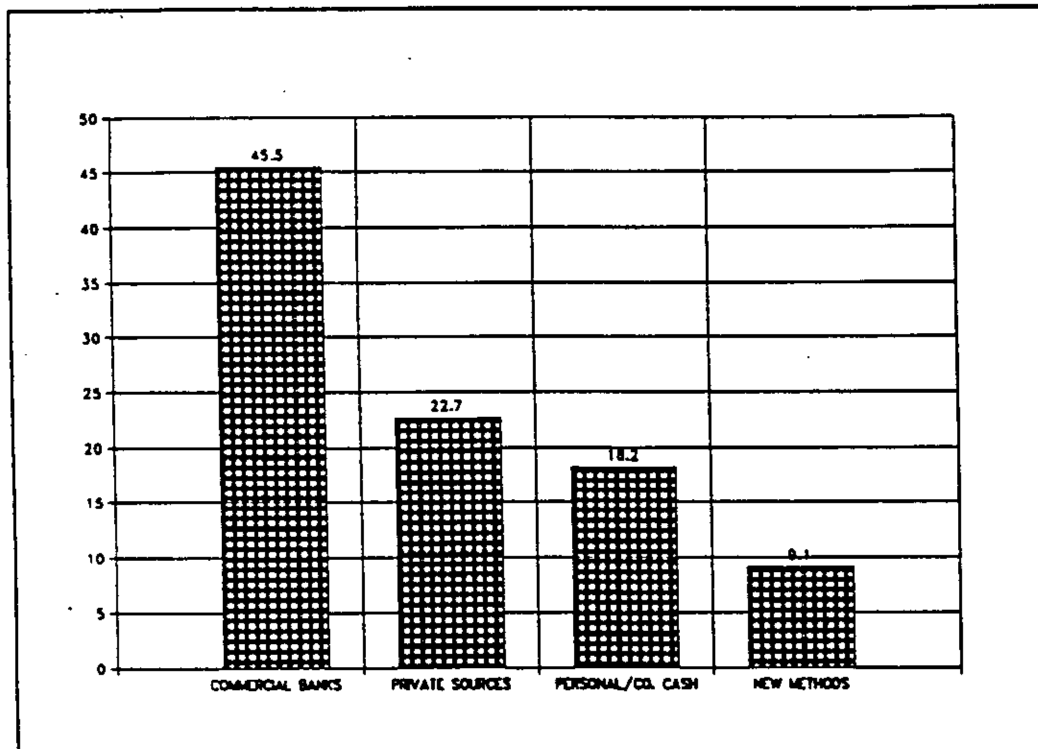

Figure 5.6 Alternative Sources of Financing

As shown in Figure 5.6, the builders and developers overwhelmingly indicated commercial banks as the main source of alternative financing.

Many failing thrifts were converted to commercial banks, and with commercial bank failures much less common, they are a natural choice as an alternative source for financing. Private sources were listed as the second most common source for alternative financing, although some respondents stated that this source was "very limited." Personal or company cash was listed third. One builder, however, stated that the "last five years generally absorbed ready cash." Another builder stated in regard to new methods of lot sales and development that "marketing concepts are in again." Even with these alternative sources of financing, however, question number fifteen indicates that 40% of builders who have attempted to find alternative sources for financing their projects could not do so. Therefore these alternatives do not solve the financing problems for many construction and development firms.

17. What ways have your commercial banks changed their lending practices?
    [ ] More equity required
    [ ] Increased documentation
    [ ] Personal guarantees
    [ ] Reduced amount of lending
    [ ] Decreased lending for residential developments
    [ ] No longer lending for residential developments
    [ ] No changes
    [ ] Other

The changes brought about by FIRREA have also influenced the lending practices of commercial banks. As shown in Figure 5.7, in no case did the survey respondents indicate that their commercial bank had not made changes in its lending practices. In response to the S&L crisis commercial banks have become more conservative in their lending practices, regarding residential construction and development.

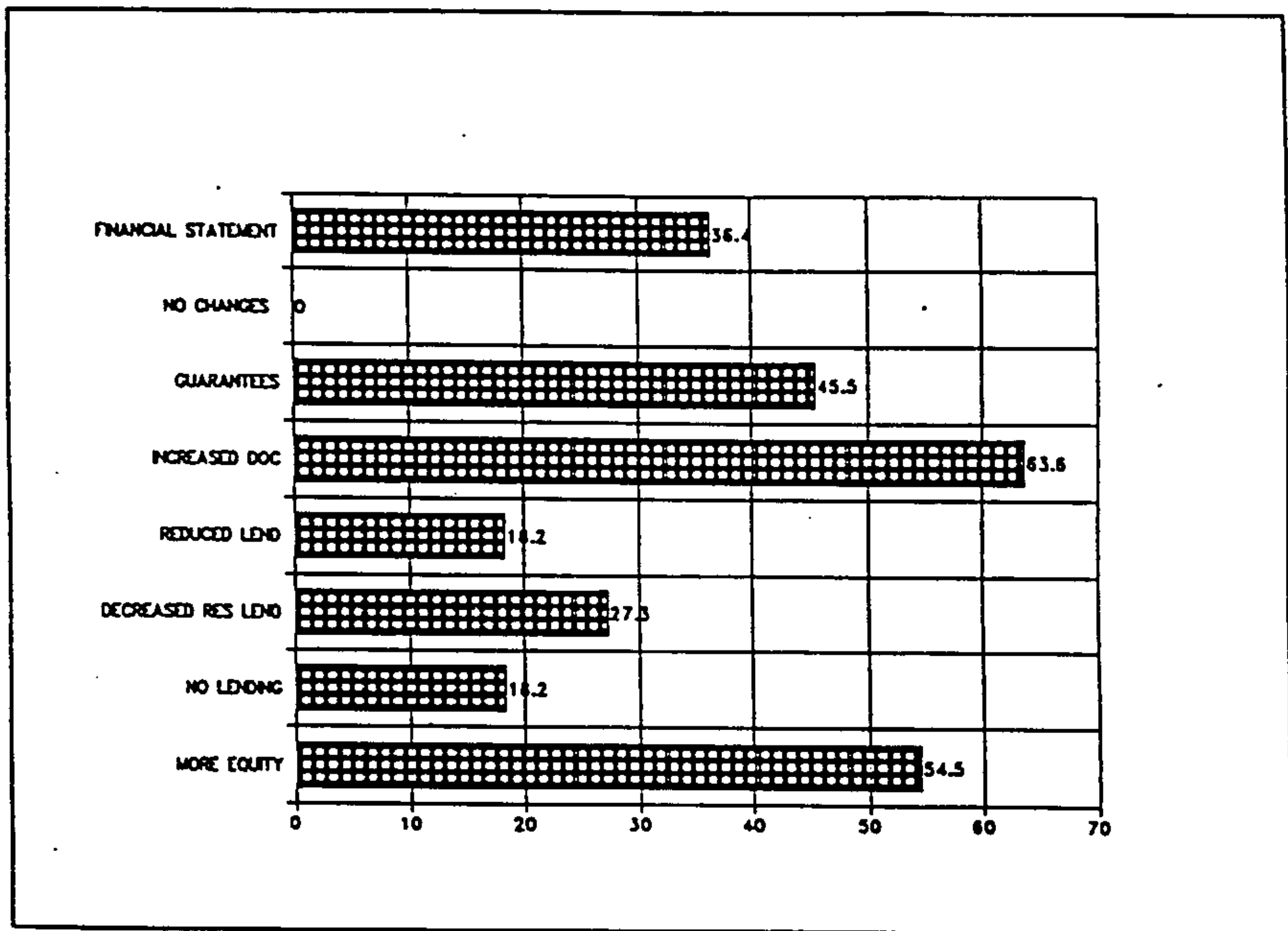

Figure 5.7 Changes in Commercial Bank's Lending Practices

The most common change, as with the thrifts, has been increased documentation, with 63.6% of the respondents stating that their commercial bank has begun this practice. The second most common change, at 54.5%, is the requirement for more equity from the builder or developer when making a loan. This is a larger response that the thrifts, indicating that banks are using more conservative practices in order to cut their risk when making residential construction and development loans. This puts an increased burden on the builder or developer to invest a larger percent of company or personal cash into a project. Commercial banks are also asking for personal guarantees, again in a larger percentage of cases than with the thrifts.

Another change commercial banks have made is to decrease the amount of lending overall, as well as decrease lending for residential development. According to the survey respondents a significantly large number of commercial banks are no longer lending for residential development. Commercial banks have also begun to require stronger financial statements from builders and developers. While this may be a problem for some builders and developers one builder stated that a stronger financial statement is "not a problem. It should be stronger in light of foreclosures

in the industry."

In the 1990 NAHB survey 50% of the respondents revealed that commercial banks were asking for more equity. Commercial banks were asking for more equity on construction loans according to 46% of the respondents. In the South 21% of the respondents to the NAHB survey stated that commercial banks were no longer making land development loans, and 13% stated that commercial banks were no longer making construction loans. Approximately 25% of the respondents to the NAHB study indicated that their commercial bank had made no changes in its lending practices. The results of the 1993 Builder/Developer Survey indicate that commercial banks are asking for more equity a higher percentage of the time than they were nationwide in 1990. The percentage of commercial banks that will no longer lend for residential developments has remained consistent with the nationwide NAHB survey results.

Also, none of the respondents to the 1993 Builder/Developer Survey stated their commercial bank had made no changes in its lending practices. Compared to the 1990 NAHB survey, which revealed that 25% of commercial banks had made no changes in lending practices, it can be seen

that commercial banks in the State of Florida have tightened lending requirements significantly for residential builders and developers.

The Lender Survey, conducted at the same time and under identical conditions as the Builder/Developer Survey revealed that 25% of the commercial banks surveyed were requiring more equity, 45% were requiring increased documentation, and only 5% had made no changes in their lending practices.

18. If the commercial banks have changed their practices, what reasons did they give?
    [ ] Changes brought about by FIRREA
    [ ] Increased control by regulators
    [ ] The economy/recession
    [ ] No reason given

As shown in Figure 5.8, the largest response to this question, at 50%, was that increased control by regulators has caused commercial banks to change their lending practices. This was the same response the thrifts gave indicating that the banking crisis of the 1980's, and the subsequent laws and new regulations has restricted lending in the state of Florida for residential builders and developers with commercial banks as well as the thrifts.

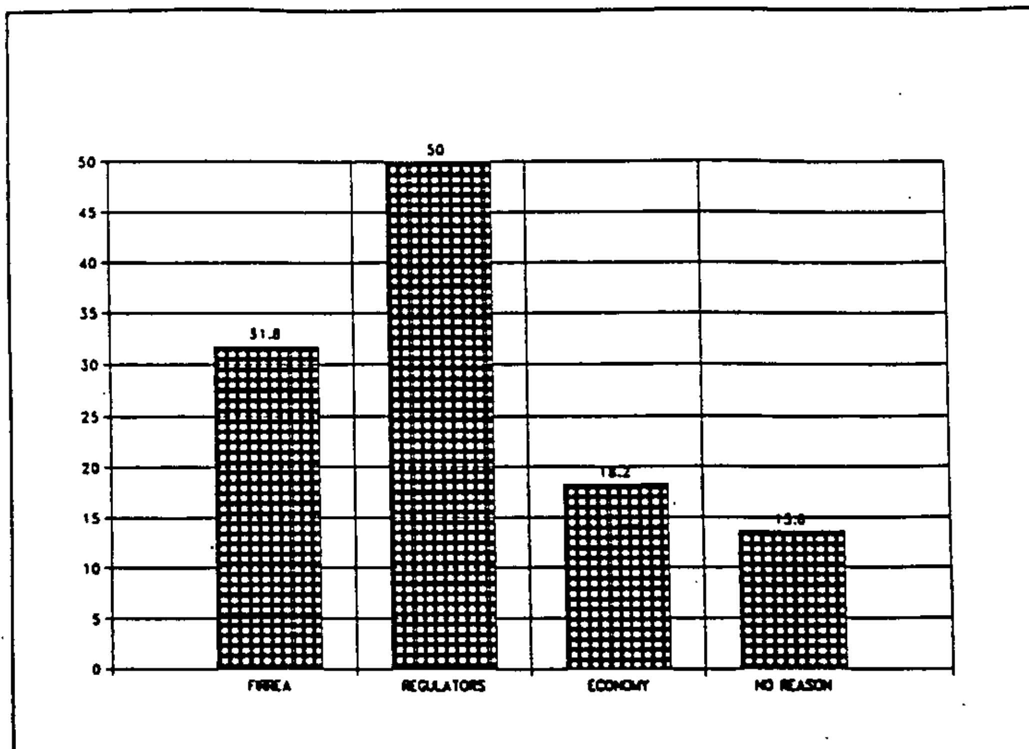

Figure 5.8 Reasons for Changes in Commercial Banks' Lending Practices

FIRREA was the second most common response, with the economy/recession being listed 18.2% of the time, and 13.6% of the respondents stated that no reasons were given by their commercial bank for changes in lending practices.

19. Have changes in lender practices affected your building plans for 1993?
    [ ] No changes
    [ ] Decreased land development
    [ ] Decreased number of units started

FIRREA and the subsequent changes in lending practices have affected the 1993 building plans for 54.5% of the respondents, as shown in Figure 5.9, with decreases in both land development and number of units started. One respondent stated that it has affected his business "for the last 3 years." This indicates that difficulties in obtaining financing are a contributing factor to a decrease in housing starts and a decrease in annual volume by builders and developers.

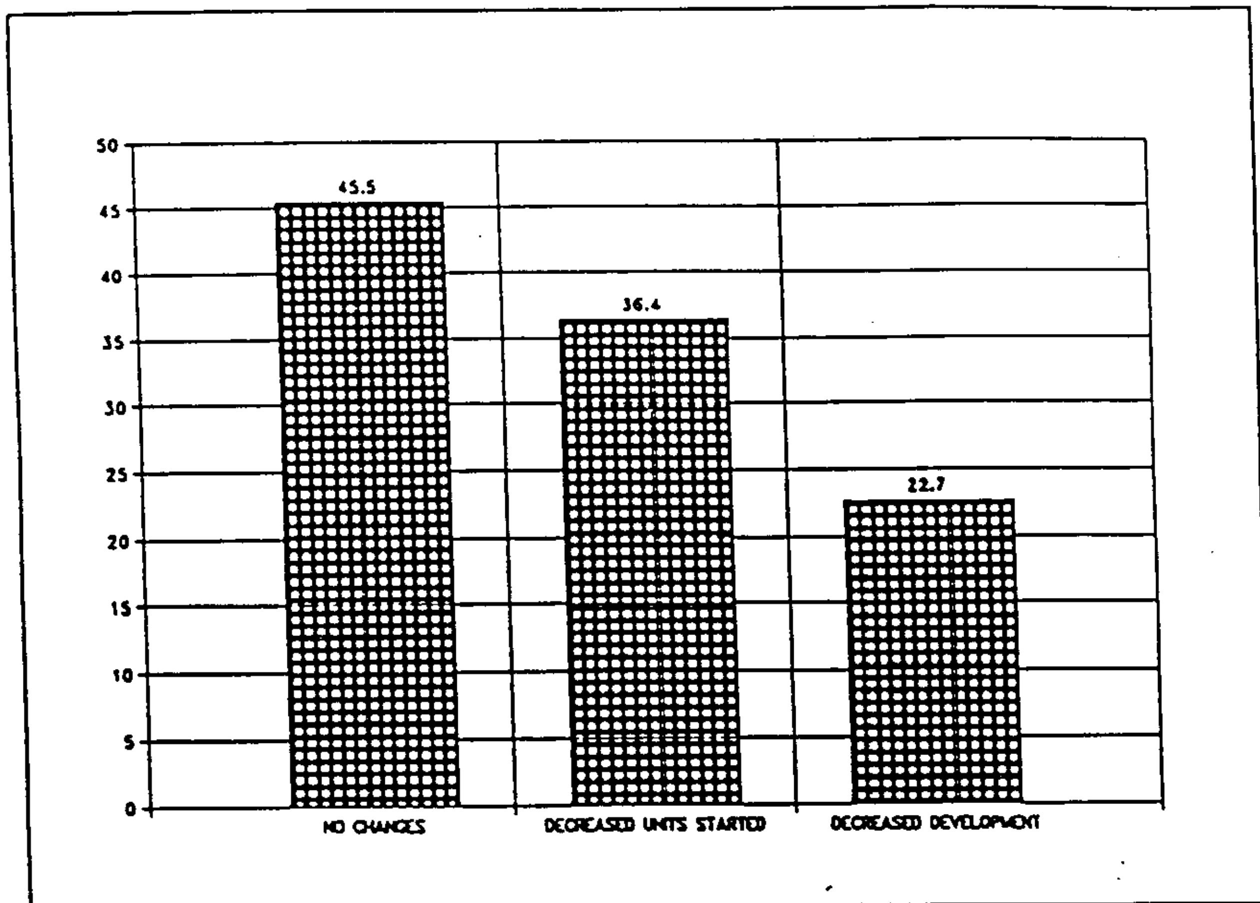

Figure 5.9 Changes in 1993 Building Plans

This statistic has changed very little from 1990, when the NAHB survey revealed that nationwide 60% of builders and developers had changed their building plans due to changes in lending practices.

20. Does your lender administer development and construction loans within a separate residential loan department?
    [ ] Yes
    [ ] No

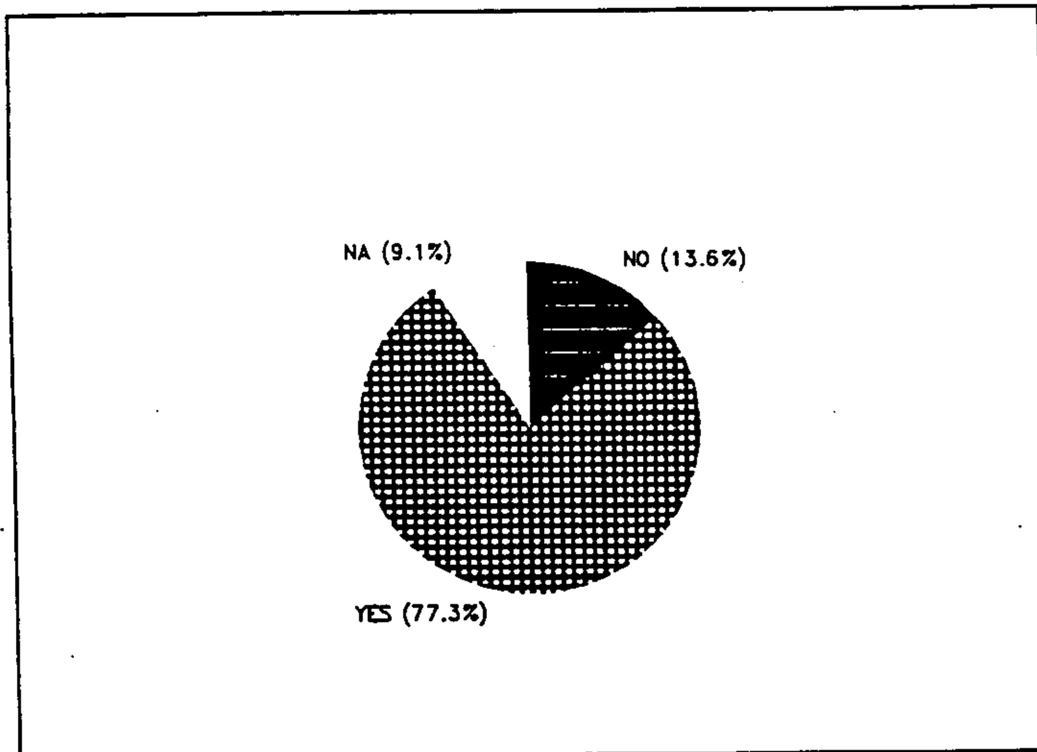

Figure 5.10 Lender Administers Loans Through Separate Residential Loan Department

As shown in Figure 5.10, the 77.3% positive response indicates that the

survey respondents' lenders have included separate residential loan departments within their loan department. However, the Lender Survey showed that 35% of the lenders surveyed administered development and construction loans within a separate residential loan department.

21. If yes, does the residential construction loan department include staff experienced in the residential construction industry?
    [ ] Yes
    [ ] No

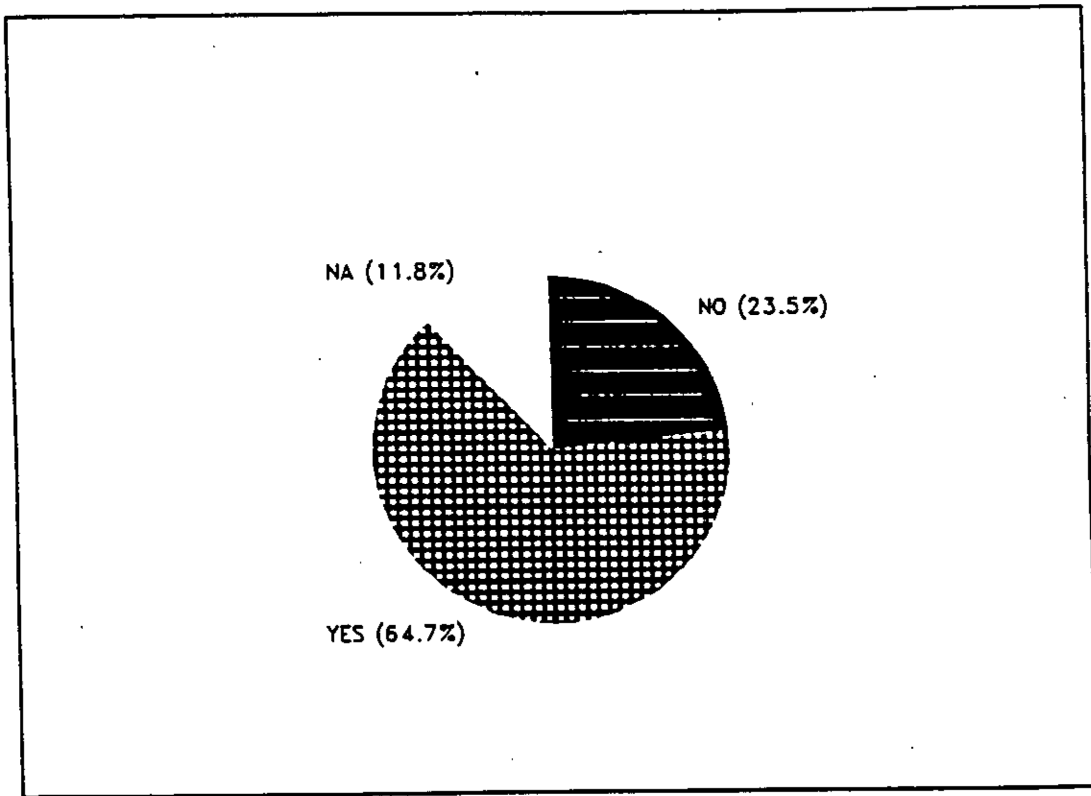

Figure 5.11 Loan Departments With Staff Experienced in Construction

As shown in Figure 5.11, 64.7% of the builders and developers surveyed indicated that the lenders that do have a separate Construction Loan Department have a staff that is experienced in the Construction Industry, 23.5% of the builders and developers responding indicated that the Construction Loan Departments of the their lending institutions do not have experienced construction personnel involved in this department. The Lender Survey revealed that 86% of the lenders surveyed who administered development and construction loans within a separate residential loan department staffed that department with personnel experienced in the residential construction industry.

22. In what percentage of your projects involving a construction lender have there been payment delays due to the lender's involvement in the disbursement process?

Approximately 41% of the respondents indicated that there have not been payment delays due to the lender's involvement in the disbursement process. Nine percent indicated that there were payment delays between 0.01% and 10% of the time, with 13.6% indicating payment delays between 11% and 25% of the time. Only 4.5% of the respondents indicated that the

lender's involvement in the disbursement process caused payment delays more than 50% of the time. Payment delays due to lender's involvement do not seem to be a significant problem for the survey respondents. One builder stated that "the banks do respond quickly if the builder pushes it [the draw request] through."

23. What type of documentation do lenders require in order to verify your financial position?
    [ ] Certified financial statement
    [ ] Interviews with those doing business with the developer
    [ ] Business reference check
    [ ] Tax Returns
    [ ] Personal financial statement
    [ ] In-depth investigation of financial statement
    [ ] Dun and Bradstreet
    [ ] Other

As shown in Figure 5.12, increased documentation was indicated as a change in lending practices for 63.6% of the thrifts and 63.6% of the commercial banks. The purpose of this question is to establish what types of documentation are currently being required in the conservative lending environment due to FIRREA and the lending crisis. Personal financial statements are required by 90.0% of the respondent's lenders, while 81.8 % require tax returns and 59.1% rely on business reference checks.

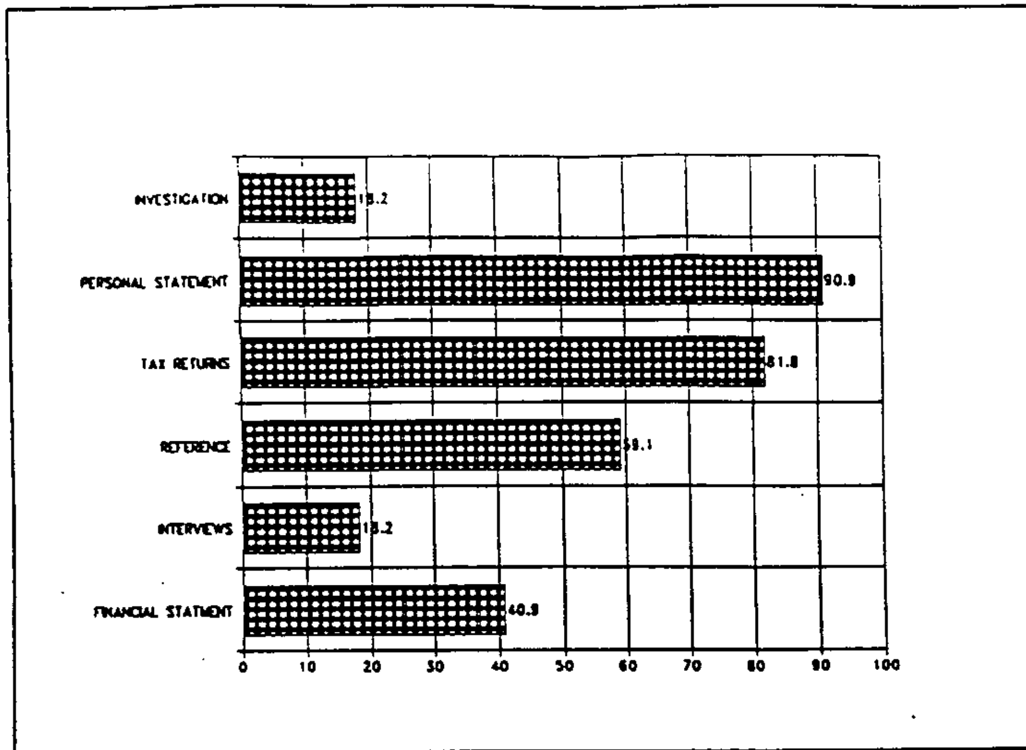

Figure 5.12 Documentation Required to Verify Financial Position

Other requirements listed by the respondents were corporate tax returns, profit and loss statement, and appraisals.

24. What percentage of the time in single family loans is the appraisal significantly higher or lower than the builder's contract amount?
    [ ] Higher
    [ ] Lower

As shown in Figure 5.13, the appraisal is significantly higher than the builder's contract amount in 36.4% of the respondents loans, with 59.1%

indicating that the appraisal is significantly lower than the contract amount.

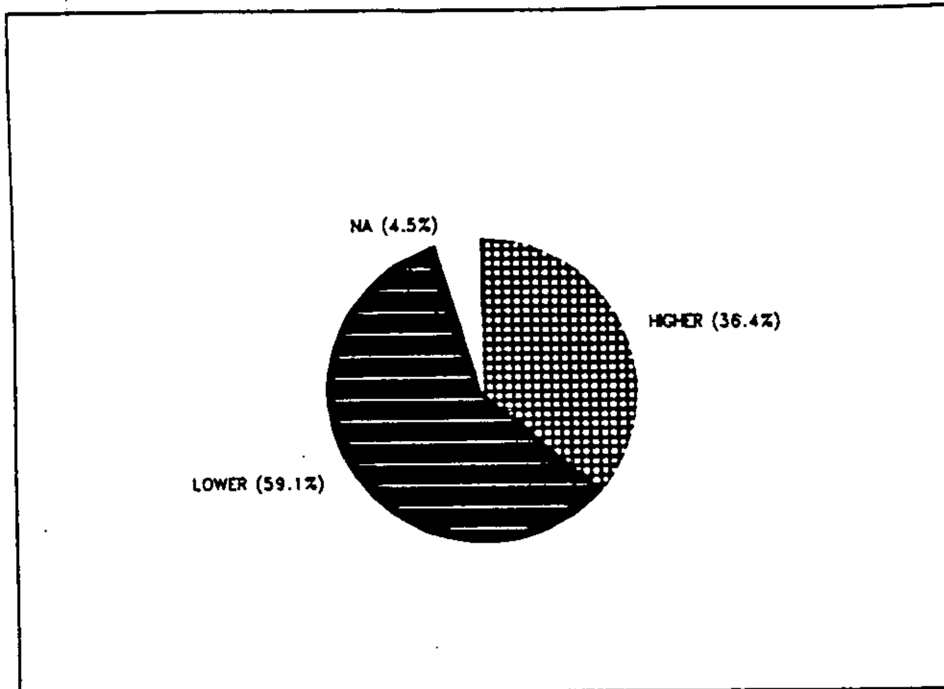

Figure 5.13 Percentage of Time Appraisal is Higher or Lower Than Contract Amount

Of the respondents indicating that the appraisal is higher, 37.5% indicated that the appraisal is higher between 1% and 10% of the time, with 12.5% stating it is higher between 11% and 25% of the time, 12.5% stated that it is higher between 26% and 50% of the time, and 37.5% stated that it was higher more than 50% of the time.

Of the respondents who stated that the appraisal is lower than the

contract amount, 37.5% stated that it is lower between 1% and 10% of the time, 37.5% stating that it is lower between 11% and 25% of the time, 50% stated that it is lower between 26% and 50% of the time and 25% stated that it is lower more than 50% of the time. One respondent stated that higher appraisals are "rare," and another respondent stated that "appraisals should be required by law to give market value, not opinions. This is a major loop hole to cheat the banks, system and industry."

The Lender Survey supported this. Responses revealed that the appraisal is significantly higher than the builder's contract amount 65% of the time.

25. When the appraisal is significantly higher or lower than the builder's contract amount, it is usually due to:
    [ ] Appraiser over/undervaluation
    [ ] Contractor over/undervaluation

The purpose of this question was to determine which party involved over or under values the property in the cases where the appraisal is significantly higher or lower than the builder's contract amount. As shown in Figure 5.14, an overwhelming majority of the respondents, at 59.1%, indicated the appraiser is the one who over or under values a

property. Only 4.5% of the respondents believe that the contractor is responsible for over or under valuation of a property. Over 36% of the respondents chose not to answer this question.

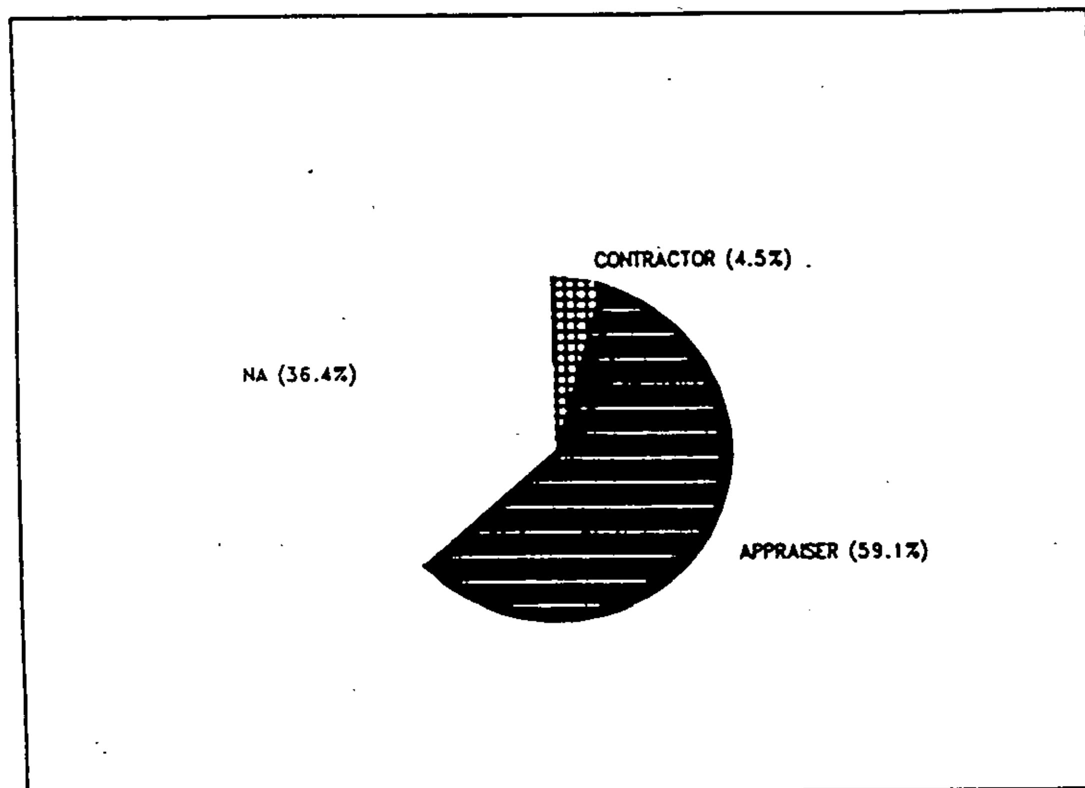

Figure 5.14 Who Affects High or Low Appraisal

The Lender Survey revealed that 20% of the lenders believe that when the appraisal is significantly higher or lower than the builder's contract amount it is due to appraisal over or under valuation, while 55% stated that it was due to contractor over or under valuation.

28. How much do you rely upon the appraisal for setting loan to value?
[ ] Always
[ ] Almost always
[ ] Sometimes
[ ] Almost never

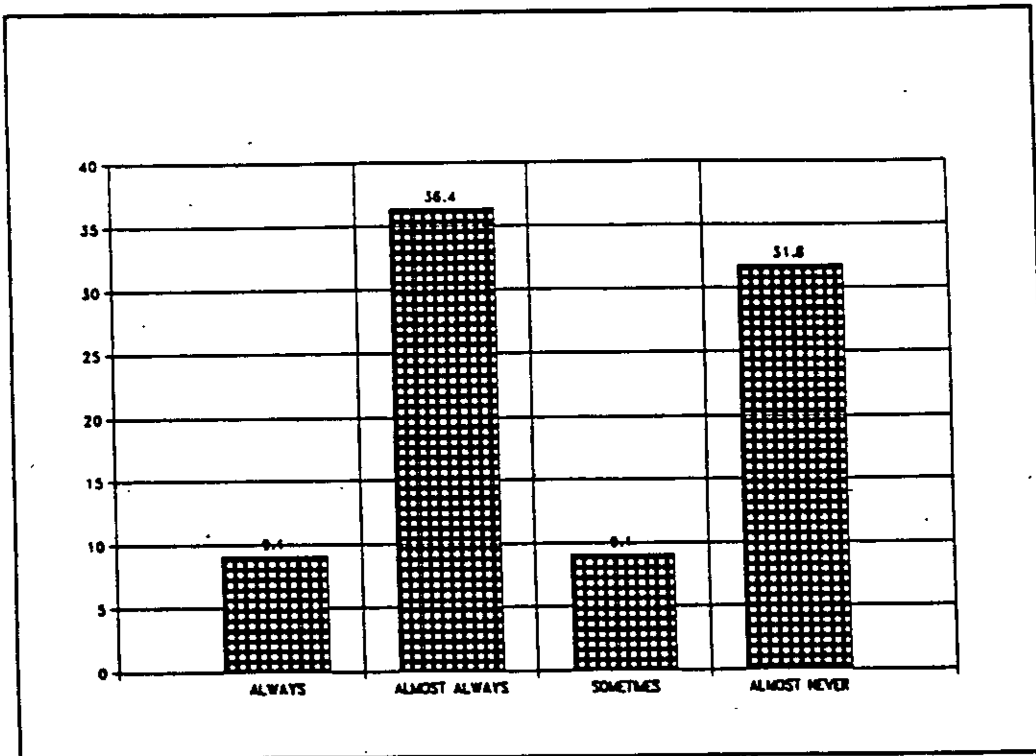

Figure 5.15 Builders Who Rely Upon Appraisal for Loan-to-Value Ratio

As shown in Figure 5.15, the majority of respondents to this question,at 36.4%, almost always rely upon the appraiser for setting the loan-to-value ratio, although 31.8% stated that they almost never relied upon the appraiser for this. Only 9.1% stated that they always relied upon the appraiser, while 9.1% stated that they sometimes relied upon the

appraiser for setting loan-to-value.

The Lender Survey revealed that 30% of lenders always rely upon the appraiser for setting the loan-to-value ratio, while 65% almost always rely on the appraisal for the setting loan-to-value ratio, and only 5% stated they sometimes rely upon the appraiser for setting the loan-to-value ratio.

29. Which of the following more often tries to influence the outcome of the appraisal?
[ ] Lender
[ ] Contractor

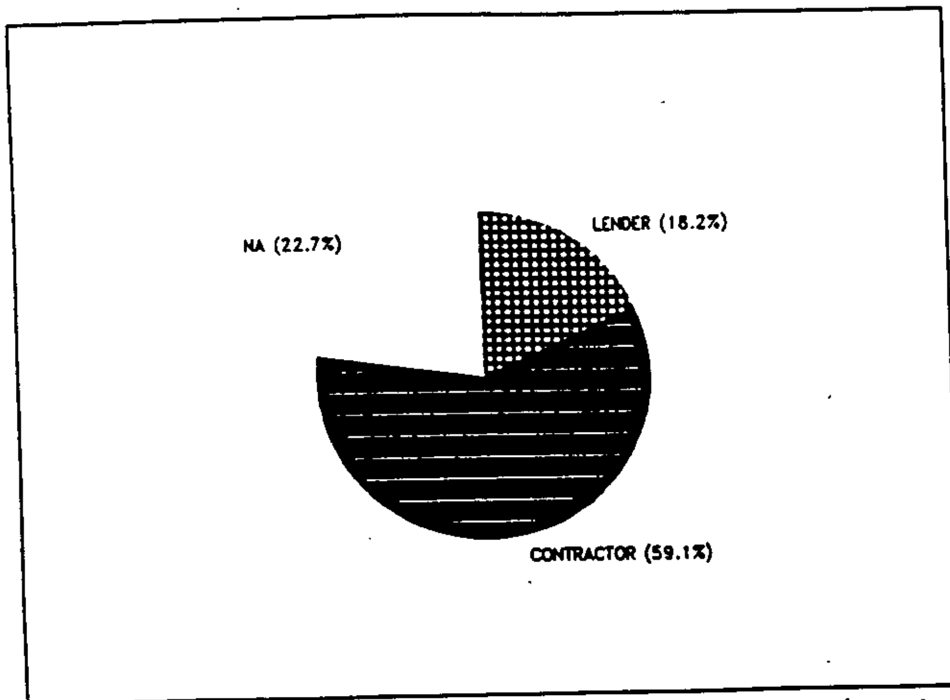

Figure 5.16 Who Attempts to Influence the Appraisal

The outcome of the appraisal can ultimately determine how much money the builder or developer will be able to finance. The purpose of this question was to determine if either of the parties involved in the financing process (the lender and the builder or developer) attempts to influence the outcome of the appraisal of a project. As shown in Figure 5.16, the vast majority, at 59.1%, stated that the contractor more often tries to influence the outcome of the appraisal, with 18.2% stating that the lender is the one who most often tried to influence the appraisal's outcome. Almost 23% of the respondents chose not to respond to this question. One builder stated that contractors only try to influence the outcome of the appraisal "when something is wrong," while another stated that he "will document our differences of opinion. Some appraisers won't accept documentation that prove their error."

The Lender survey revealed that lenders believe that the contractor tries to influence the outcome of the appraisal 60% of the time, and that the lender tries to influence the outcome only 5% of the time.

30. What does your company do to prevent appraisal fraud?
[ ] Nothing
[ ] Rely on the reputation of the appraiser
[ ] Independent appraisal consultant
[ ] Multiple appraisals
[ ] In-house review of appraisals
[ ] Other

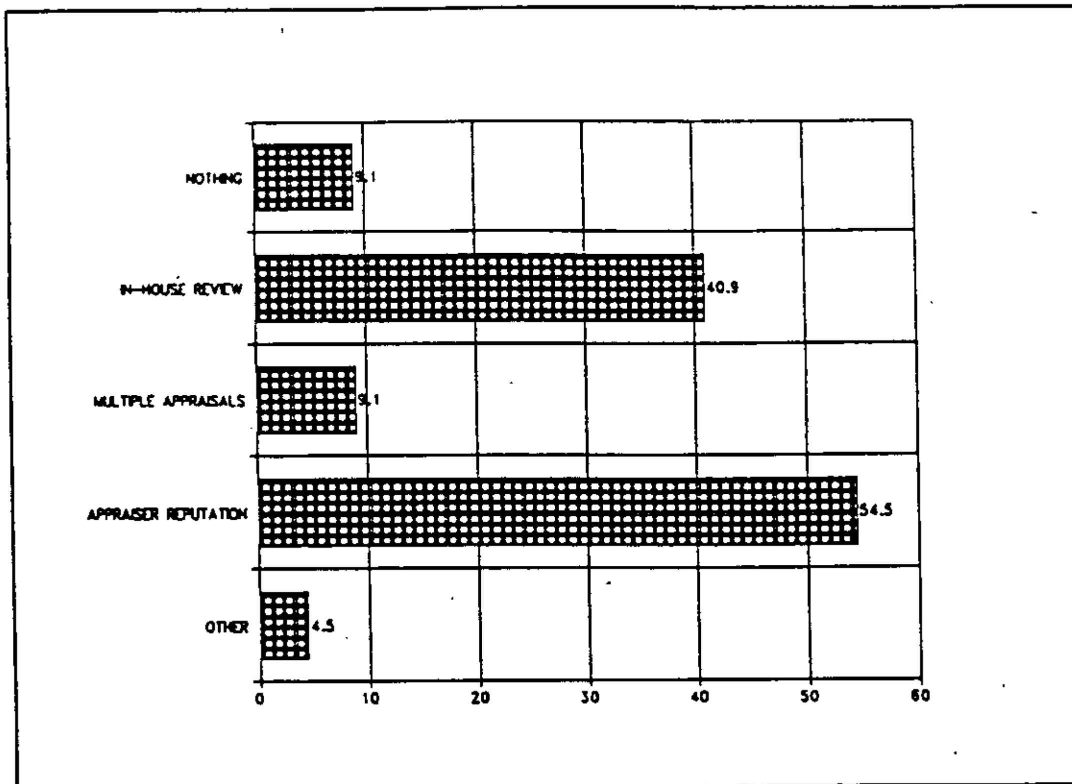

Figure 5.17 Methods of Preventing Appraisal Fraud

As shown in Figure 5.17, the majority of the respondents to this question, at 54.5%, rely upon the reputation of the appraiser to prevent appraisal fraud, while the next most common method, at 40.9%, is to conduct an in-

house review of appraisals. Only 9.1% of the respondents indicated that they conducted multiple appraisals, with 9.1% indicating their company did nothing to prevent appraisal fraud. One builder stated that he refuses to work with a particular appraiser or the banks that use him. He stated that "he [the appraiser] will constantly under-appraise. The banks love him."

31. Do you think the lending industry does enough to prevent appraisal fraud?
    [ ] Yes
    [ ] No

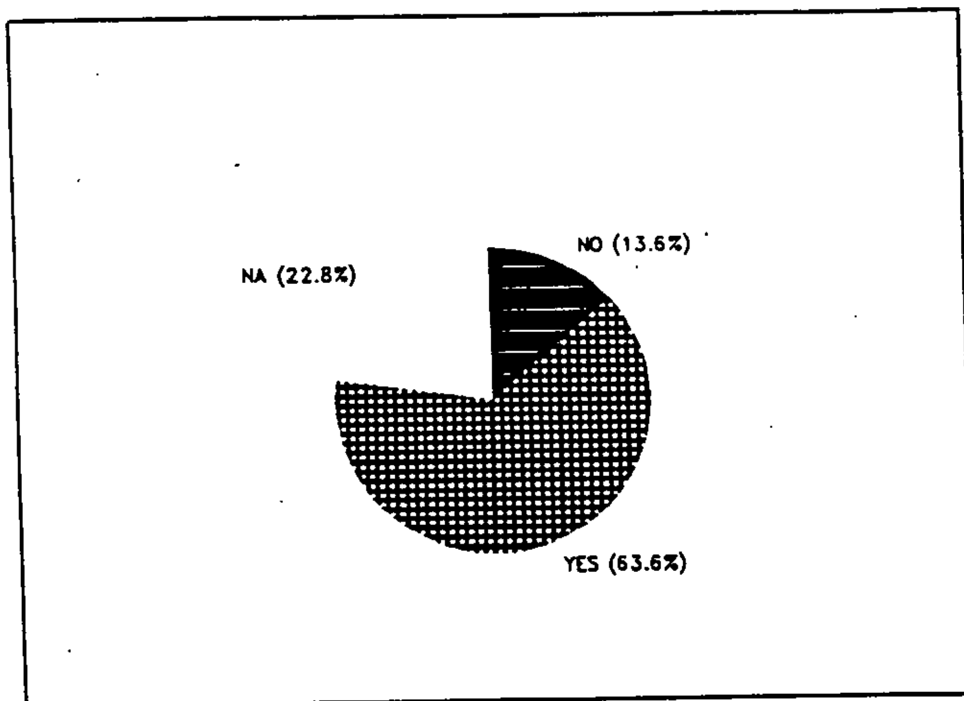

Figure 5.18 Builders Who Think Lending Industry Does Enough to Prevent Appraisal Fraud

Fraudulent appraisal practices were a contributing factor to the S&L crisis. Property values were inflated and consequently the loan amount was higher than the value of the property. As shown in Figure 5.18, the majority of builders and developers surveyed, at 63.6%, indicated that they feel the lending industry does do enough to prevent appraisal fraud. However, 22.8% of the respondents chose not to respond to this question.

The Lender Survey revealed that 55% of the lenders surveyed believe the lending industry does enough to prevent appraisal fraud, while 35% believe that the lending industry does not do enough to prevent appraisal fraud.

32. In the past two years has your loan-to-value ratio changed significantly?
    [ ] Yes
    [ ] No

As shown in Figure 5.19, the majority of respondents, at 59.1%, indicated their loan-to-value ratio has not changed significantly in the past 2 years, with only 27.3% of the respondents indicating a change in loan-to-value ratios in the past 2 years. The Lender Survey revealed that 25% of the lenders surveyed had changed their loan-to-value ratio in the past 2 years, while 75% stated they had not changed their loan-to-value ratio in the

past 2 years.

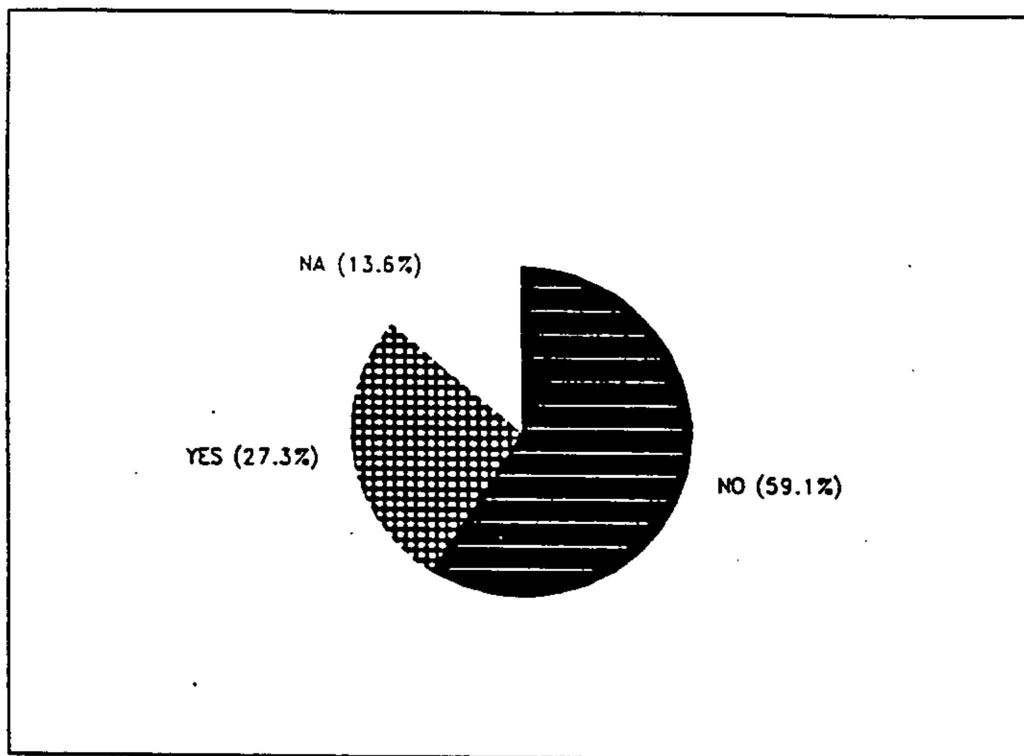

Figure 5.19 Builders Whose Loan-to-Value Ratio Has Changed in the Past Two Years

33. If yes, by how much?

Of the respondents whose loan-to-value ratio has changed in the past 2 years, the majority, as shown in Figure 5.20, stated their loan-to-value ratio has decreased by 20% or more in the past 2 years. This indicates that for these respondents, it is becoming increasing difficult to finance a higher percentage of their project. This puts the builder or developer in

the position of having to invest more money "up front" into the project.

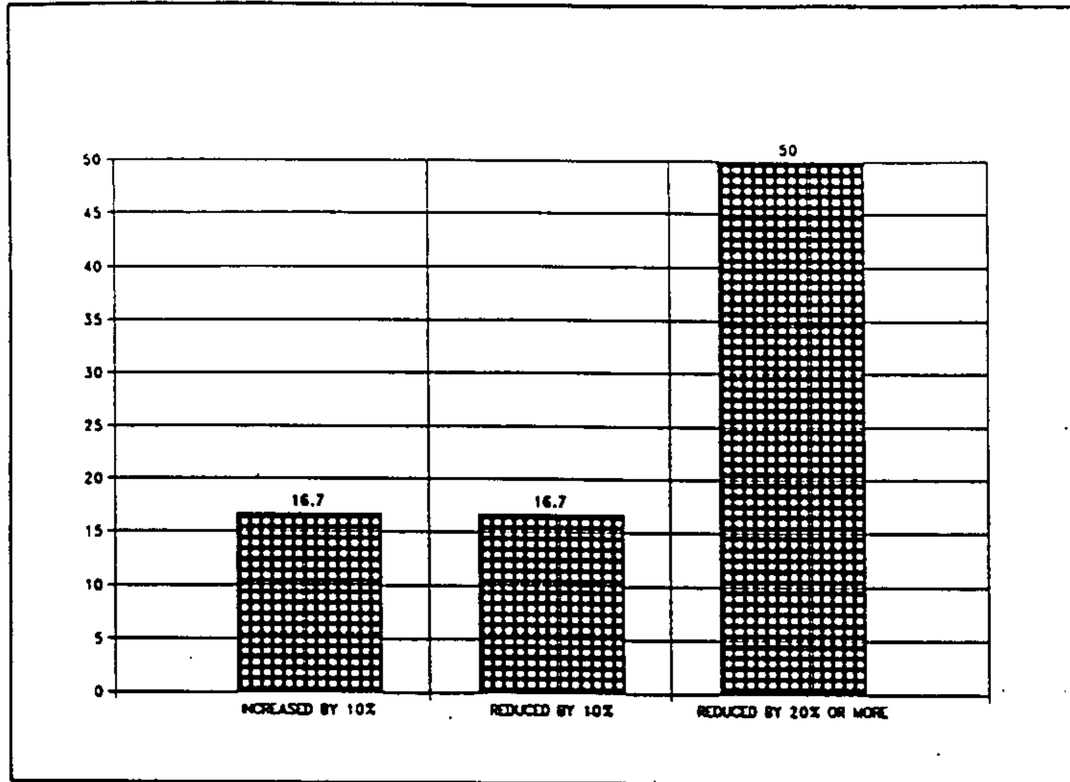

Figure 5.20 Change in Loan-to-Value Ratio

While only 27.3% of the respondents have experienced a drop in loan-to-value ratios, the fact that the majority of these experienced a 20% or more drop indicates that the lending institutions that are lowering this ratio are doing so by a significant amount.

34. Do you believe when Builders/Developers make an application for a Construction or Land Acquisition Loan they typically represent:
   [ ] Their true financial position
   [ ] A slightly exaggerated financial position
   [ ] A highly exaggerated financial position

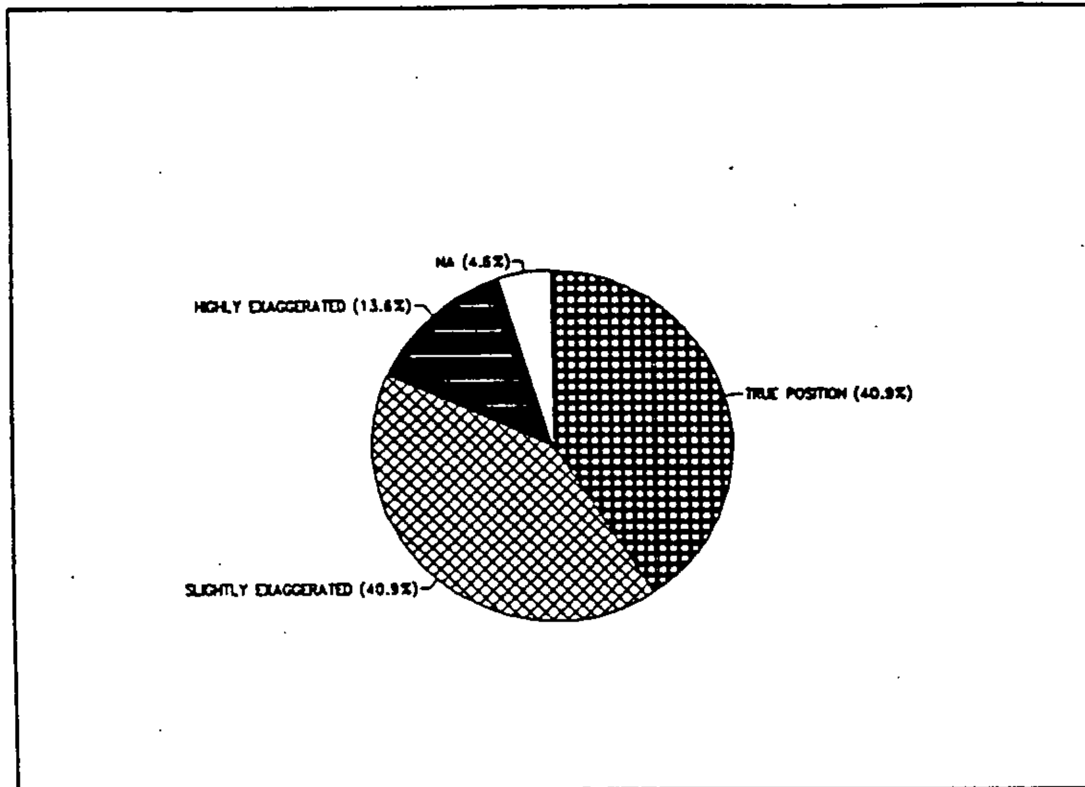

Figure 5.21 Builders' Representation of Financial Position

As shown in Figure 5.21, 40.9% of the builders and developers surveyed feel that builder and developers generally at least slightly exaggerate their financial position when applying for financing. Twenty percent of the respondents indicated that they believe builders and developers give a

highly exaggerated financial position, while only 15% indicated that they believe builders and developers give their true financial position when n applying for construction loans. When trying to obtain financing, builders and developers must sell the lender on their relative strength, and the results of this question indicate that over one-half of all builders and developers feel that slight exaggerations are necessary in order to obtain financing.

The Lender Survey revealed that 15% of the lenders surveyed believe that builders and developers represent their true financial position when applying for financing, 55% stated that they believe builders and developers represent a slightly exaggerated financial position when applying for financing, and 20% stated that they believe builders and developers represent a highly exaggerated financial position when applying for financing.

35. What steps are being taken by lenders to reduce their risk when making construction loans?
    [ ] Builder equity
    [ ] Personal guarantees
    [ ] Pre-sales
    [ ] Other

As shown in Figure 5.22, the vast majority of responses to this question, at 77.3% indicate that lenders are requiring personal guarantees from builders and developers who are seeking financing.

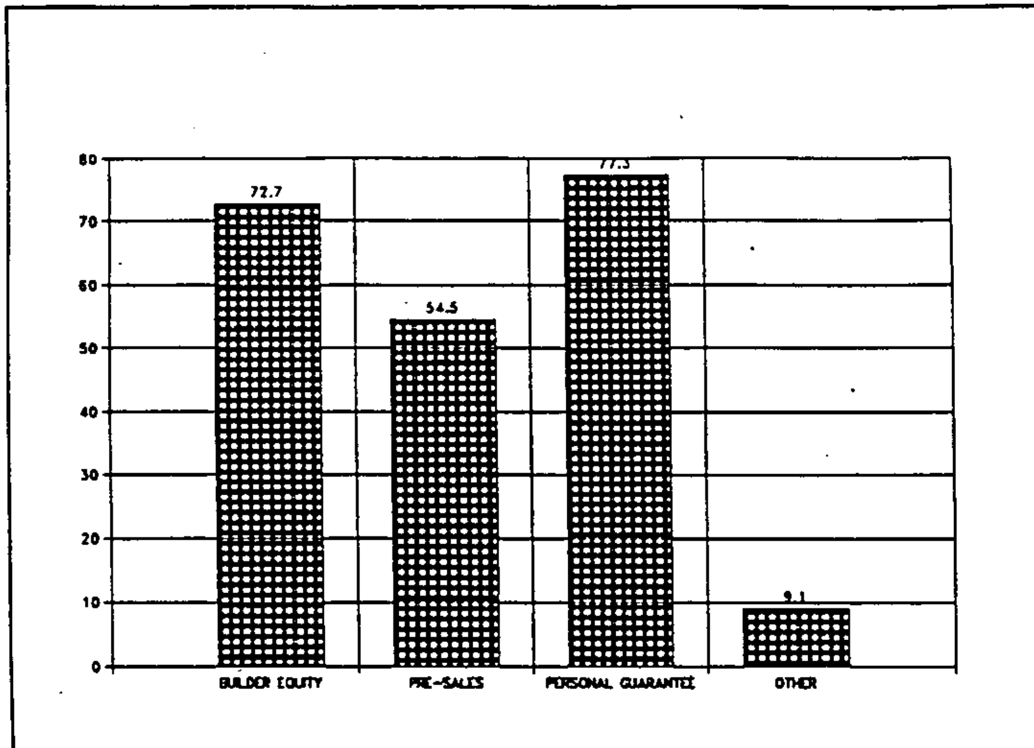

Figure 5.22 Steps Taken by Lenders to Reduce Their Risk

The second highest response, at 72.7%, was that lenders were requiring higher builder equity in order to reduce the lender's risk. The third highest response, at 54.5%, indicated that lenders were requiring pre-sales of projects which they were providing the financing for, while only 9.1% of the respondents indicated lenders were using other means to

reduce their risk. The other methods listed by the respondents included some lenders conducting more in-depth checks on customer's financial situation and credit experience.

36. What is the most reliable method to monitor the monthly construction draw to insure that the project is not overdrawn?
    1 = Most reliable   5 = Least reliable
    In-house bank official
    Outside Construction consultant
    Architect of record
    Other

A previous study indicated there are differences between lenders and builders as to the most effective method of monitoring the monthly construction draw. This previous study indicated that a majority of lenders choose to rely upon an outside construction consultant, while half of the general contractors indicated that they preferred for their lender to use an in-house bank official to perform the inspections (Eppes, Whiteman, p.IV-67). Approximately 32% of the respondents feel that using an in-house bank official is the most reliable method for monitoring the monthly construction draw, while 22.7% stated that the using the architect of record is the most reliable method. Only 13.6% of the respondents indicated that using an outside construction consultant was

the most reliable method, while 13.6% stated that other methods were the most reliable. Among the other methods listed were using the appraiser, a private building inspector,or a "reliable, honest and efficient contractor." One builder stated that he has "turned in inspectors to banks when they approved payment when we did not complete that phase as yet."

37. What precautions do lenders take to assure that you do not co-mingle funds for different projects or take dollars drawn for hard costs to pay for other projects or to pay soft costs?
    [ ] None
    [ ] Builder certification of disbursement
    [ ] Audit of builder/developer records
    [ ] Review of builder/developer banking records
    [ ] Other

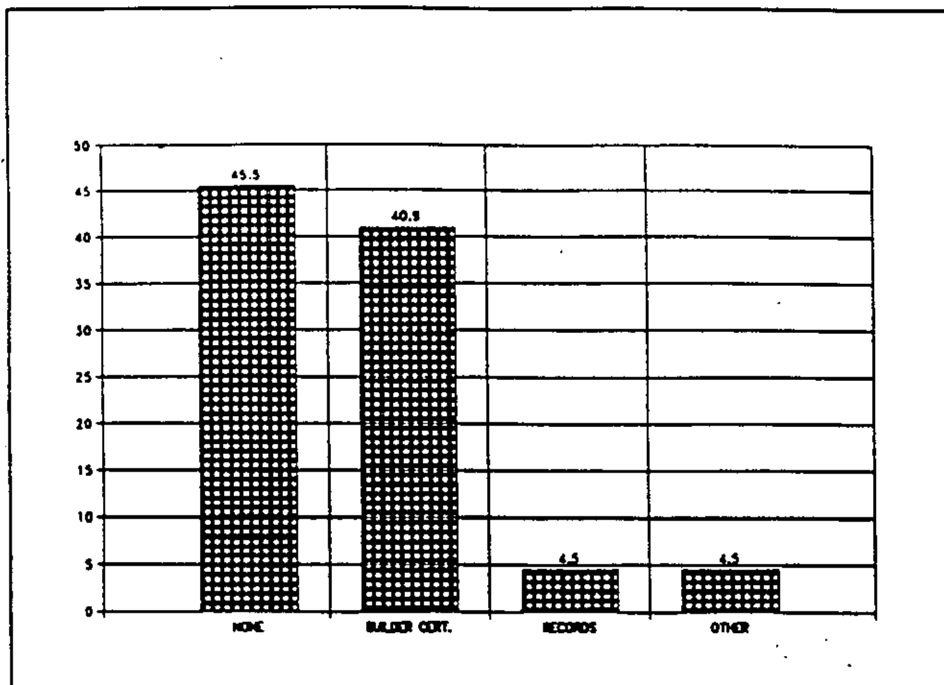

Figure 5.23 Lenders' Precautions to Prevent Co-mingling of Funds

This question was asked to determine if lenders use precautions that funds drawn on a project are used for the project for which they were disbursed, and that they are not used to pay the "soft costs," which are costs not directly tied to the construction of a project. As shown in Figure 5.23, over 45% of the respondents indicated that their lender takes no precautions to assure the builders and developers do not co-mingle funds. The method most used for those respondents whose lenders do take precautions is a builder certification of disbursement.

Only 4.5% of the respondents stated that their lender reviews the builder or developer's banking records, while 4.5% indicated that their lender uses other means to ensure that the builder or developer is not co-mingling funds. One respondent stated that his lender pays subs direct on development loans. Another builder stated that "this is a dumb question when profits average 12%." He further explained that "when you don't get a construction draw until after that phase is completed and you hold 10-20% as the last draw, cash flow from job to job is required, obviously." His suggested solution to this problem "is to qualify the contractor as to experience, financial integrity, customers, awareness, etc."

38. Does your lender require verification of your draw request?
[ ] Yes
[ ] No

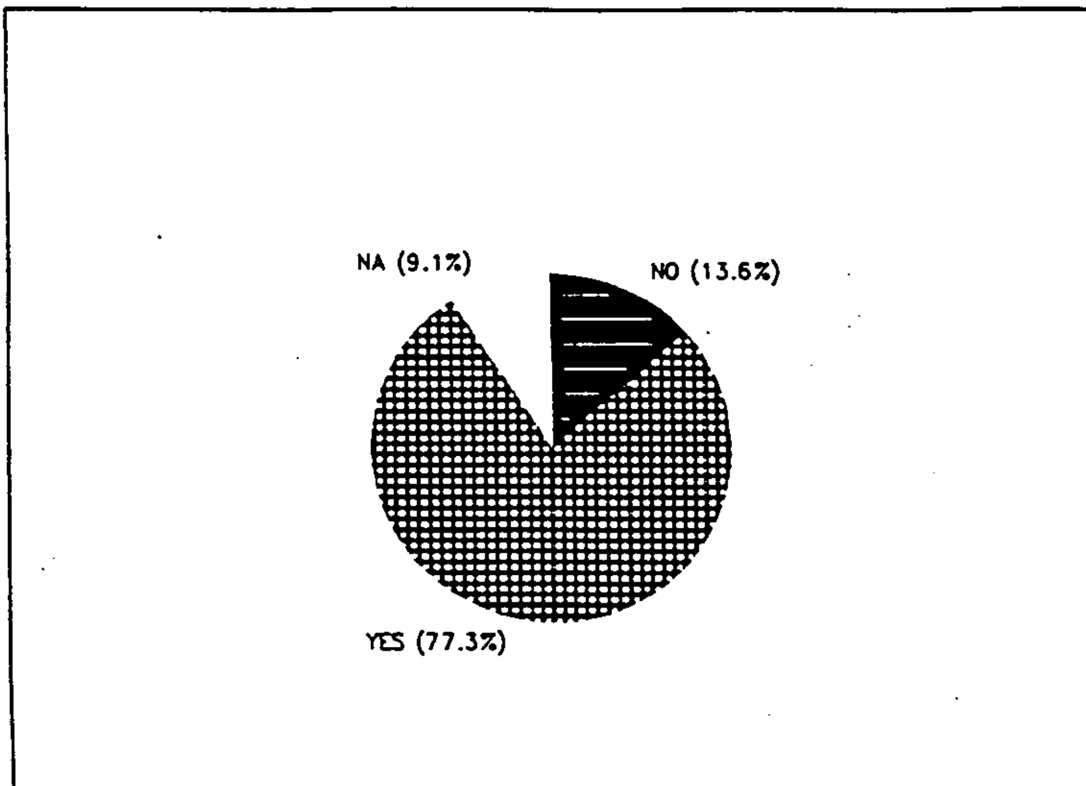

Figure 5.24 Lenders Who Require Verification of Draw Requests

When a lender disburses funds to a builders or developer, it is based on an established draw schedule. The purpose of this question was to determine whether or not lenders are attempting to verify a builder or developer's draw request. As shown in Figure 5.24, the vast majority of the

respondents, at 77.3%, stated that lenders are verifying builders' and developers' draw requests. One respondent stated that "it should be required." The Lender survey revealed that 85% of the lenders surveyed do require verification of the builder or developer's draw request, while 15% do not require verification of the builder or developer's draw request.

39. If yes, which of the following is used?
    [ ] Receipts
    [ ] As per lender-specified draw schedule
    [ ] Progress inspection based on your estimation
    [ ] Other

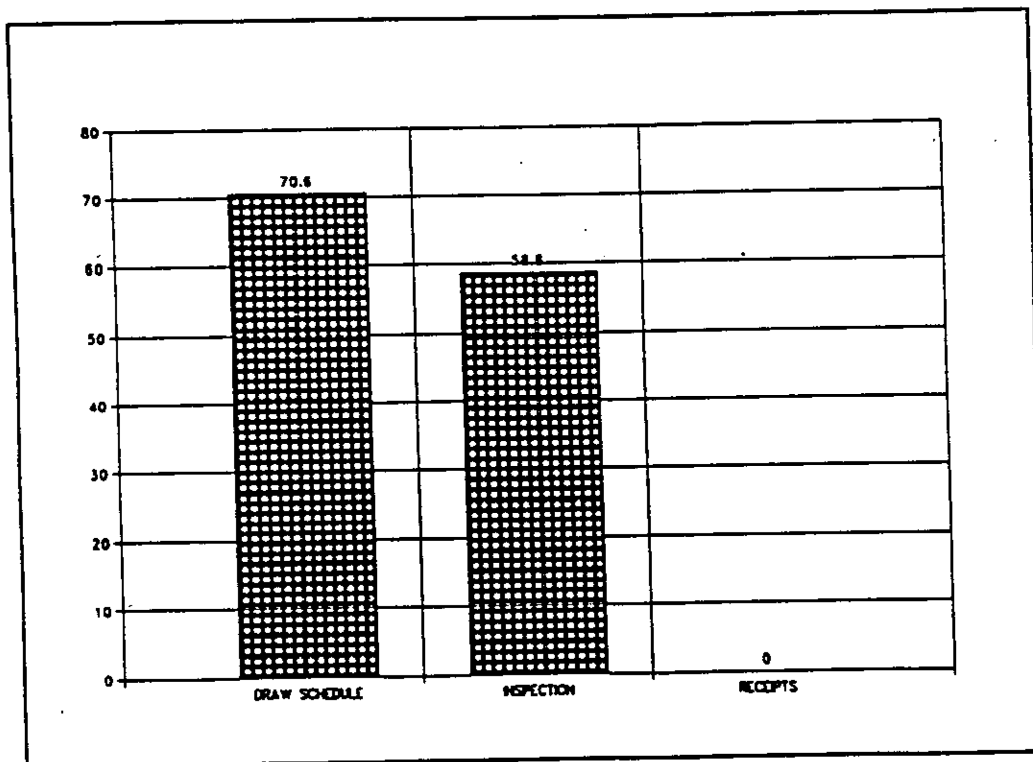

Figure 5.25 How Lenders Verify Draw Requests

As shown in Figure 5.25, the majority of respondents, at 70.6%, indicated that the lender specified draw schedule is the primary method used by lenders to verify the builder's draw request.

40. Does your lender take any precautions to ensure that you pay your subcontractors and suppliers on a timely basis?
    [ ] Yes
    [ ] No

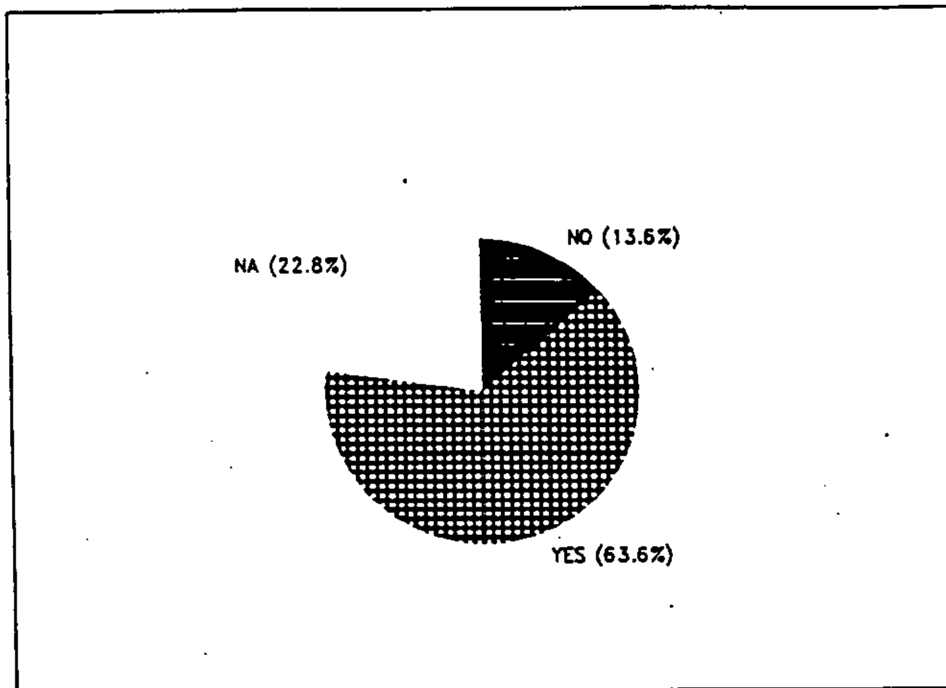

Figure 5.26 Lenders Who Make Sure Subcontractors are Paid

This question was asked to determine whether or not lenders are taking steps to see that funds drawn for a project are actually used for the purpose for which they were intended. As shown in Figure 5.26, the

majority of the respondents surveyed indicated their lenders do take steps to see that funds drawn for a project are used to pay the appropriate subcontractors on a timely basis.

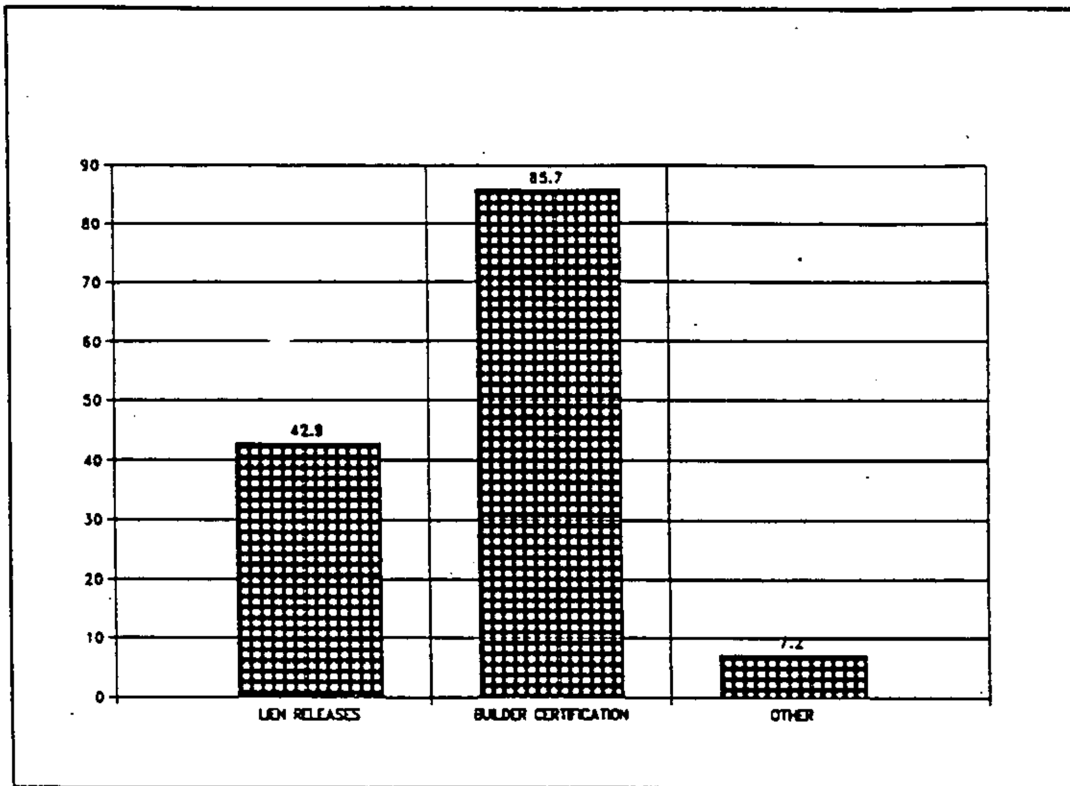

Figure 5.27 Steps Taken by Lenders to Insure That Subcontractors are Paid

Figure 5.27 shows that 85.7% of the respondents stated that their lender uses builder certification to insure that subcontractors are paid, with 42.9% of the lenders using lien releases. Other methods listed by the respondents include direct payment to the subcontractor by the lender

41. Please rank how often the following professionals are involved in your projects.
1 = Always 2 = Almost always 3 = Sometimes 4 = Almost never 5 = Never
Architects
Engineers
Professional Planners
Environmental Consultants
Marketing Consultants

Architects were listed by the respondents as always being involved in their projects 13.6% of the time, almost never 27.3% of the time, sometimes 13.6% of the tim, almost never 27.3% of the time, and never 18.2% of the time. Engineers were listed by the respondents as always being involved in their projects 31.8% of the tim;e, almost always 13.6% of the time, sometimes 13.6% of the time, almost never 9.1% of the time, and never 22% o;f the time.

Professional Planners were listed by the respondents as always being involved in their projects 0% of the time, almost always 18.2 % of the time, almost never 13.6% of the time, and never 59.1% of the time. Environmental consultants were listed by the respondents as always being involved in their projects 4.5% of the time, almost always 4.5% of the time, sometimes 13.6% of the time, almost never 27.3% of the time, and

never 40.9% of the time. Marketing consultants were listed by the respondents as always being involved in their projects 4.5% of the time, almost always 9.1% of the time, sometimes 18.2% of the time, almost never 18.2% of the time, and never 40.9% of the time.

42. Do you believe the Lending Industry should become more responsible for insuring that all parties for whom monies are drawn are in fact paid with those funds?
    [ ] Yes
    [ ] No

The majority of respondents, at 54.4% do not believe the lending industry should become more involved in seeing that all parties for which funds are drawn are paid with those funds. However, 45.5% of the respondents indicated that they do believe lenders should be more responsible regarding this issue. One respondent stated that "if the banks choose the contractor as if it was their home, there would be few problems".

The Lender Survey revealed that 45% of the lenders felt the lending industry should become more responsible for insuring all parties for whom monies are drawn are in fact paid with those funds. At least 55% do not believe the industry should become more involved.

43. Do you believe the lender should be required to set aside the portion of the loan for construction costs and that there should be restrictions on the developer and lender in using those funds for other purposes?
[ ] Yes
[ ] No

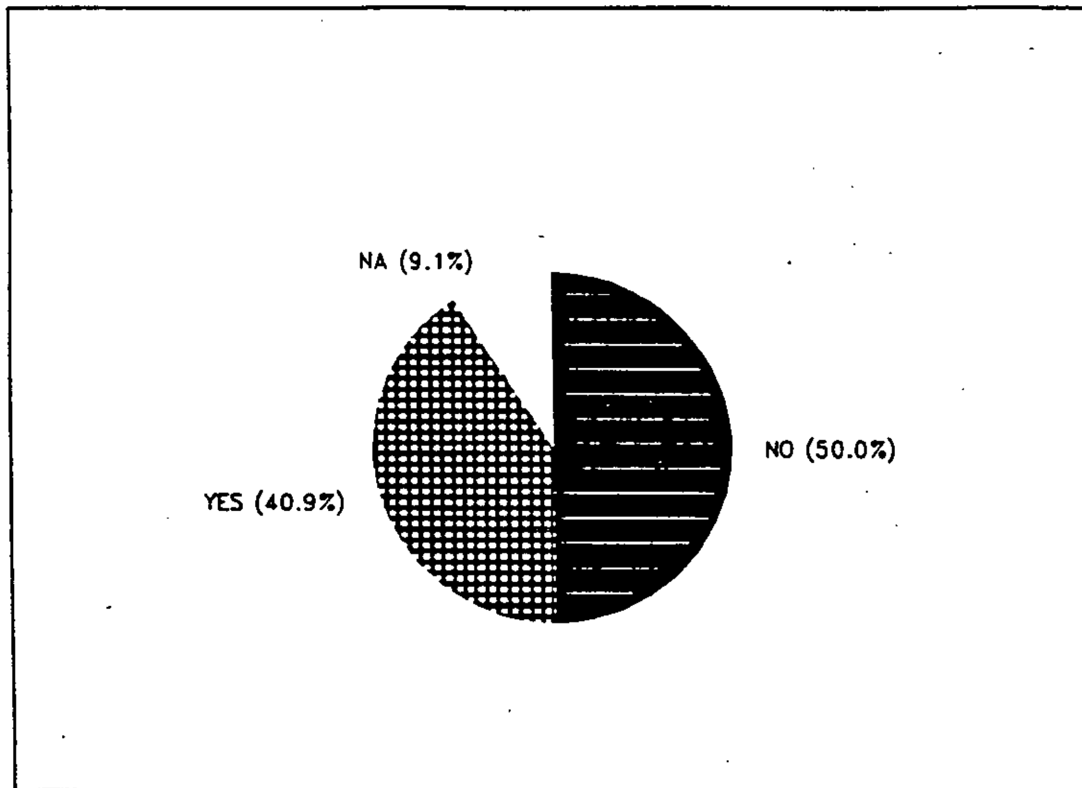

Figure 5.28 Builders Who Believe Lenders Should Set Aside a Portion of the Loan

Using funds for purposes other than that for which they were intended, known as co-mingling of funds, is believed by many in the residential construction industry to be necessary in order to operate successfully. As

shown in Figure 5.28, 50% of the respondents stated that they did not believe the lender should restrict their use of funds, while a surprising 40.9% did indicate that they believed that the lending industry should be required to restrict the way in which builders use funds. Approximately 9% of the respondents chose not to answer. The primary concern of this question is how the transfer of funds from the designated cost to other costs affects the chanced for project failure.

The Lender Survey revealed that 60% of the lenders surveyed believe that the lending industry should set aside the portion of the loan for construction costs and that there should be restrictions on the builder for using those funds for other purposes, while 35% of the lenders surveyed believe that the lending industry should not set aside the portion of the loan for construction costs and that there should be restrictions on the builder for using those funds for other purposes.

44. Do you believe the lender should be required to give notice to the subcontractors in the event of a default by the Builder \ Developer?
[ ] Yes
[ ] No

In many situations when the lender determines that a loan is not performing to its standard, they will give the borrower (developer) a Notice of Default. This enacts the lender's rights under the Construction Loan Agreement to discontinue funding of the loan. When this situation arises, the subcontractors are usually the last to find out that the project is no longer being funded.

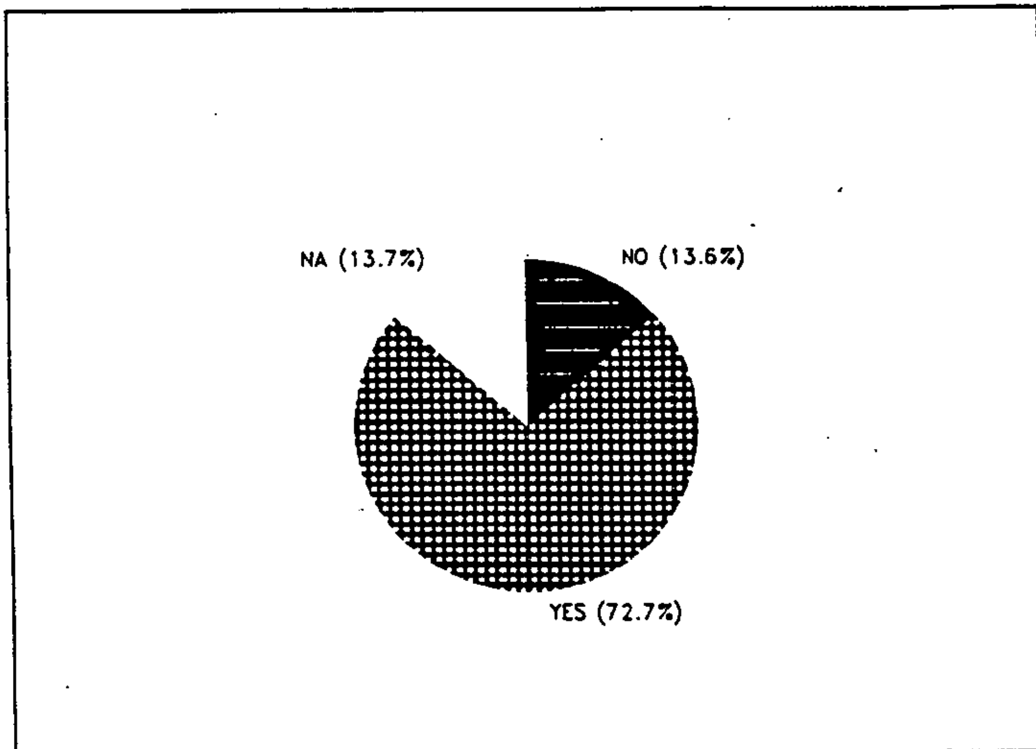

Figure 5.29 Builders Who Believe Lender Should Notify Subcontractors of Default

In some cases, if one draw has just been submitted that is currently due within the next 30 days, the construction groups will work for another 30

days without knowing that they are not going to get paid for any further work. The result is 60 days worth of improvements to the property for which the lender or in the case of foreclosure, the future owner of the property receive a benefit for which they have not paid. As shown in Figure 5.29, the vast majority of respondents, at 72.2% do believe that lenders should be required to give notice to subcontractors in the event of a default by the builder or developer. However, 13.7% of the respondents chose not to reply to this question. One builder's comment was "absolutely! The bank should not take the principles back as in a new corporation."

The Lender Survey revealed that 35% of the lenders surveyed believe that the lender should be required to give notice to the subcontractors in the event of a default by the builder or developer, while 60% of the lenders surveyed do not believe that the lender should be required to give notice to the subcontractors in the event of a default by the builder or developer.

45. What percent of the time are you required to provide a performance and payment bond?

Almost 60% of the respondents indicated that they are never required to provide a performance and payment bond. Only 4.5% stated that they are required to provide a performance and payment bond more than 50% of the time. One builder commented that performance and payment bonds "generally can't be found".

46. Are you knowledgeable about the Construction Lien Law?
[ ] Yes
[ ] No

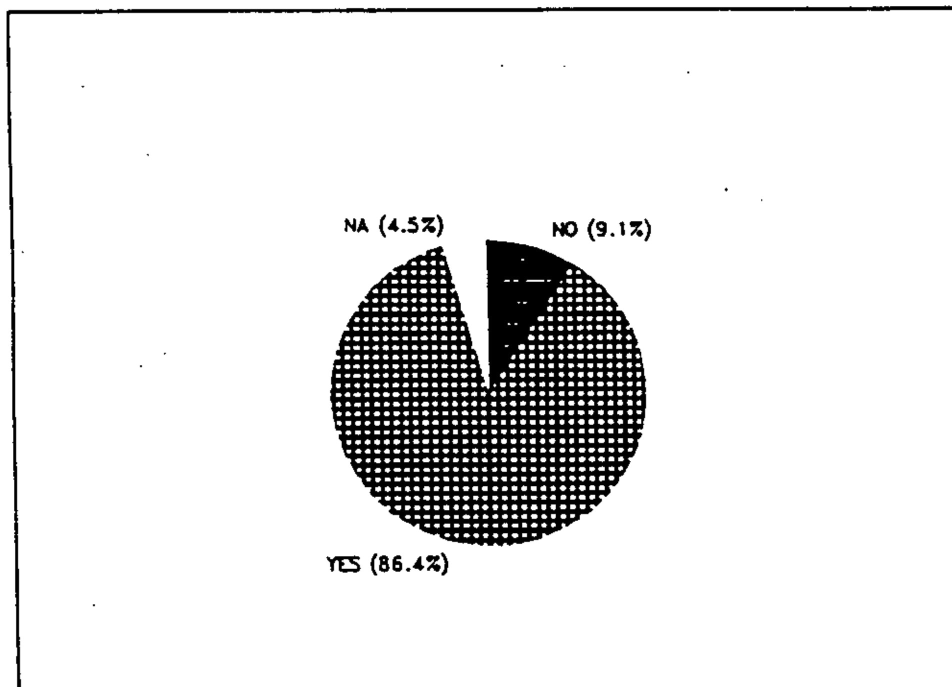

Figure 5.30 Builders Who are Knowledgeable About the Construction Lien Law

The lien laws are complex and it is important to the industry for builders and developers to be knowledgeable about them. As shown in Figure 5.30, the vast majority of the respondents, at 86.4%, indicated that they were knowledgeable about the lien laws.

47. Have your or someone in your organization attended a Construction Lien Law seminar in the last 2 years?
    [ ] Yes
    [ ] No

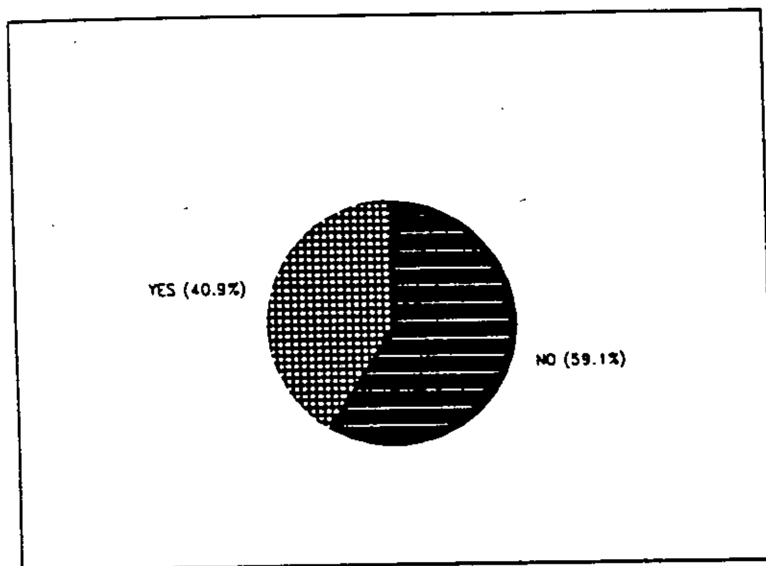

Figure 5.31 Builders Who Have Attended a Lien Law Seminar

As shown in Figure 5.31, 59.1% of those responding indicated they had not attended a Construction Lien Law Seminar in the last two years. This indicates that many may not be familiar with the new changes to the law.

48. Do you or someone in your organization plan to attend a Construction Lien Law Seminar in the next year?

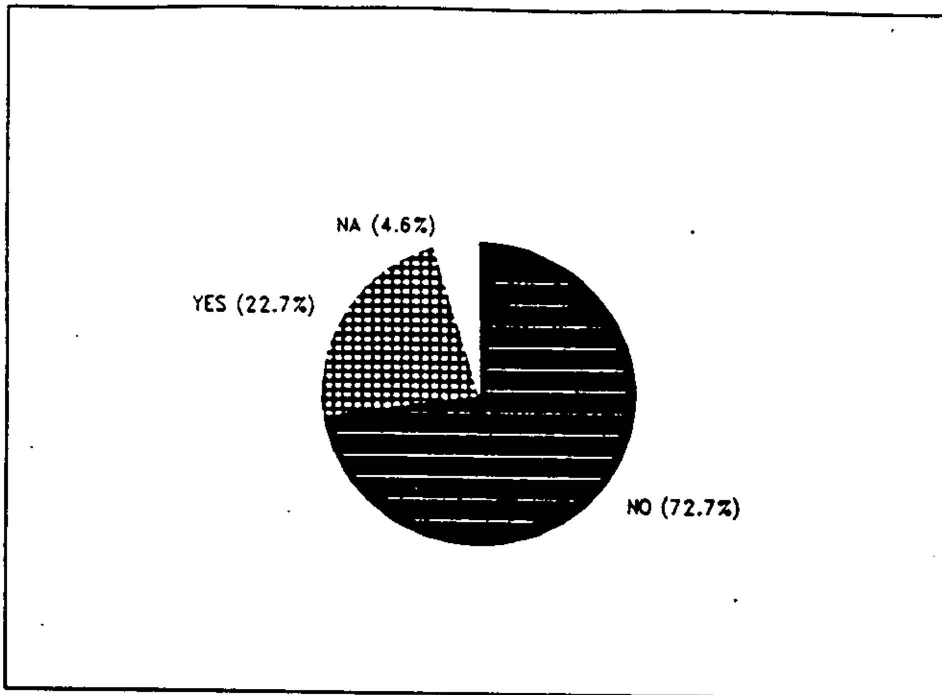

Figure 5.32 Builders Who Plan to Attend a Construction Lien Law Seminar

Figure 5.32 shows the majority of builders, at 72.75%, do not plan to attend a seminar in the next year. This indicates the majority of builders polled believe their knowledge to be adequate or have not had significant enough problems to warrant the attention to the new law.

49. Have you ever had an OSHA inspector visit your jobsite?

A majority of builders polled, at 68.2% stated they had never had an OSHA inspection.

50. Have you or someone in your organization attended an OSHA or safety related seminar in the last two years?

Most of the respondents, at 63.6%, stated they have not attended such seminars.

51. Do you or someone in your organization plan to attend an OSHA or safety related seminar in the next year?

Again, a majority or 68.2%, reported they did not plan to attend such a seminar.

FINAL COMMENTS

Seven respondents added comments in the optional section of the survey. One builder said the improving market would make A,C, and D loans increase in the immediate future. Three other respondents indicated an expected increase in residential growth.

Other respondents did not expect their business to increase. One respondent stated," too much government regulation. It's not worth the effort. They are putting small and medium guys out of business unless you

can afford 2 or 3 people as full time permit and government agency people, you can't do business."

Finally, one respondent offered suggestions for improving the situation. He state that," Loose ends that need tightening are starting appraisals, market analysis of project, integrity of the principals of contractors, all loans to require personal and corporate guarantees and all bank officials held responsible for questionable loan losses."

CHAPTER SIX

Lender Survey Analysis

INTRODUCTION

The following questions are presented in the order in which they appear on the Lender Survey. The questions begin with Question 4, as Questions 1 - 3 are summarized in the lender profile in Chapter 4. The Lender Survey appears as Appendix D in this report. A summary of the responses to the survey is provided in this appendix. Chapter 7, Study Analysis, presents a final comparison of the results of both studies and additional considerations gained through a final interview stage.

LENDER SURVEY

4. How have you changed your lending policies or procedures within the past 5-10 years ? (check all that applies)

	Loan Types		
	Acq.	Dev.	Const.
No Changes	[ ]	[ ]	[ ]
Not renewing/extending maturity	[ ]	[ ]	[ ]
Calling all or part loans before maturity	[ ]	[ ]	[ ]
Charging higher interest rates	[ ]	[ ]	[ ]
More equity required	[ ]	[ ]	[ ]

Asking for more collateral [ ] [ ] [ ]
Increased documentation [ ] [ ] [ ]
Requiring personal guarantees [ ] [ ] [ ]
Higher capital requirements [ ] [ ] [ ]
No longer making loans[ ] [ ] [ ]
Other ______________________ [ ] [ ] [ ]

This question was placed in the survey to find what recent changes have taken place in the lending industry and what lending restrictions have been imposed on developer/ builders and was identical to one in The Acquisition, Development & Construction (A,D&C) Financing Survey of 1990 done by the NAHB. The question in this study, unlike the one in the NAHB study, was geared toward lenders. The responses to this question are organized in Table 6.1a) for banks and Table 6.2 for S&Ls.

TYPES OF CHANGES EXPERIENCED BY ALL BANKS	BANKS IN ACQUISITION LOANS	BANKS IN DEVELOPMENT LOANS	BANKS IN CONSTRUCTION LOANS
No Changes	8.6%	0.0%	17.1%
Not Renewing/Extending Loans	5.7%	5.7%	5.7%
Call All/Part of Existing Loans	2.9%	2.9%	2.9%
Charging Higher Interest Rates	5.7%	8.6%	8.6%
More Equity Required	51.4%	48.6%	37.1%
Asking for Additional Collateral	28.6%	28.6%	20.0%
Increased Documentation	77.1%	57.1%	54.3%
Requiring Personal Guarantees	14.3%	17.1%	17.1%
Higher Capital Requirements	31.4%	31.4%	31.4%
No Longer Making Loans	2.9%	5.7%	0.0%
Other	2.9%	2.9%	2.9%
No Answer	17.1%		

Figure 6.1 Percentage of Banks Responding That Have Had the Following Policy Changes for Acquisition, Development and/or Construction Lending Within the Last 5-10 Years.

Table 6.1) shows there are four distinct areas of change to which the greatest number of banks responded. These changes include increased equity requirements, increased required collateral, increased required documentation, and increased capital requirements. Of these, increased documentation, or the necessary studies and paper work that are necessary for loan approval, was without question the most often selected change among all lenders.

Of the banks, 77.1% are requiring increased documentation for acquisition loans, 57.1% are requiring it for development loans and 54.3% are requiring it for construction loans. Increasing equity was the second strongest response with 51.4% of the banks stating this has been done in acquisition lending, 48.6% in development lending, and 37.1% in construction lending. The third strongest response was given for higher capital requirements by 31.4% of banks in acquisition loans, 31.4% in development loans and 31.4% in construction loans. Finally, 28.6% of the banks in acquisition lending, 28.6% in development lending and 20.0% construction lending stated that they are requiring additional collateral.

According to the question, some of the banks are also increasing their use

of personal guarantees as seen by 14.3% of the banks in acquisition lending, 17.1% in development lending, and 17.1% in construction lending. Finally, it is evident that the other items received comparatively low responses.

TYPES OF CHANGES EXPERIENCED BY ALL S&Ls	S&Ls IN ACQUISITION LOANS	S&Ls IN DEVELOPMENT LOANS	S&Ls IN CONSTRUCTION LOANS
No Changes	0.0%	0.0%	0.0%
Not Renewing/Extending Loans	0.0%	0.0%	0.0%
Call All/Part of Existing Loans	0.0%	0.0%	0.0%
Charging Higher Interest Rates	9.1%	9.1%	27.3%
More Equity Required	36.4%	36.4%	63.6%
Asking for Additional Collateral	0.0%	0.0%	0.0%
Increased Documentation	45.5%	45.5%	72.7%
Requiring Personal Guarantees	9.1%	9.1%	27.3%
Higher Capital Requirements	9.1%	9.1%	9.1%
No Longer Making Loans	45.5%	45.5%	0.0%
Other	0.0%	0.0%	0.0%
No Answer	9.1%		

Figure 6.2 Percentage of S&Ls Responding They Have Had the Following Policy Changes for Acquisition, Development, and\or Construction Lending within the Last 5 - 10 Years.

The response of S&Ls in Table 6.2 were similar to that of banks, but there were a few differences. According to the survey, the greatest number of S&Ls stated that they have increased required documentation. The second strongest response was given for increased equity requirements. Increased documentation is being required by 45.58% of S&Ls in land

acquisition loans, 45.58% in development loans and 72.7% in construction loans. More equity is required by 36.4% of S&Ls in acquisition loans, 36.4% in development loans and 63.6% in construction loans. In addition, 45.5% of all S&Ls replied that they are no longer making residential land acquisition and development loans. Finally, 27.3% of the S&Ls are charging higher interest rates and requiring personal guarantees in residential construction loans.

The above findings confirm the results of the Acquisition, Development and Construction (A,D&C) Financing Survey of 1990. In this previous survey, the majority of the builders stated that banks have increased required equity, required documentation, and required collateral in residential A,D&C lending. In this survey, a great majority of the builders also stated that S&Ls have increased equity required, and required documentation. Many of these builders also stated that S&Ls are no longer issuing A,D&C loans.

5. If changes have occurred, what are the reasons?

For Thrift Institutions Only:
(check all that applies) Loan Types

	Acq.	Dev.	Const.
Single borrower restrictions	[ ]	[ ]	[ ]

New capital requirements	[ ]	[ ]	[ ]
Company Concern for risk	[ ]	[ ]	[ ]
RTC takeovers	[ ]	[ ]	[ ]
Greater Regulatory Requirements	[ ]	[ ]	[ ]
Tough Regulators/Examiners	[ ]	[ ]	[ ]
Other ________________ (please specify)	[ ]	[ ]	[ ]

For Commercial Banks:
(check all that applies)

	Acq.	Dev.	Const.
FDIC takeovers	[ ]	[ ]	[ ]
Higher capital requirements	[ ]	[ ]	[ ]
Restrictive regulations/audits	[ ]	[ ]	[ ]
Company concern for risk	[ ]	[ ]	[ ]
Other ________________ (Please specify)	[ ]	[ ]	[ ]

This question was also derived from a similar question in the NAHB survey of 1990. In this case, the question had to be phrased differently for S&Ls and for banks since they are influenced by different factors. Nonetheless, the responses were fairly consistent between S&Ls and banks. These responses are depicted in Figures 6.3 and 6.4.

(CATEGORIES OF INVOLVEMENT) ACQUISITION, DEVELOPMENT OR CONSTRUCTION LOANS AS A PERCENTAGE OF RESIDENTIAL LOANS	BANK IN ACQUISITION LOANS	BANKS IN DEVELOPMENT LOANS	BANKS IN CONSTRUCTION LOANS
> 75%	20.0%	0.0%	17.1%
50% to 75%	8.6%	0.0%	5.7%
25% to 50%	11.4%	11.4%	14.3%
< 25%	25.7%	25.7%	34.3%
TOTAL	65.7%	37.1%	71.4%
No Answer	22.9%		

Figure 6.3 Percentage of Banks Responding To Reasons for Changes in Lending Policies for Acquisition, Development and/or Construction Lending.

It is clear from Table 6.3 that banks, not just S&Ls, have been heavily restricted by regulations and requirements imposed by bank examiners. The greatest number of banks stated that the reasons for policy changes in question four have been due to restrictive regulations and audits imposed on them. This response was given by, 65.7% of the banks for acquisition loans, 62.9% for development loans and 57.1% for construction loans. The next strongest response given for these changes was the company's or lender's concern for risk. This response was given by 48.6% of the banks

in acquisition lending, 48.6% in development lending and 40.0% in construction lending. Banks gave little or no attention to the other response options.

REASONS FOR CHANGES IN LENDING POLICIES	S&Ls IN ACQUISITION LOANS	S&Ls IN DEVELOPMENT LOANS	S&Ls IN CONSTRUCTION LOANS
Single Borrower Restrictions	27.3%	27.3%	27.3%
New Capital Requirements	36.4%	36.4%	54.6%
Company Concern for Risk	54.6%	54.5%	54.6%
RTC Takeovers	0.0%	0.0%	0.0%
Increased Regulatory Requirements	36.4%	27.3%	27.3%
Tough Regulators/Examiners	36.4%	45.5%	36.4%
Other	0.0%	0.0%	0.0%
No Answer	9.1%		

Figure 6.4 Percentage of S&Ls Responding To Reasons for Changes in Lending Policies for Acquisition, Development and/or Construction Lending.

From Figure 6.4, the greatest number of S&Ls stated that changes in their lending policies were caused by the institution's increased concern for risk. According to the survey, 54.6% stated this was the case for acquisition lending, 54.5% stated this for development lending and 54.6% for construction lending. S&Ls also attributed policy changes to tough regulators, to increased regulatory requirements and to the new capital

requirements, as required by FIRREA, all of which were the next strongest responses.

The strongest of these were given for the new capital requirements which received a 36.4% response in acquisition lending, a 36.4% in development lending and a 54.6% response in construction lending. Tough regulators were the reason given for changes by 36.4% in acquisition lending, 45.5% in development lending, and 36.4% in construction lending. In addition, the increase in regulatory requirements was the response given by 36.4% of the S&Ls in acquisition lending, 27.3% in development lending and 27.38% in construction lending. Finally, under one third of the S&Ls attributed changes to the single borrower restrictions for all categories of A,D&C lending.

What was most surprising from this question was that banks gave a stronger response, compared to S&Ls, to regulations as a cause of changes in lending policies. In lieu of the S&L crisis and the subsequent restrictive regulation imposed on S&Ls, it was expected that S&Ls would respond stronger than banks to this item These regulatory restrictions being faced by banks are more than likely due to the Interagency

Guidelines for Real Estate Lending Policies and FDICIA of 1991 covered in Chapter Three.

6. Does your institution prefer to loan to a particular size of builder?
( )Yes ( )No

Does your institution have restrictions on builders according to size?
( )Yes ( )No

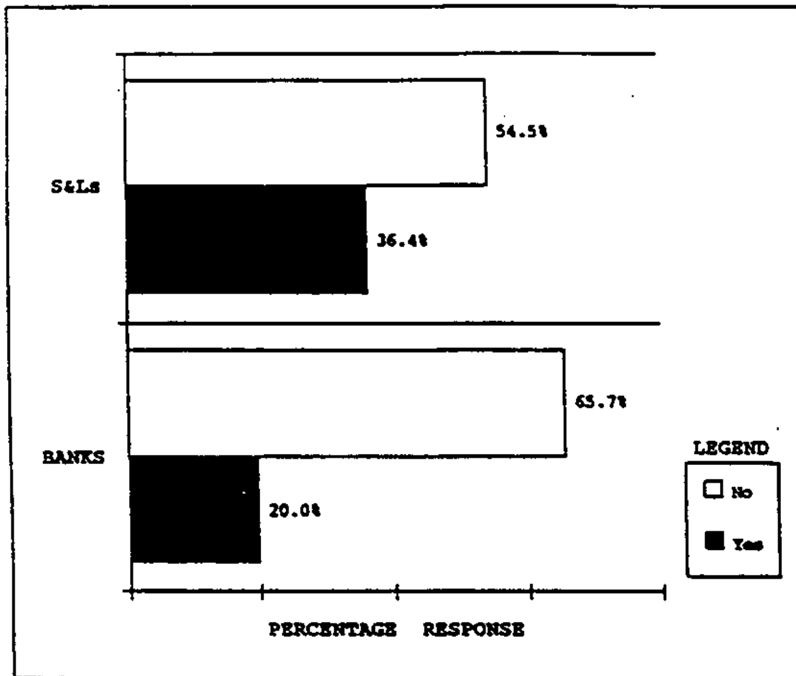

Figure 6.5 Lender Preference for Builder Size

When this survey was in the process of being formed it was discovered in the NAHB's Acquisition, Development and Construction (A,D&C) Financing Survey of 1990 that large builders were feeling more of a shortage of

funds than smaller builders. The issue then arose of lending institutions possibly having preferences as to builder size when funding construction projects. This question sought to investigate this area.

From the figure, it is clear that the vast majority of lending institutions, as expressed by 65.7% of banks and 54.5% of S&Ls, do not have any partiality towards contractors in regards to size. However, there are some lenders that do prefer certain sizes of builder. Within the lending industry, 20% of banks and 36.4% of S&Ls have builder size preferences when issuing A,D&C loans. This constitutes one fifth of banks and over on third of S&Ls surveyed. This information is a partial explanation of the results of the NAHB survey. However, a more thorough explanation can be derived from question seven to be discussed shortly. The second part of question six sought to find whether lending institutions restrict contractors on the basis of size. The results derived are shown in Figure 6.6.

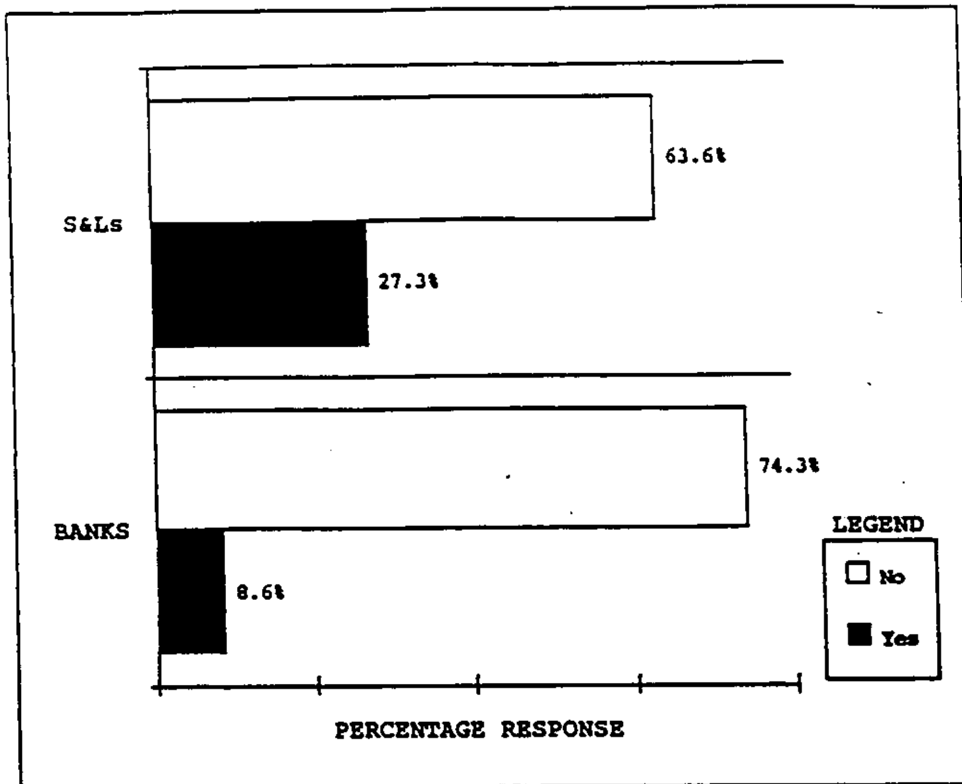

Figure 6.6 Lenders that Do Restrict Certain Sizes of Builders.

It is evident that the majority of those lenders that do prefer a particular size of builder do not restrict those they do not prefer. This is seen by 63.6% of the S&Ls and 74.3% of the banks stating this to be the case. However, there are some that do restrict builders. These include 27.3% of the S&Ls and 8.6% of the banks. Although this is not a large proportion of the overall industry, this percentage of lenders may be steering funds away from those sizes of builders they prefer not to deal with.

7. If yes to any of the above in question #6, please rank your preferences in lending: (circle one)
1=lowest preference to 5=highest preference

Small builder	1	2	3	4	5	(< $1 mil. volume)
Medium builder	1	2	3	4	5	($1-$9.5 mil. volume)
Large builder	1	2	3	4	5	(> $10 mil. volume)

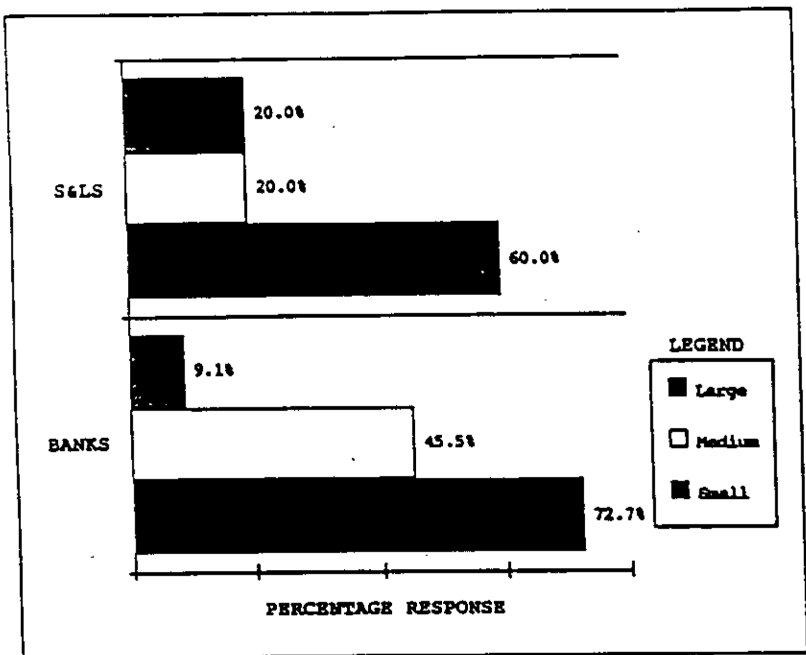

Figure 6.7 Size of Builders Lenders Prefer

This question is meant to be an extension of question six in order to determine the size preference of the lenders surveyed. It was found that some lenders do prefer certain sizes of builder and some within this group actually restrict certain sizes. This question seeks to find what sizes of builders are actually preferred. Rather than quantifying the degrees of preference, the table depicts only the most preferred builder size for each lender response whether it was large, medium or small builders.

from this question were surprising as illustrated in Figure 6.8. According to the survey, 72% of all S&Ls and 51.4% of all banks stated that the removal of FIRREA would benefit all individuals associated with the residential construction industry.

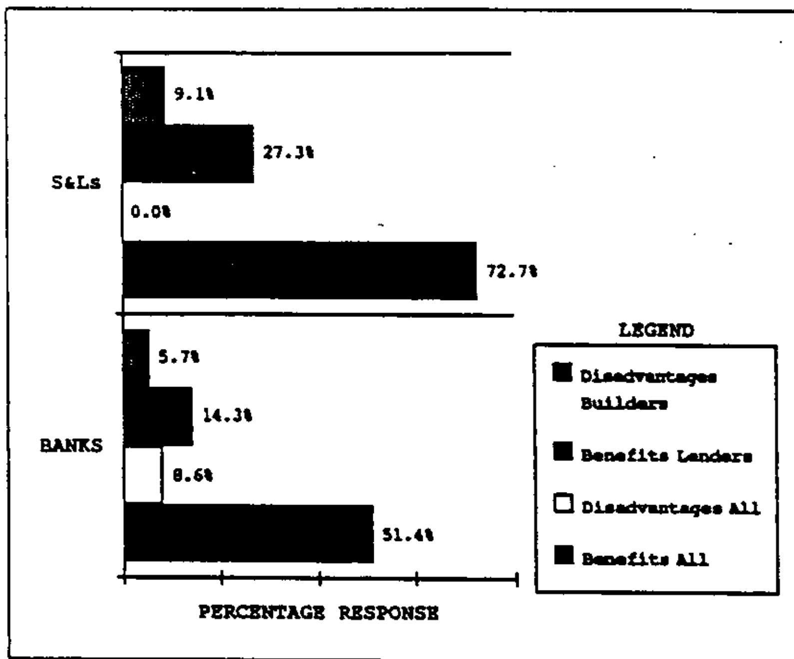

Figure 6.8 Lender Response to Consequences of Possible Removal of FIRREA

This represents over half of banks and nearly three quarters of S&Ls. It is understandable why S&Ls voiced a stronger reaction against this law since they have been restricted more than banks by FIRREA.

In addition to the above, 27.3% of S&Ls and 14.3% of all banks stated that

the removal of FIRREA would directly benefit lenders. Only 8.6% of the banks and none of the S&Ls stated that FIRREA would disadvantage all affiliated with residential construction. Finally, 5.7% of banks and 9.1% of the S&Ls stated that FIRREA's removal would hurt builders.

Lenders believe FIRREA was a necessary measure taken by the law makers in response to the S&L crisis and the subsequent losses of billions of dollars of invested funds. However, the majority of the lending industry see FIRREA as an over reaction to a situation that no longer exists, at least not to the degree it did.

With such a strong reaction from lenders and with the negative disposition most builders are already known to have toward FIRREA, it may be possible for both of these groups to join forces and bring about either the removal or the modification of FIRREA. The efforts of both these groups may convince regulators that the restrictions of FIRREA need to be reconsidered. It may also be possible that FIRREA, like so many other laws in the past, no longer serves the purpose for which it was intended.

9. In residential construction loans, is prompt payment of the subcontractor by the contractor a problem?
( )Yes ( )No

In the information phase of this report, it was discovered that lack of prompt payment of the subcontractors, suppliers, and others at the bottom of the construction payment chain raised the concerns of those involved in the residential construction process. Suppliers and subcontractors who are not paid on time by the developer/ builder experience great financial difficulty in maintaining sound operations.

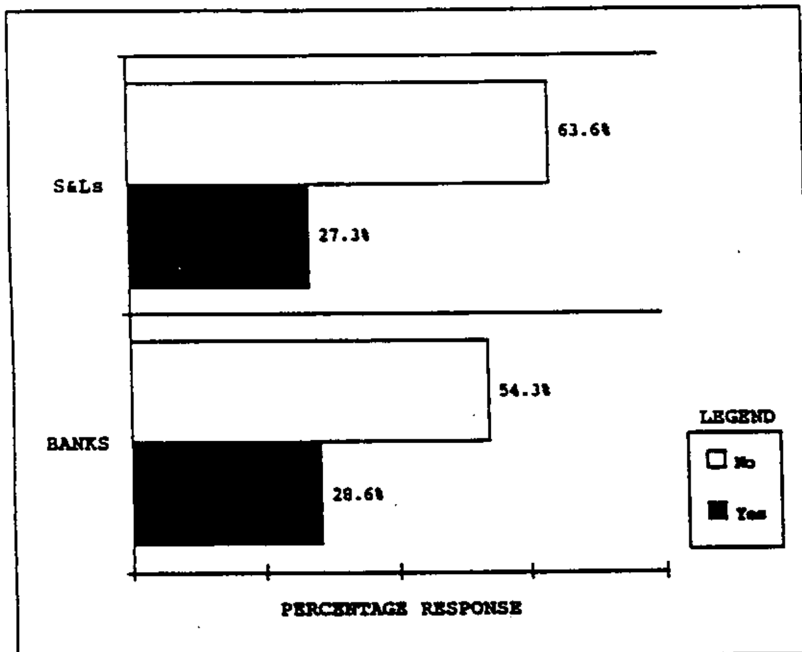

Figure 6.9 Lender Response to Prompt Payment

Lenders are also hurt when this occurs since subcontractors and suppliers can file liens on the property that may make other lenders hesitant to

issue permanent loans that would pay for the construction loan.

Figure 6.9 shows that the majority of both banks and S&Ls believe that prompt payment of all parties involved in the residential construction process is not a problem. In particular, 63% of S&Ls and 54.3% of banks stated that this issue is not a great concern for them. However, 28.6% of the banks surveyed and 27.3% of the S&Ls stated that prompt payment was considered a problem. This represents nearly one third of the industry. It is apparent that although prompt is not a wide spread dilemma in the industry, it exists and it worries some lenders.

10. What does your company do to insure prompt payment to subcontractors and to prevent "double payments" ?
(circle one for each that applies)

1=never to 5=always					
( )Require lien releases/waivers.	1	2	3	4	5
( )Require "pay when paid" clause.	1	2	3	4	5
( )Issuance of joint checks	1	2	3	4	5
( )General contractor's certification	1	2	3	4	5
( )Other ______________________	1	2	3	4	5

This question attempted to find what lenders do to insure that subcontractors and suppliers get paid on time during the construction project. This represents one of the questions used to find what roles are played by lenders to protect other participants of the residential

construction industry. A variety of responses were given to lenders to choose from.

Lenders could have chosen to respond to lien releases of subcontractors to make sure no liens are being placed on the property. Lenders could have chosen "pay when paid" clauses which are legal clauses in the loan contract document that obligate developer/builders to pay those under them as soon as they receive the loan draw. The issuance of joint checks was included and it entails issuing loan draw checks payable to more than one person. This is helpful because it prevents the money from being only in the hands of the developer/ builder.

Lenders could have chosen the use of contractor certification of payments. These are documents sent to the lender by the general contractor to assure that those under the general contractor have been paid. Finally, lenders were given the option of filling in their own response if they used an additional not specified among the answers. For this question, each response was counted only if a 3 or higher was used as the frequency. This was interpreted to mean that the institution takes the precaution at least half the time. Figure 6.10 shows the responses.

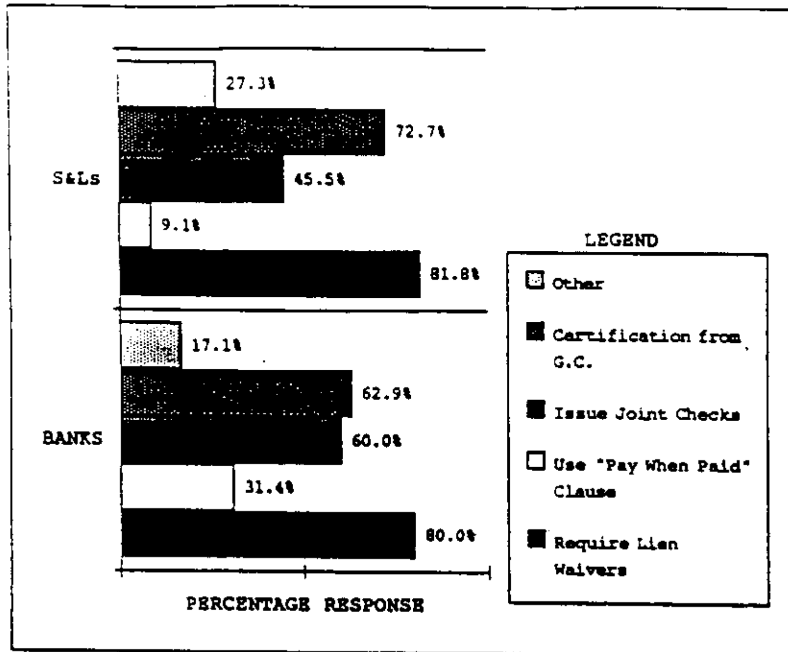

Figure 6.10 Measures Used to Ensure Prompt Payment.

The greatest number of lenders stated that lien waivers are used to insure prompt payment of those involved in the project. As shown, 81.8% of the S&Ls and 80.0% of the banks stated that lien waivers were required from those under the developer/ builder to insure prompt payment. Lenders also gave strong responses for the use of certification statements. From the survey, 72.7% of S&Ls and 62.9% of banks stated that they used this method. It seems that lenders trust these above all others to make sure the developers/ builders pay all parties fairly. Joint checks were the next strongest response among lenders. Evidently, 45% of S&Ls and 60% of

banks stated that they issue construction loan draws in the form of joint checks to insure prompt payment.

Few lenders stated that legal clauses in the construction contract, such the "pay when paid" clause, were used to insure prompt payment. Only 9.1% of the S&Ls and 31.4% of the banks admitted to using this method. Finally, 27.3% of the S&Ls and 17.1% of the banks responded that other measures were used to ensure timely payments. Other methods cited by lenders that were used to insure prompt payment were the use of title insurance check downs and close communication with subcontractors. A title insurance check down is when the title of the property is checked to see that there are no liens placed on the property and therefore that all subcontractors have been paid.

11. What percentage of the time, in single family homes, is the appraisal significantly higher or lower than the builder contract amount?

    Higher______% Lower______%

Before projects are funded, lenders will have the project evaluated by a professional appraiser who is trusted by the bank to establish the value of the project. Lenders are concerned that the loan amount will be greater

than the value of the item which will be obtained with the loan or in this case the project contract amount to be funded. This makes it impossible to recover the money even by foreclosing on the property. A wide variety of responses were elicited from this question. They were therefore organized according to a scale consisting of five overall categories as illustrated in the legend of Figure 6.11.

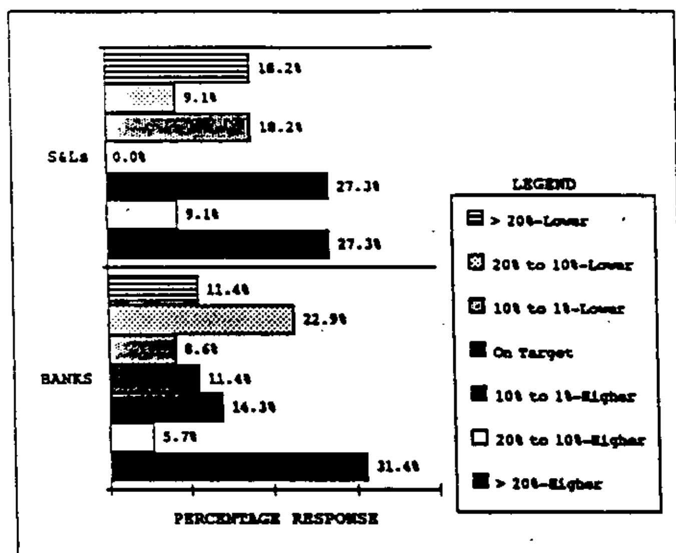

Figure 6.11 Percentage of the Time the Appraisal is Higher or Lower than the Builder Contract Amount.

The responses of lenders, concerning the percentage of the time appraisals vary above or below the builders contract amount, were organized according to the following categories: The appraisal being higher than the builder contract amount more than 20% of the time, being higher 10-20% of the time, being higher 1-10% of the time, always being

on target, being lower 1-10% of the time, being lower 10-20% of the time and being lower more than 20% of the time.

The responses were not as clear cut as the results in previous questions as seen in Figure 6.11. The responses indicated that lenders, in general, believe there is a wide variance between the appraisal and the builder contract amount. The stronger responses of the banks included 31.4% believing that the appraisal is higher than the contract amount more than 20% of the time and 22.9% believing that it is lower 10-20% of the time. Banks provided weaker responses with 5.7% stating that the appraisal is higher than the builder contract amount 10-20% of the time, 14.3% stating that it is higher 1-10% of the time, 8.6% stating that it is lower 1-10% of the time and 11.4% stating that it is lower more than 20% of the time. Finally, only 11.4% of banks believe that appraisals are always on target.

The S&Ls also made it clear they feel appraisals tend to be inconsistent. The strongest responses included 27.3% stating that the appraisal tends to be higher than the builder contract amount more than 20% of the time, 27.3% stating that it is higher 1-10% of the time, 18.2% stating that it is lower 1-10% of the time and 18.2% stating that it is lower more than 20%

of the time. Weaker responses indicated that 9.1% of the S&Ls believe the appraisal is higher than the builder contract amount 10-20% of the time, and another 9.1% believe it is lower 10-20% of the time. None of the S&Ls believed that appraisals were ever accurate as noted by 0% stating that the appraisal is always on target. Lenders in general are skeptical as to the consistency or the accuracy of the loan appraisal. Lenders strongly believe that the appraisal is either above or below the builder contract amount but few, if any, believe that it is ever on target.

12. When the appraisal is significantly higher or lower than it should be, it is usually due to: (check only one)
    ( )Appraiser over/under evaluation
    ( )Contractor over/under evaluation

This survey question asks lenders to state the party they feel is at fault when an appraisal is over or under the builder contract amount. The responses from banks and S&Ls were very different from one another as exhibited in Figure 6.12.

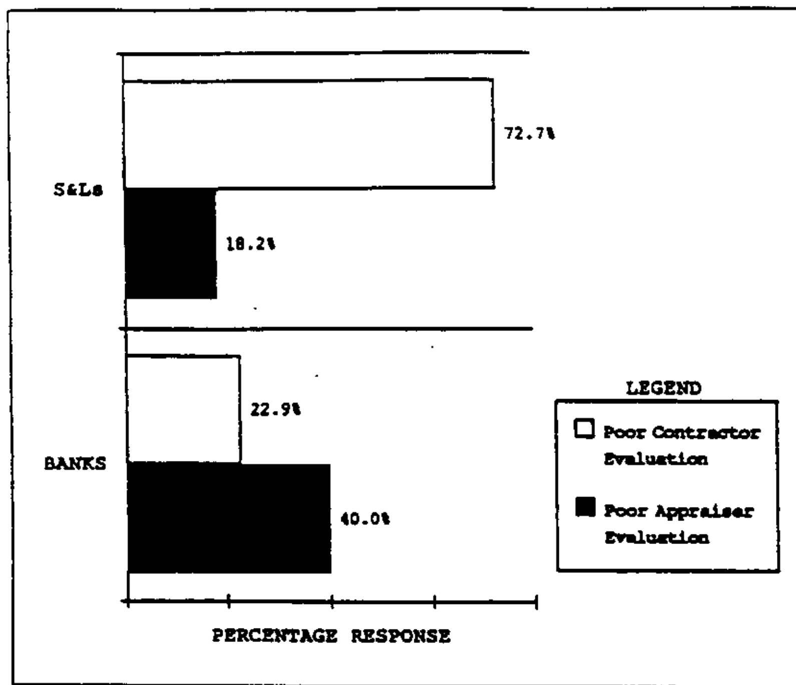

Figure 6.12 Reason for Inaccurate Appraisals

According to the survey, 40.0% of the banks stated that inaccurate appraisals are due to poor appraiser evaluation as opposed to 22.9% stating they are due to the contractor. On the other hand, 72% of the S&Ls stated that inaccurate appraisals are the contractor's fault and only 18.2% stated that they are due to the appraiser. This strong response of the S&Ls may be due to a feeling of mistrust of builders after what was experienced in the S&L industry in the late 1980's. This mistrust on the part of the S&Ls was seen in the previous question when S&Ls stated that

the appraisal always varies and is never on target. In this question, the majority of the S&Ls blame the contractor for this.

13. What percentage of the time does an incorrect appraisal play a significant role in project foreclosure? _________%

It was important to find out the possible harm caused by a bad appraisal. Often project foreclosures are blamed on poor appraisals or negligent and untrained appraisers. Lenders were asked to give their opinion on the possibility of foreclosure being produced by an inaccurate appraisal. Similar to question eleven, a wide array of answers were brought out by this answer. The answers were therefore organized according to three categories: Inaccurate appraisals causing foreclosure above 15% of the time, up to 15% of the time and poor appraisals never causing foreclosure.

The overall response to this question from all lenders is not as definitive as in other questions. Out of both lender types, S&Ls showed the strongest response with 36.4% stating that poor appraisals may cause foreclosure up to 15% of the time. Also, 9.1% stated that inaccurate appraisals caused foreclosures more than 15% of the time. Finally, 18.2%

stated that foreclosure was never caused by inaccurate appraisals.

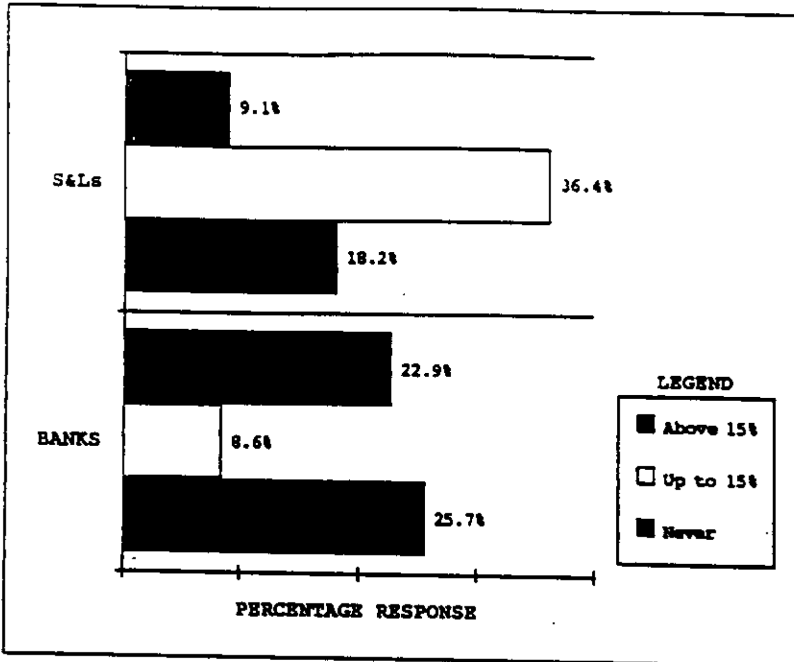

Figure 6.13 Percentage of the Time an Inaccurate Appraisal Leads to a Foreclosure.

The second strongest overall response and the greatest response seen from banks was 25.7% stating that an inaccurate appraisal never causes project foreclosures. In addition, 22.9% of banks stated that appraisals endanger a project more than 15% of the time and 8.6% stated that they endanger projects up to 15% of the time.

It is difficult to interpret these results since they are so disparate. One

way to interpret these results is that different lenders have had different experiences with the consequences of inaccurate appraisals. The reason for this may be due to some lending institutions taking more precautions to protect themselves against poor appraisals so that even though they may occur, their position is not jeopardized. In subsequent questions it will be shown how this may be the case.

14. How often is the appraisal within the following percent correct margin of the actual market value of the property involved? (circle one for each that applies) 1=never to 5=always

5 %	-------	1	2	3	4	5
10 %	-------	1	2	3	4	5
20 %	-------	1	2	3	4	5
30 %	-------	1	2	3	4	5

The question being asked in this case is similar to question eleven. However, in this case the idea was to ask how close the appraised value of the property was to the market value, or to the potential value of the property if it were sold in the real estate market. The lender is also asked to state the frequency of each response by ranking it on a scale of 1 to 5 as explained in the question.

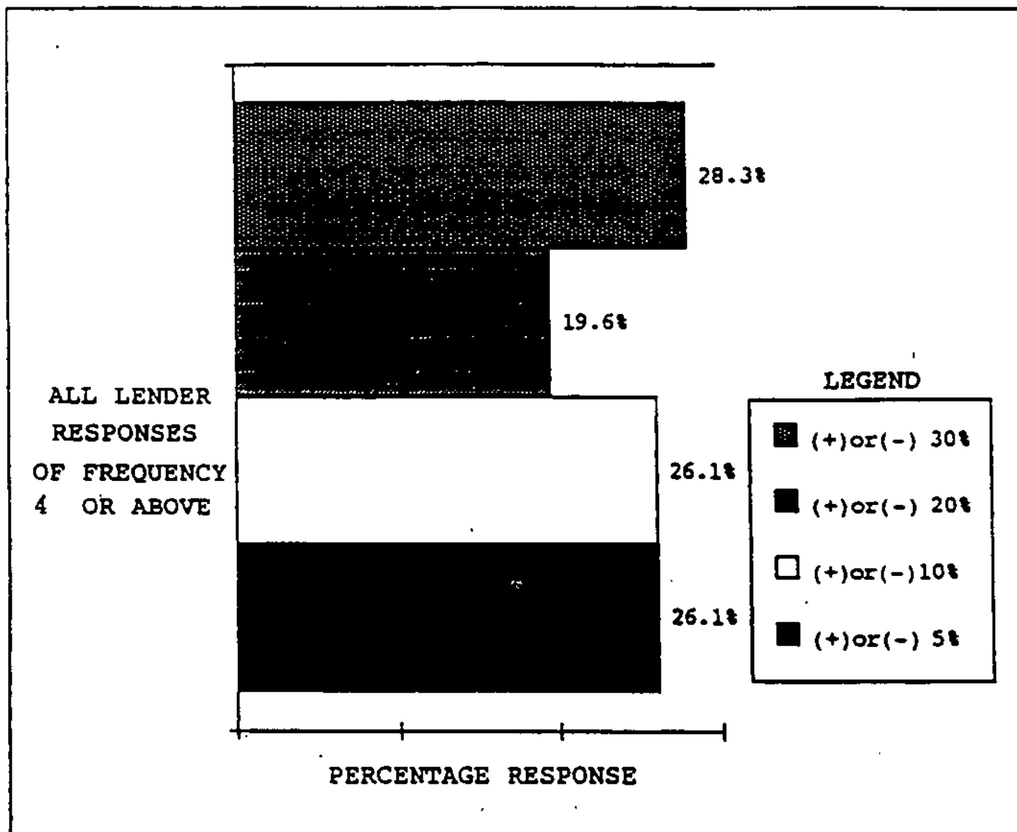

Figure 6.14 Appraisal Variation According to Market Value

In essence, lenders were asked how great the deviation is in this area and how often it occurs. Both banks and S&Ls were grouped together. In this case, since it was important to find out what frequently happens regarding appraisal variance, only those responses with a frequency rating of 4 and above were counted. The results of the survey are exhibited in Figure 6.14.

According to the survey, 26.1% of the lenders stated that the appraised value of the property deviates from the actual market value by 5%, 26.1% stated that it deviates by 10%, 19.6% stated that it deviated by 20% and 28.3% stated that it deviated by 30%. Further, each of these groups believed that this deviation from actual market value occurred either always or almost always. These findings illustrate that nearly one fifth, and in some case almost one third, of the industry believe that the appraisal value of property is between 5% to 30% in error of the actual market value.

15. How much do you rely upon the appraisal for setting loan to value ?
    ( )Always
    ( )Almost always
    ( )Sometimes
    ( )Almost never

Lenders believe that the appraisal process is not an exact science. Errors will be made due to the fact that ultimately it is based on judgment. However, it can also be very accurate if done correctly by persons with the right training. This question served as an attempted to find out how often the appraisal is used by the lender for the purposes of setting loan-to-value ratios. From the question, it can be seen that lenders could

have chosen one of four responses based on their use of the appraisal.

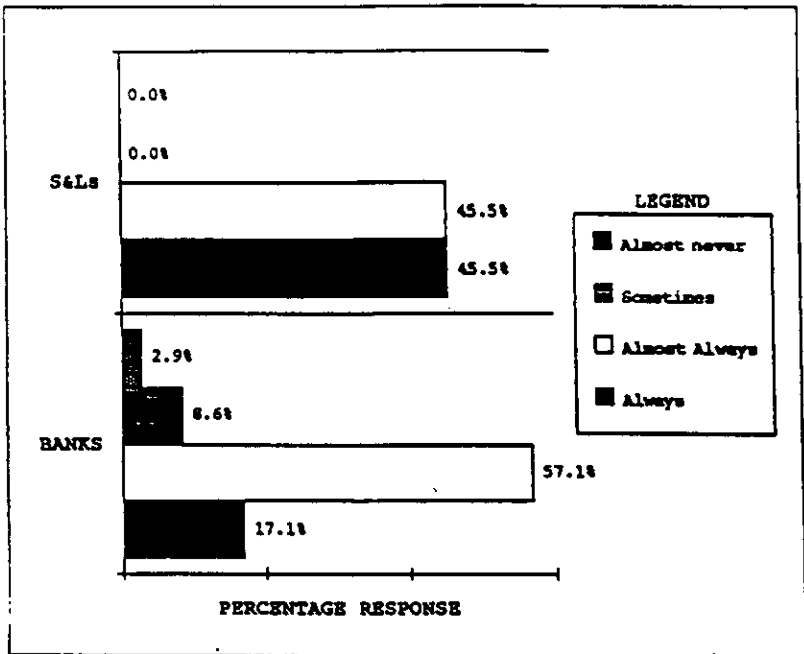

Figure 6.15 Frequency of Lender Reliance on Appraisals for Setting Loan-to-Value Ratios.

Figure 6.15 shows the responses of lenders to the above question. From the illustration, it is evident that both banks and S&Ls still rely heavily on the appraisal for the setting of loan-to-value ratio. Since each response in this case is mutually exclusive, the percentages of responses given by each lender may be added together for the purpose of the discussion.

At least 45.5% of the S&Ls stated that the appraisal is always used for setting the loan-to-value ratio, the other 45.5% stated that it is used

almost always. By simple addition, 91.0% of the S&Ls surveyed either always or almost always rely on the appraisal for setting this ratio.

Banks showed a weaker response with 17.1% stating that the appraisal is always used for this purpose, and 57.1% stating that it is almost always used. Another 8.6% stated that the appraisal is never used for this purpose and 2.9% stated that it is almost never used in this area. Essentially, 74.2% of banks stated that they either always or almost always use the appraisal for the setting of loan-to-value ratio. This shows that the majority of lending institutions still rely heavily on the appraisal for issuing loans in residential A,D&C lending. Despite potential drawbacks, lenders still have faith in the benefits of carefully done appraisals.

16. Which of the following attempts to direct/influence the outcome of the appraisal most often?
(check only one)
( )Lender
( )Contractor
( )Comments____________________

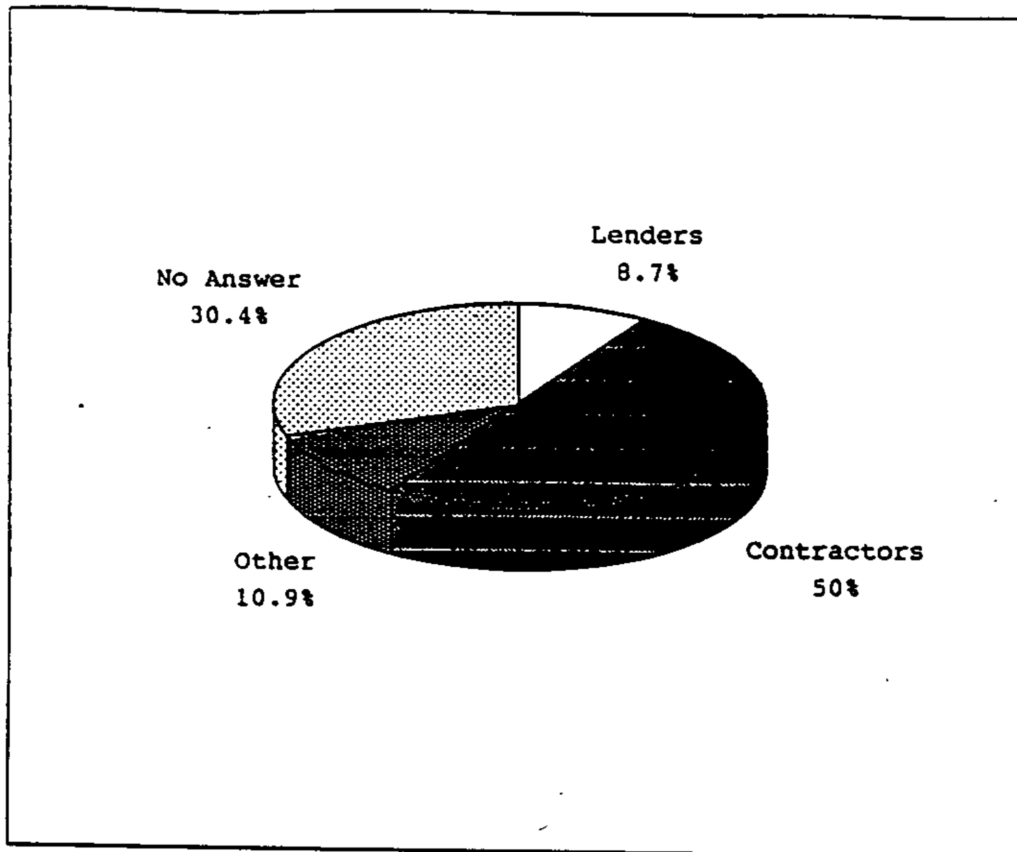

Figure 6.16 Influence Over Appraisals

For the purpose of the survey, the responses of banks and S&Ls were grouped together since their reaction to this question were nearly identical. Among all lenders surveyed, 8.7% stated that the lender most often attempts to influence the appraisal, 30.4% chose not to answer this question and 10.9% stated that the appraisal is more likely to be influenced by other parties. These other parties included the real estate broker and the buyer. In addition, 50.0% of all lenders stated that it was the contractor that most influenced this process. This is a relatively high

percentage compared to the other percentage responses and shows that lenders tend to be suspicious of contractors regarding the property appraisal process.

17. What does your company do to prevent appraisal fraud?
(circle one for each that applies) 1=never to 5=always

( )Nothing	1	2	3	4	5
( )Rely on reputation of appraiser	1	2	3	4	5
( )Independent appraisal consultant	1	2	3	4	5
( )multiple appraisals	1	2	3	4	5
( )in-house review of appraisals	1	2	3	4	5
( )Other________________________	1	2	3	4	5

In previous questions it was found that lenders surveyed felt that the appraisal value does vary significantly from the market value of the property. This discrepancy is often due to the influence or incompetence of parties affiliated with this process. It was also found that, for some lenders, bad appraisals have resulted in subsequent foreclosures. Nonetheless, lenders still rely heavily on the appraisal as one of the better means to determine the value of projects to be funded. As the above question specifies it was important to determine what lenders do to protect themselves and other industry participants from the effects of an inaccurate appraisal.

Lenders were also asked how often each of the precautions are taken. The lender responses were counted only if they were given a frequency rating of 3 or higher. This rating is interpreted to mean that the lender takes this precaution at least half of the time.

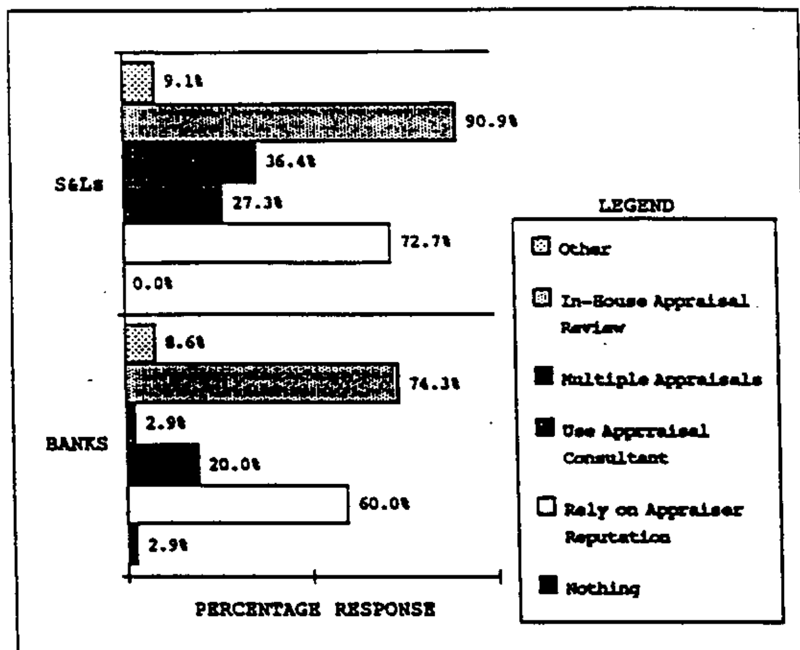

Figure 6.17 Methods Used to Prevent Inaccurate Appraisals

Figure 6.17 shows the most common way by which all lenders avoid bad appraisals is by performing in-house reviews. According to the survey, 90.9% of the S&Ls and 74.3% of the banks rely on this method. However, there is some question as to the skill of these in-house review appraisers since not all of them are licensed by the state and they are not subject to the Uniform Standard of Professional Appraisal Practice (USAP) mandated

by FIRREA (Warren 1992). Since they are not subject to regulatory review, some review appraisers have been known to reject honest, accurate appraisals because they have not been in the interest of the financial institution, not necessarily because they have been inaccurate (Warren 1992). The second strongest response given by lenders was to rely on an appraiser with a good reputation. This response was given by 72.7% of S&Ls and 60.0% of banks.

Early in the information phase, it was discovered from interviews with lenders that the best methods used to avoid inaccurate appraisals are the use of an appraisal consultant or the use of multiple appraisals. However, few lenders in the survey stated that they used these methods. Appraisal consultants were used by 27.3% of S&Ls and by 20.0% of the banks. The multiple appraisal method was used by 36.4% of the S&Ls and only 2.9% of banks. This low response is more than likely due to the greater cost and time involved in having more than one appraisal made.

Very few lenders stated that they did nothing to avoid inaccurate appraisals. Only 2.9% of banks stated this. Finally, 9.1% of S&Ls and 8.6% of banks stated that they used other methods to protect against bad

appraisals. These other methods include having the holding company review the appraiser and having errors and omissions insurance.

18. Do you think the lending industry does enough to prevent appraisal fraud? ( )Yes ( )No

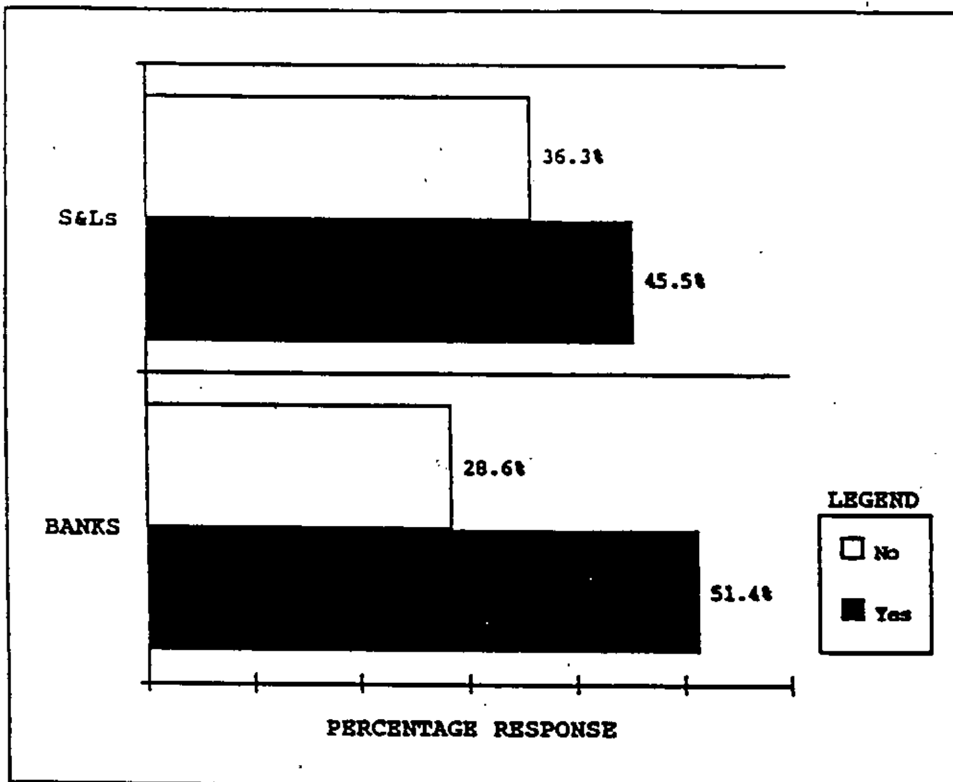

Figure 6.16 Does the Lending Industry Does Enough to Prevent Appraisal Fraud.

The methods considered to be the best in preventing appraisal fraud received much weaker responses as compared to those methods considered satisfactory but not optimal. Lenders were then asked if they believed

that they could do more to protect themselves and other industry participants from the possible effects of inaccurate appraisals. Figure 6.18 shows the majority of lenders believe that the lending industry does enough to prevent appraisal fraud. From the figure, 45.5% of the S&Ls and 51.4% of the banks stated that this was true. However, 36.3% of the S&Ls and 28.6% of the banks believe that lenders must find better ways to remove fraud in appraisals. This percentage represents nearly one third of the banks and S&Ls willing to play a greater role in bringing about more accurate appraisals.

19. Please state the importance of the following evidence a builder must provide to qualify for a residential construction loan. (circle one for each that applies)

1=insignificant to 5=highly important

( )Personal cash position	1	2	3	4	5
( )The reputation of builder	1	2	3	4	5
( )Project equity	1	2	3	4	5
( )Personal guarantees	1	2	3	4	5
( )Project pre sales	1	2	3	4	5
( )Project type and location	1	2	3	4	5
( )Other________________	1	2	3	4	5

In the literature it was seen that it is difficult for developer/builders to obtain funding from lending institutions due to the fear created by the S&L catastrophe and subsequent restrictive regulations. This question was

included in the survey to find out directly from lenders what they feel are the most important factors considered in approving a residential construction loan application. By knowing what lenders look at, builders may, with a bit of work, change their operations to be seen as more attractive investments by lenders. This may allow them to attract more A,D&C loans not only from banks and S&Ls but also from pension funds, insurance companies and the like.

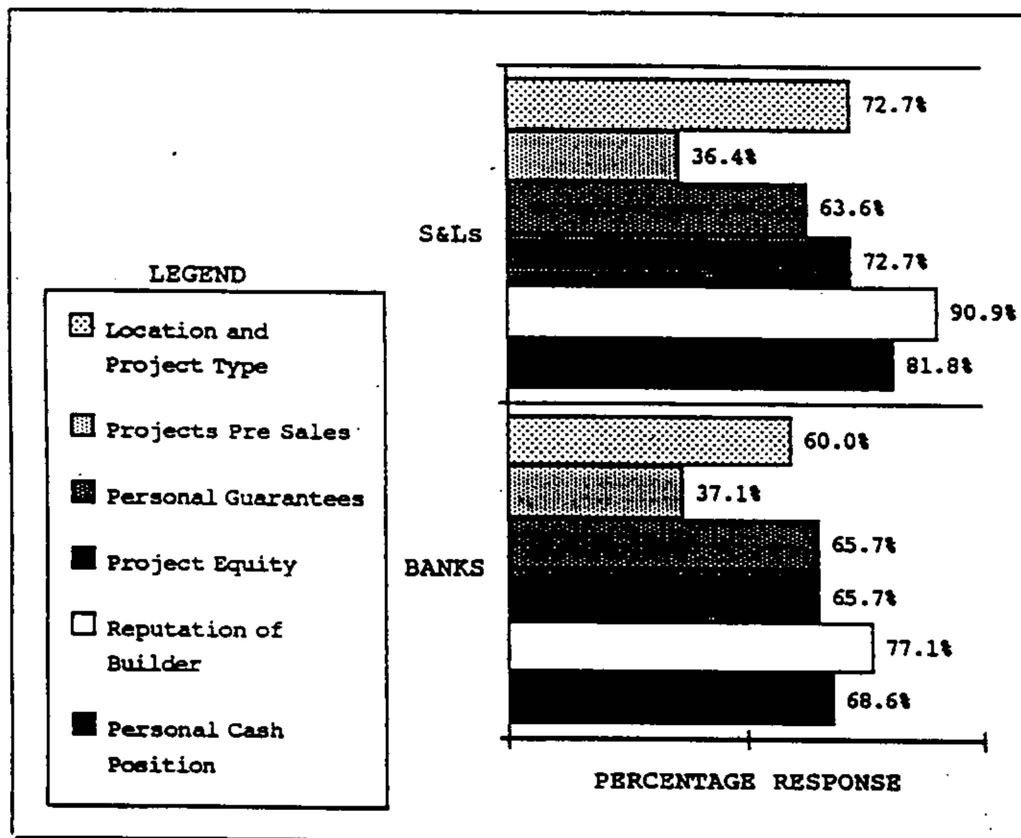

Figure 6.19 Important Items Approving Construction Loan Applications

The information derived from lenders is summarized in Figure 6.19. From interviews during the information phase of this study, it was discovered that the most important factor that lenders looked for in approving construction loan applications is a solid cash position. Second to this was a strong local reputation. However, the results of the survey reverse these two in order of importance.

The greatest number of banks and S&Ls chose the builders reputation as one of the most important factors in approving loans. Evidently, 90.9% of the S&Ls and 77.7% of the banks chose this response. The second most frequently chosen response was a strong cash position of builders as seen by an 81.8% response from the S&Ls and a 68.6% response from the banks. The other options were close behind with strong response rates. For project equity, 72.7% of the S&Ls and 65.7% of banks stated this is an important factor to be considered. The use of personal guarantees received a 63.6% response from the S&Ls and a 65.7% response from the banks. Also, the type of project and its location is considered important by 72.7% of the S&Ls and 60.0% of the banks. Only 36.4% of the S&Ls and 37.1% of the banks stated that project pre-sales are given important consideration.

For the most part, banks consider builder reputation and cash when funding projects. Lenders want to see that developer/ builders have been around a long time and have a reputation of competence and integrity. In addition, they want to see financial strength proving developer/builders have the ability to stay profitable in business. Lenders interpret financial strength in terms of high liquidity. During the information phase of this report, a lender interviewed on this subject stated that banks interpreted liquidity to mean large amounts of cash on hand, preferably $65,000 to $70,000 of debt free capital in a savings account (Seymour 1993).

20. Generally speaking what risk category is assigned to the loan categories below ? (circle one for each that applies)

1=low to 5=high

Residential construction loans	1	2	3	4	5
Commercial construction loans	1	2	3	4	5
Industrial construction loans	1	2	3	4	5

Usually, if there is a large amount risk associated with a loan, lenders will charge a large amount of interest to builders to compensate for the additional risk. Therefore, this question was important to include in the survey since it has cost implications. The intent here was to find the risk assigned to residential construction loans relative to other types of construction loans. Although only the information for residential loans

was analyzed, it was important to include commercial construction and industrial construction loans to assure that lenders would rate the risk of residential construction loans relative to the other two types. In the majority of cases, the risk assigned to residential loans was either low to very low compared to commercial or industrial construction loans.

For the purpose of analyzing the results, a risk rating of 1 to 2 was interpreted as a low risk, a 3 was moderate risk and a 4 to 5 was high risk. The results are illustrated in Figure 6.20.

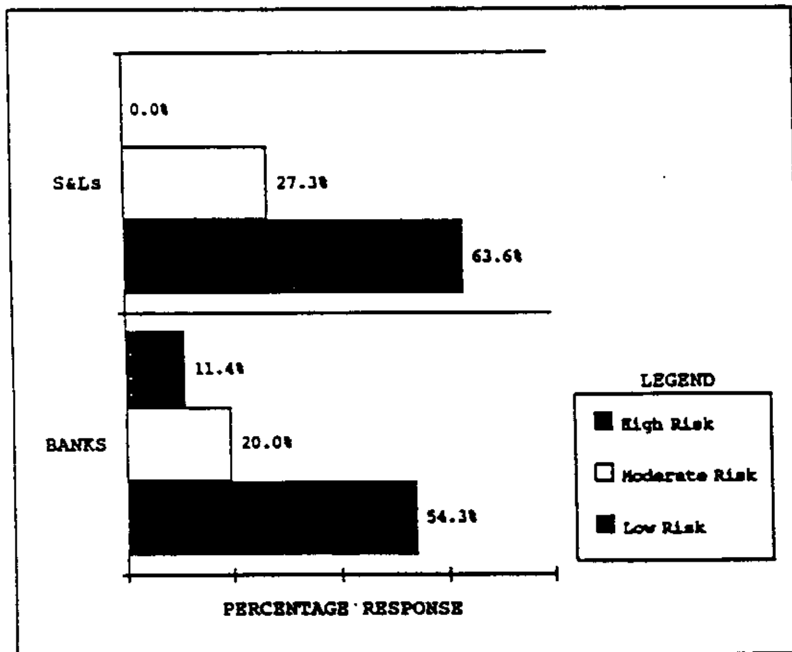

Figure 6.20 Risk Assigned to Residential A,D&C Lending.

The majority of lenders consider residential construction loans as

relatively safe. From the illustration, 63.6% of the S&Ls and 54.5% of the banks stated that residential construction loans have low risk relative to other construction loans. Also, 27.3% of the S&Ls and 20.0% of the banks stated that residential construction loans represent moderated risk. Finally, none of the S&Ls and only 11.4% stated that residential loans can present high risk.

21. Do your underwriting procedures reflect this difference in risk?
( )Yes ( )No

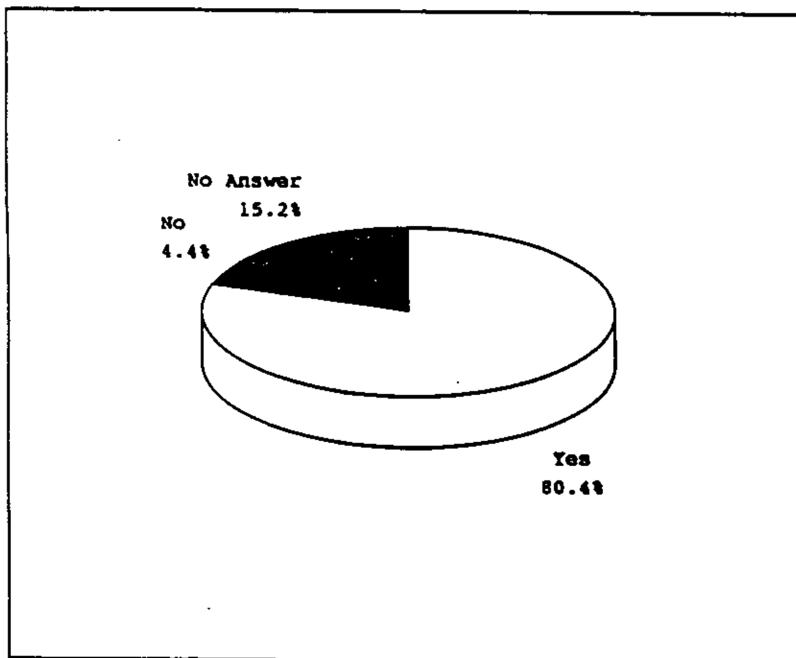

Figure 6.21 Do Lending Policies Reflect Risk Differences in Different Types of Construction Loans.

This question was important to ask because lenders must always take into consideration the degree of risk associated with each type of construction loan. Each type of construction loan has high or low amounts of risk.

A high risk loan is a more expensive loan for the borrower since the interest rate should be higher to compensate the lender for the additional risk incurred. In addition, higher risk loans may be rejected by lenders due to the increased capital requirements they face in taking them on. If lending policies do not take into consideration the lower risk of residential construction, as opposed to other construction loans, residential developer/ builders may be charged more interest or be rejected more than they deserve to be.

The responses of the S&Ls and of the banks were nearly identical and were included together. The results are organized in Figure 6.21. According to the responses, 80.4% of all lending institutions do reflect in their policies the differences in the risks associated with different types of construction loans. Only 4.4% of the lenders did not reflect this difference and 15.2% of them chose not to answer this question.

It should be a relief for developer/builders to know that residential construction loans are regarded as safer loans by lenders and that lender policies reflect this. Although this may not make it easier to get loans

from lenders during this time of tight credit, it will help to know they have an advantage over developer/ builders dealing in more risky construction loans that may be in competition for the same funds.

22. For speculative development do you require any type of feasibility document? (circle each one that applies) 1=never to 5=always

( )Return on investment analysis	1	2	3	4	5
( )Market Demand Investigation	1	2	3	4	5
( )Site analysis	1	2	3	4	5
( )Other____________________	1	2	3	4	5

Speculative lending may be considered by many to be the most risky area of residential construction. Lending institutions should consider this added risk and take greater precautions to insure that the project will succeed.

There are a variety of studies that can be performed by lending institutions to tell whether or not a project has a good chance of being profitable. According to the survey, all given types of studies or documentation were given high response rates.

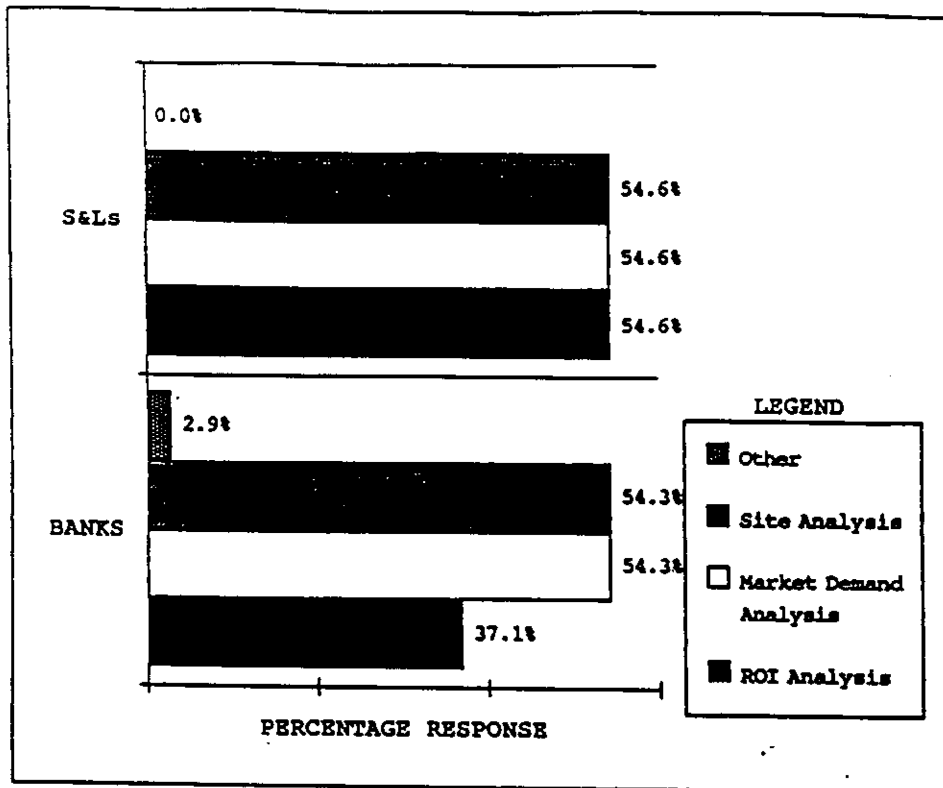

Figure 6.22 Documents Required for Speculative Residential Construction.

For both the market demand analysis and the site analysis, 54.6% of the S&Ls and 54.3% of the banks stated that they required these at least half the time in issuing loans for speculative construction projects. Also, 54.6% of the of the S&Ls and 37.6% of the banks stated that they required a return on investment analysis at least for half of their speculative projects. Only 2.9% of the banks stated that they relied on other methods not listed in the question, but they did not mention what these other methods included.

23. Does your institution actually research the demand relative the supply of the type of residential project before the loan is approved? ( )Yes ( )No

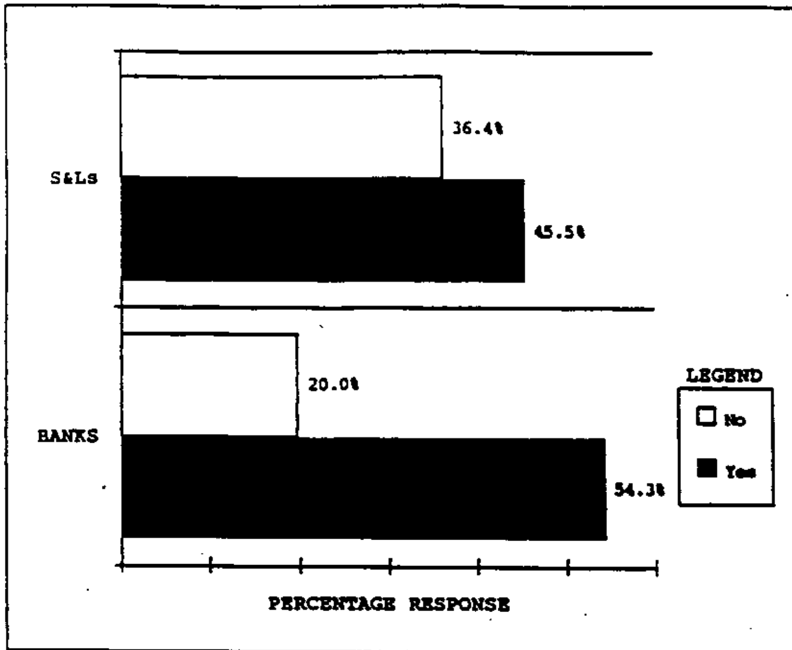

Figure 6.23 Lender Research on the Demand/Supply for Each Project Funded.

Researching the demand, relative the supply, is very important in residential construction lending. If there is an excess supply in the market, relative to the demand, new residential space supplied by a project will not be "absorbed" by the market. The result is that the project may not be sold, permanent financing may not be found and, to the dismay of the lender, the construction loan may not get paid.

Each residential construction project should have the financial strength to

stand on its own merits and one of the methods used to determine whether it does or not is through the market demand analysis. Further, there are a variety of residential construction markets each geared toward a particular consumer. There may be an excess supply, relative the demand, in one market and a great demand, relative the supply, in the other. Many lenders believe with little or no analysis of market demand for the type of residential project, they may never know whether or not there is sufficient demand for a particular type of project.

According to Figure 6.23, the majority of the lenders stated that they do research the demand, relative the supply, for the type of residential project as indicated by 45.5% of the S&Ls and 54.3% of the banks. However, 36.4% of the S&Ls and 20.0% of the banks stated that they do not research this area for the type of residential project done.

24. Do you administer residential construction loans with a department or division separate from other commercial real estate loans ?
( ) Yes ( ) No

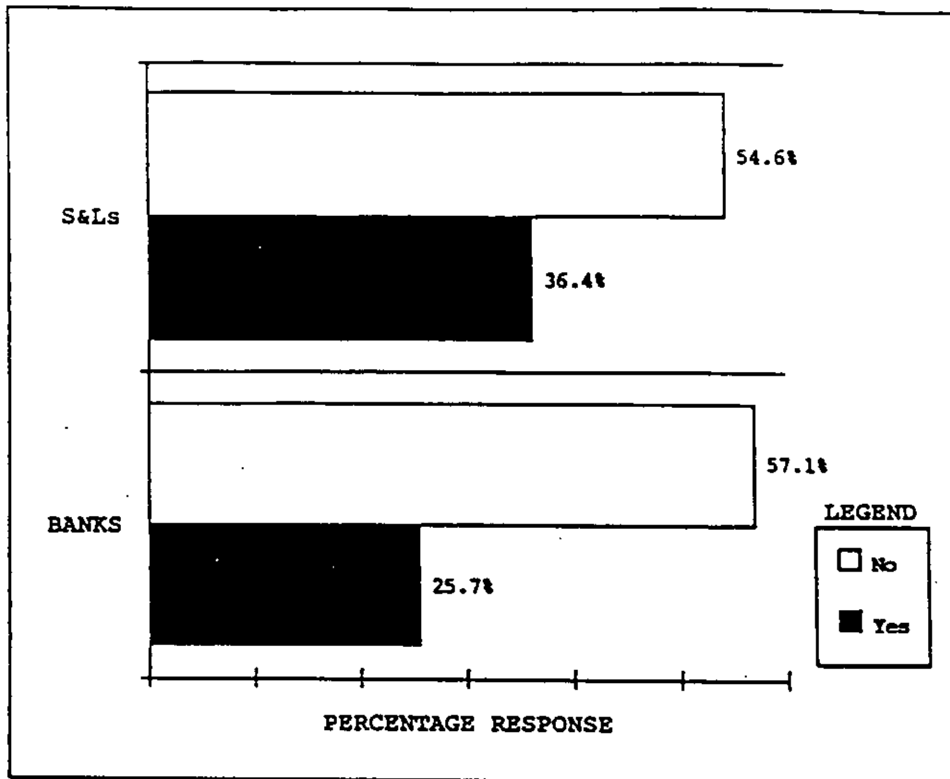

Figure 6.24 Does the Lender Issue Construction Loans Through Construction Loan Departments.

From the outset of this study, it was stated that one of the major problems in the industry is the failure to properly analyze the risk associated with residential construction loans. This question was included because many in the residential construction industry believe that lenders should form separate construction loan departments to deal with these special problems. The responses of lenders are summarized in Figure 6.24.

It is seen that the majority of all lenders do not issue residential construction loans through commercial loan departments. According to the survey 54.6% of the S&Ls and 57.1% of the banks do not have construction loan departments. However, 36.4% of the S&Ls and 25.7% of the banks do have them. This is an area in which lending institutions can minimize their risk and provide greater protection to depositors.

Separate construction loan departments are better able to approve, manage and collect construction loans than commercial loan departments. Lenders can play a greater role to protect all those involved in residential construction by improving in this area.

25. If yes to the above question, does your Residential Construction Loan Group include staff experienced in the Residential Construction Industry ? ( ) Yes ( ) No

This question was incorporated into the survey to make sure, if residential construction loan departments are used, that they have the potential to operate effectively. For this to occur, these departments must be staffed with personnel experienced in residential construction. Lending officers must be trained to avoid problems exclusive to A,D&C

lending. Some of these problems may include judging poorly the actual progress of construction and paying ahead of construction, failing to request lien waivers from subcontractors, lacking knowledge of reputable developer/builders in the area, etc.

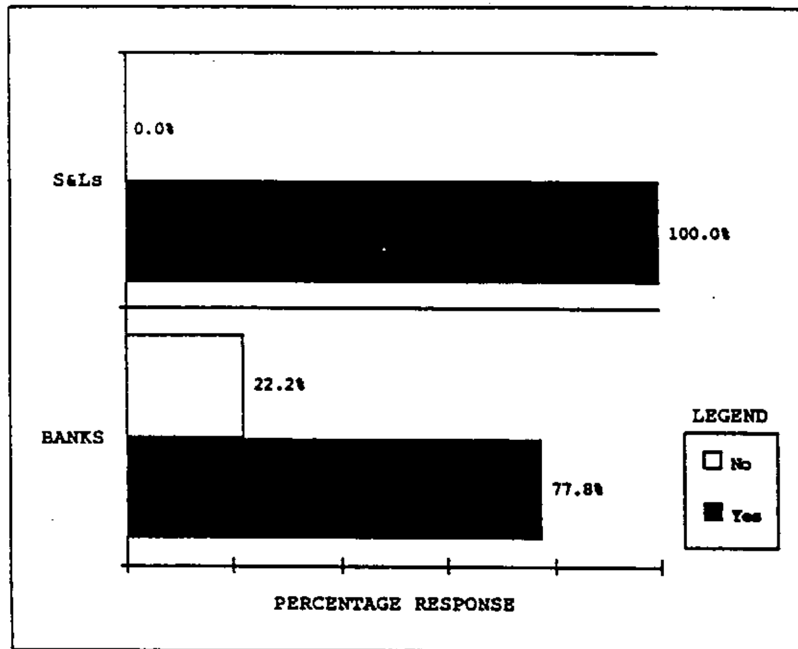

Figure 6.24 Lenders With Construction Loan Departments that Have Staff Experienced in Residential Construction.

From Figure 6.24, surveyed lending institutions felt that construction loan departments had to include staff knowledgeable in construction. Of those surveyed, 100% of the S&Ls and 77.8% of the banks responded that their construction loan departments have this skilled staff. Only 22.2% of the banks stated that this was not the case. This indicates that most lending

institutions, that have construction loan departments, understand the importance of specialized staff needed to run them.

26. Do you make construction loans even when you are not interested in the permanent financing of the project ? ( ) Yes ( ) No

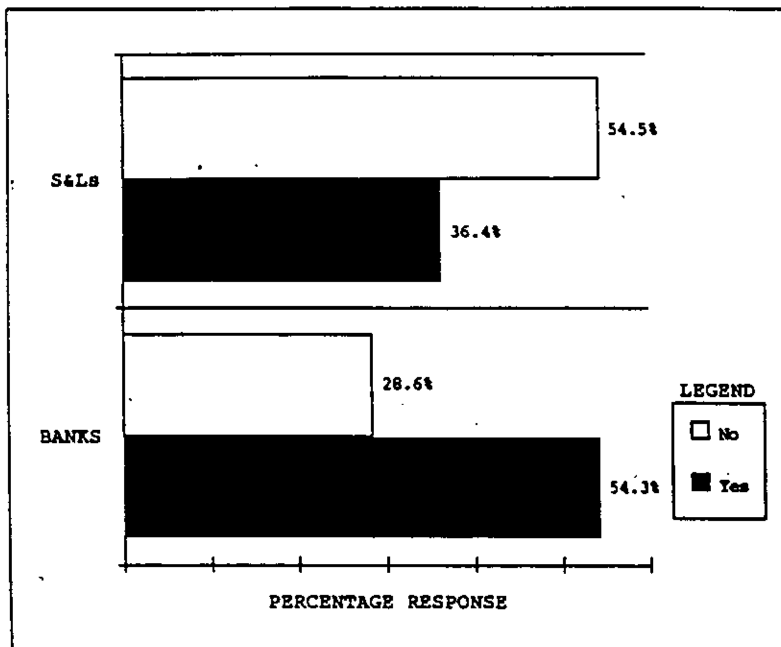

Figure 6-26 Lenders Making Construction Loans Separate From Permanent loans

From Figure 6.26, it is evident that the majority of the banks did issue construction loans without being interested in the permanent financing of the project. However, S&Ls did not. Of the banks, 54.3% stated that they did issue construction loans separate from permanent loans. Only, 28.6% responded that they were looking to issue the permanent loan. S&Ls were

nearly opposite to banks with 54.5% stating that they wanted to issue the permanent financing. Further, 36.4% stated that this was not the case.

It was expected that the S&Ls would respond this way, as compared to banks. They are being pushed in this direction by the tough regulatory requirements of FIRREA. Banks seemed to be issuing more construction loans separate from long term financing since they want to take advantage of the higher interest rates offered to increase profits and to offer higher depositor interest rates.

27. If yes to the above question, what requirements do you have for there to be permanent financing in place before the construction loan is made ?

Even though some lenders are not interested in the permanent financing of the project, most of them require developer/builders to have a commitment from another lender that the permanent loan will be provided. For the construction lender, the possibility of the developer/builder obtaining a permanent loan is one of the most important things considered before the construction loan can be issued. Generally speaking, the permanent loan is used to pay for the construction loan. Without it, the

lender has less of a guarantee that the construction loan will get paid.

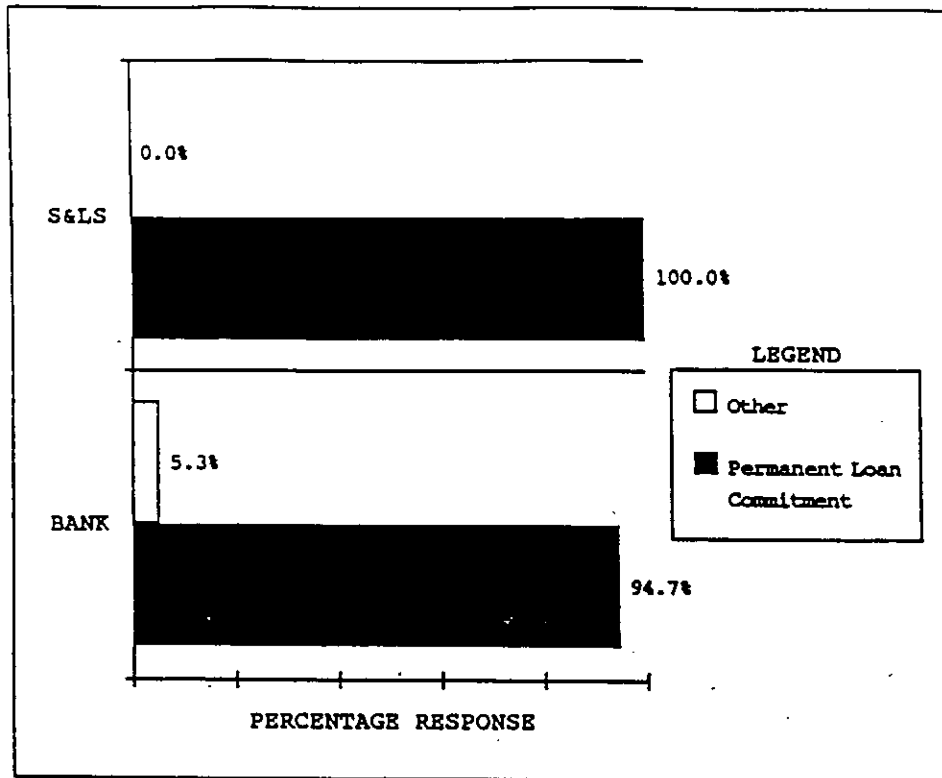

Figure 6.27 Requirements for Issuing Construction Loans Separate From Permanent Loans.

According to the survey, the lenders stated that they either require an unconditional permanent loan commitment, greater equity or some other arrangement depending on the situation. Out of these nearly all of the lenders stated that they required a permanent loan commitment. For this reason, the responses were organized into two categories consisting of requiring a commitment and requiring some other arrangements. These results are exhibited in Figure 6.27.

According to the survey, 100% of the S&Ls and 94.7% of the banks that did issue construction loans, without the permanent financing, did require permanent loan commitments from somewhere else. Only 5.3% of the banks stated that they would issue a construction loan with greater equity or some other guarantee. These results show that lenders understand the importance of having a permanent loan commitment.

28. Do you feel that when a developer/builder makes an application for a residential AD&C loan, they typically represent: (check one)
    ( ) their true financial position ?
    ( ) a slightly exaggerated financial position?
    ( ) a highly exaggerated financial position ?

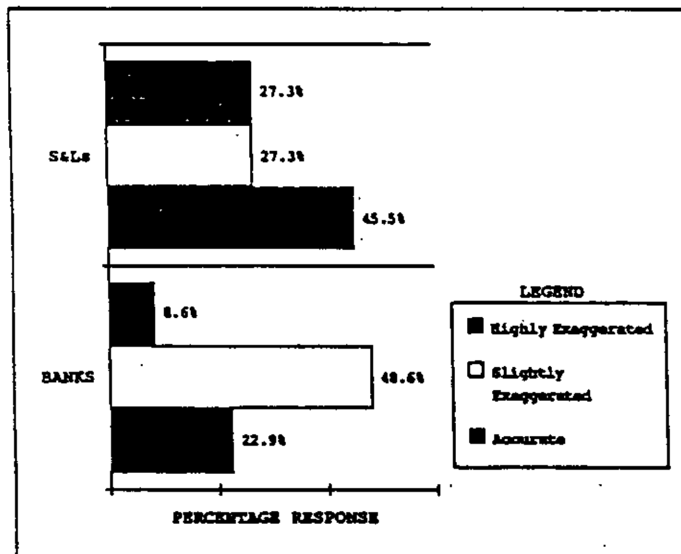

Figure 5-28 Accuracy of Developer/Builder's Stated Financial Positions.

Due to the S&L crisis and the resulting restrictive laws, lenders have had to tighten their lending policies or even pull out of residential A,D&C lending altogether. This has left developer/builders with a crippling shortage of credit that has stifled their profits. Lenders understand that developer/builders are desperate for investment capital and may cause their statements of financial position to look better than they really are. For this reason, it was important to determine to what extent lenders feel that builders exaggerate their financial strength. This will not only help to summarize the opinion of the lending industry but it will also help builders to understand how they are viewed by lenders when applying for A,D&C loans.

Figure 5-28 shows that most of the lenders surveyed believe that developer/builders do exaggerate their stated financial position. The responses indicated that 27.3% of the S&Ls and 8.6% of the banks believe that developer/ builders highly exaggerate their stated financial position. Another 27.3% of the S&Ls and 48.6% of the banks stated that developer/ builders slightly exaggerate their financial position. Since the response options are mutually exclusive, the response percentages may be added for this discussion. Therefore, by simple addition, 54.6% of all S&Ls and

57.2% of the banks stated that developer/builders exaggerated their financial position to some degree.

There was also strong indication that some lenders believe the accuracy of the stated financial position of builders. Surprisingly, 45.5% of S&Ls and 22.9% of the banks believed that developer/builders stated accurately this information. It appears that S&Ls would be more likely to believe the accuracy of a builder's stated financial position than would banks.

29. What available means do you use to verify a developer's true financial position ? (circle each one that applies) 1=never to 5=always

( )Certified financial statement	1	2	3	4	5
( )In-depth investigation of financial statement	1	2	3	4	5
( )Interview people doing business with developer	1	2	3	4	5
( )Dun & Bradstreet	1	2	3	4	5
( )Other________________	1	2	3	4	5

This question was asked in order to find the most commonly used method for checking a developer's financial strength. Similar to other questions, the lender was able to identify the frequency of each response option by rating it from 1 to 5 as explained in the question. Once again, only those

responses with a rating of 3 and above were counted since it was important that the lender rely on this option at least half of the time.

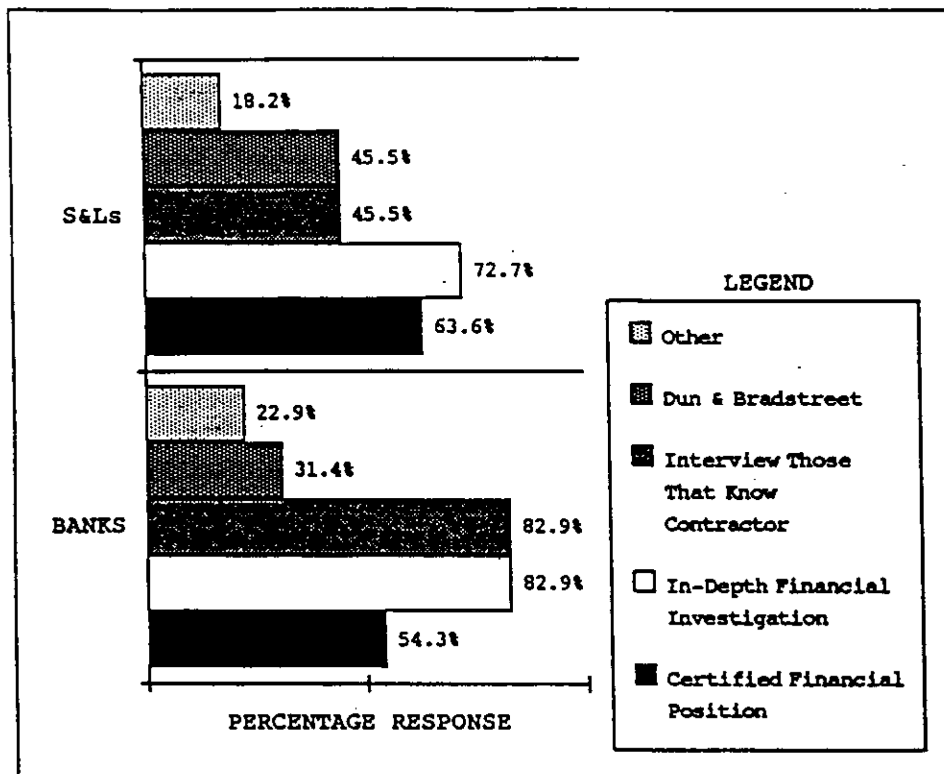

Figure 6.28 Methods Used to Verify True Financial Position

The results of the lender survey are shown in Figure 6.29. The greatest number of lenders stated that they preferred doing an in-depth financial investigation as seen by 72.7% of the S&Ls and 82.9% of the banks. Lenders believe this method is most accurate and reliable. In addition, 45.5% of the S&Ls and 82.9% of the banks stated that they interviewed those doing business with the contractor. It seems that S&Ls believe that

interviews are not as believable as the more formal methods of verifying financial strength. This can be seen by the fact that 63.6% of the S&Ls as opposed to 54.3% of banks use certified financial statements. Apparently, S&Ls interview less and make up for them using other methods.

Dun & Bradstreet reports generated comparatively fewer responses from lenders as seen by 45.5% of the S&Ls and 31.4% of the banks. Apparently, lending institutions are not able to find all of the detailed information in these reports that is necessary for the issuance of loans. Finally, 18.2% of the S&Ls and 22.9% of the banks stated they relied on other methods to verify the developer/builder's financial position. These other methods included reviewing the developer/builder's tax returns, financial references, and credit reports.

30. Do you find developers willing to admit concerns that they may have about other projects they own that might cause them financial setbacks ? ( ) Yes ( ) No

This question sought to find information along the same lines as question twenty-eight which inquired whether developer/builders exaggerate their financial position. Lenders are very interested that the loan application present as much information as possible that bears on the risk of the

project.

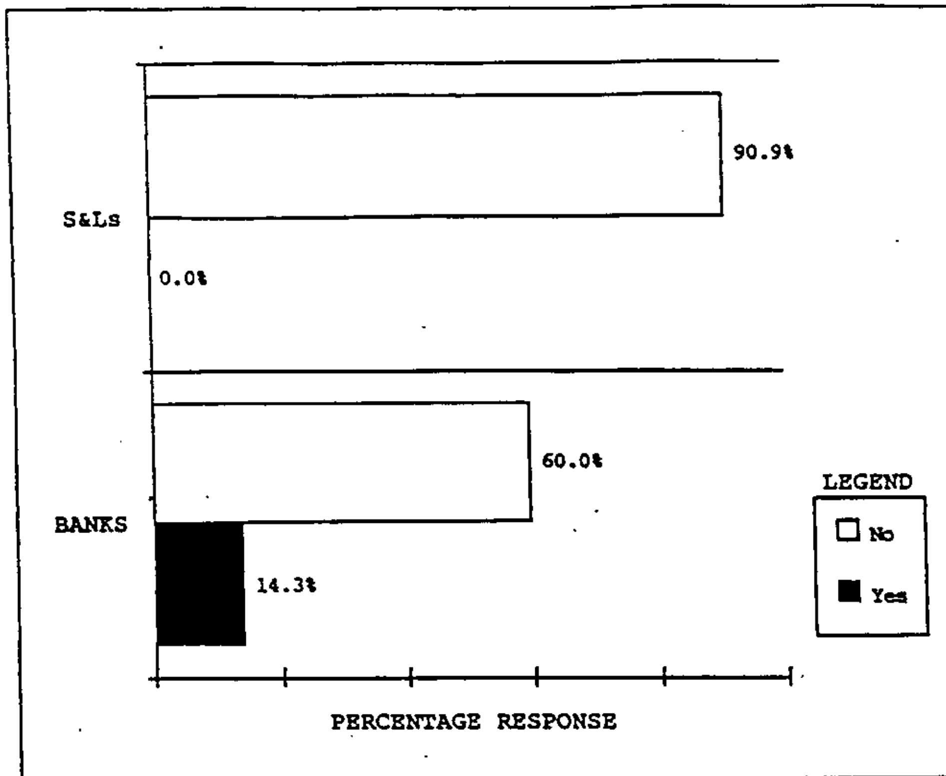

Figure 6.30 Do Builders Admit Possible Financial Setbacks

They also expect for that information to be as accurate as possible. Many residential developers today have more than one project under way at one time. It is possible for some of those projects to be in a state of financial difficulty. These mismanaged projects will not only weaken the developer's financial position, but they will also make it difficult to financially manage projects that are doing well. This problem also encourages developers to commingle funds.

The results are summarized in Figure 6.30. The vast majority of the lenders do not believe that developer/builders are willing to admit concerns of possible setbacks. S&Ls seemed to be much more cynical than were banks. According to the survey, 90.9% of the S&Ls stated that developers were not willing to admit this. None of S&Ls stated a contradictory response. Banks gave a slightly weaker response with 60.0% stating that developers did not admit possible financial setbacks and 14.3% stating that they do.

31. What steps do you take to assure that the developer/contractor is reputable to construct the project? (circle one for each that applies) 1=never to 5=always

( )Investigate with the Construction Industry Licensing Board(CILB)	1	2	3	4	5
( )Submittal of a developer/contractor qualification statement	1	2	3	4	5
( )Interview with architects/engineers	1	2	3	4	5
( )Interview developers/ contractors	1	2	3	4	5
( ) Other ______	1	2	3	4	5

All lending institutions have an obligation to ensure that builders not only have the technical competence but also the financial expertise to build the projects to be funded. Since builders need the investment capital being loaned, they must submit to the terms of the loan contract. This places

the lenders in a key position to impose terms on the developer/builder that would include making sure that he/she has the ability to finish the project in a satisfactory manner. This protects the lender's stake and also the entire industry in general.

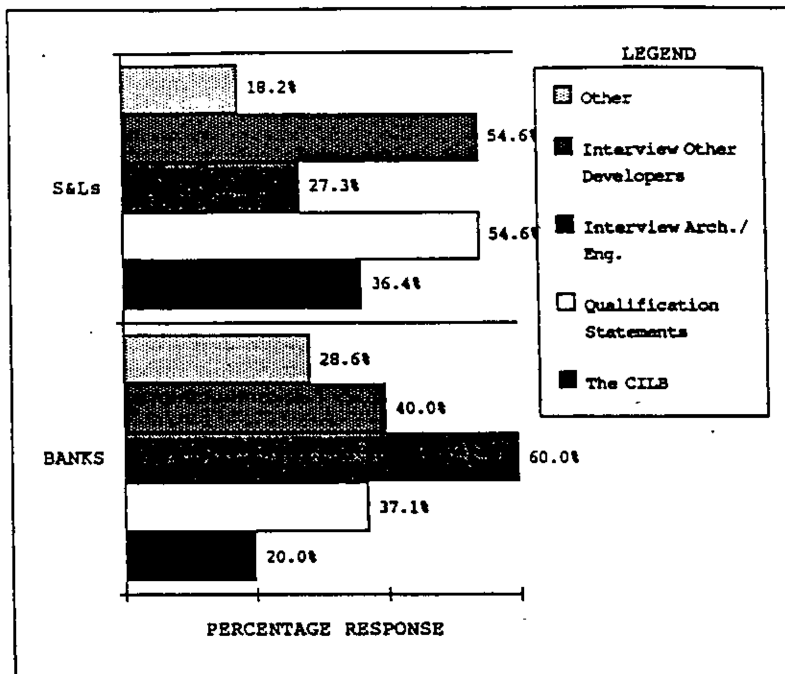

Figure 5-31 Measures Taken to Assure the Developer / Contractor's Competence.

Some of the methods that the lender may use to ensure that the developer/contractor has the ability to finish the project are listed in the question above. The lender may seek information from the Construction Industry Licensing Board which is responsible for the licensing of construction professionals in the state. Detailed information may be

obtained from this agency on the track record of all licensed contractors. This method entails perhaps one of the richest sources of information on the competency of licensed construction professionals. Lenders may also review developer qualification statements which consist of a document containing evidence of past work of the developer/ contractor.

Some lenders can also interview architects, engineers as well as other developers who are familiar with the intended borrower. Lenders participating in the survey were also given a response option for other methods not mentioned above. Finally, lenders were allowed to rate the frequency of each response option and only those responses with a rating of 3 and above were counted. These were interpreted to mean that lenders used these measures at least half the time. The responses of lenders are summarized in Figure 6.31.

From the figure, it appears that S&Ls and banks place more reliance on different methods to verify a developer/ contractor's competence. The majority of the banks, with a 60.0% response, rely on interviews with architects and engineers to assure that the developer/contractor is competent. In addition, 40.0% relied on interviews with other developers

and 37.1% relied on developer qualification statements.

For S&Ls the opposite was true as seen by the placement of emphasis on those areas that banks felt were not as important. Only a weak 27.3% of the S&Ls stated that they relied on interviews with the architect and engineers to verify the developer/ contractors competence. Further, 54.6%, the majority of the S&Ls, stated that they both interview other developers and use developer qualification statements to find out about the developer.

Lenders gave a comparatively weak response for using the CILB which is one of the most accurate methods available for checking on the developer/contractor. Perhaps not enough lenders know that this information source does exist and is available to them. Finally, 18.2% of the S&Ls and 28.6% of the banks stated that they relied on methods not mentioned in the above response options. Lenders stated such methods as using financial institution reference of the developer/builder, doing trade checks, interviewing past buyers, interviewing subcontractors and suppliers that have dealt with the developer/builders and using personal knowledge of the builder.

32. What is the most reliable method to monitor the monthly construction draw to insure that the project is not overdrawn ? (please check one)
( )Outside construction consultant
( )Architect of record
( )In-house bank official
( )Other______________________

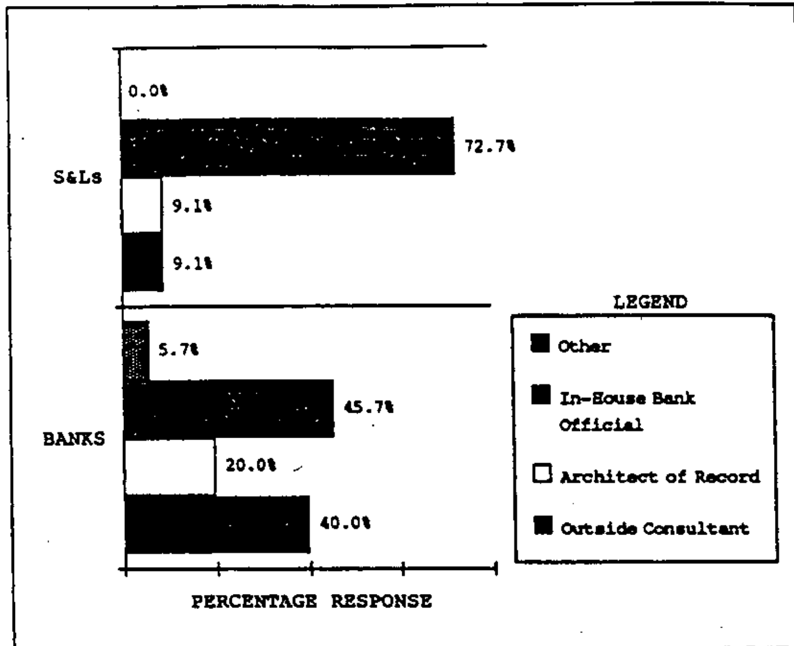

Figure 6.32 Most Reliable Methods to Monitor the Construction Draw.

A variety of methods may be used to make sure this does not happen. An outside construction consultant may be used to monitor the progress of construction. The architect may be held responsible to make sure that payments are made according to progress. The bank may also have experts on staff that have been trained to manage the loan disbursements

according to the set schedule of values or agreed percentages of completion. Also, all lenders were given an open ended option to state other means that they use that were not included as possible responses. The lender responses are illustrated in Figure 6.32.

The strongest responses of lenders were for the use of in-house bank officials. From the illustration, 72.7% of the S&Ls and 45.7% of the banks stated that they used this method. S&Ls like to use this method more than banks and they neglect the other methods. Likewise, banks do not use the in-house official as much, but they take greater advantage of other techniques. This can be seen from 9.1% of the S&Ls compared to 20.0% of the banks stating that they use the architect of record to monitor payments. Also, 9.1% of S&Ls as compared to 40.0% of banks stated that they use an outside consultant. There is really no apparent reason for S&Ls to use the in-house bank official this extensively except that they may be more comfortable and more accustomed to using this method.

33. Under what circumstances would you lend to a developer/ contractor who has a previous record of cost over runs and/or difficulty in repaying loans?
(circle all that apply) 1=never to 5=always

( )Never	1	2	3	4	5
( )Greater up-front equity	1	2	3	4	5
( )With a co-signature of a financial partnership	1	2	3	4	5
( )Other _______________	1	2	3	4	5

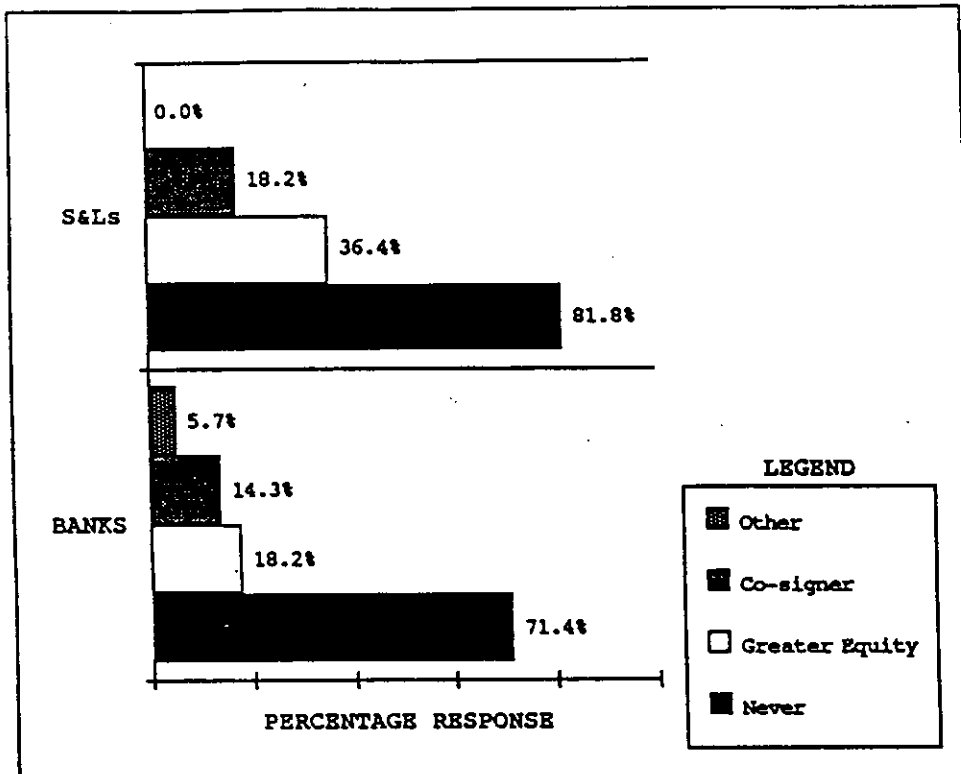

Figure 5-33 Circumstances Under Which Lenders Deal With Developers with Past Financial Difficulty.

The purpose of this question was to find how flexible lenders were in funding developers that have a record of past financial difficulty. The results indicate that lenders were very pessimistic of developer/builders

in this situation as seen in Figure 6.33. The vast majority of the lenders would not fund developers with poor track records. According to the survey, 81.8% of the S&Ls and 71.4% of the banks stated that they would never lend money to developers under these circumstances.

Some lenders were open to these builders but they represented a small minority of the lending industry. Apparently, lenders were more willing to work with greater equity than with the co-signature of a financial partner. As shown in the illustration, 36.4% of the S&Ls and 18.2% of the banks stated that they would consider these builders with greater equity. This may be compared with 18.2% of the S&Ls and 14.3% of the banks stating that they would consider these builders with a co-signer. Only 5.7% of the banks stated that they would consider other options but they failed to state what those options might be.

From this and previous questions, it appears that one of the best assets that residential developer/builders have is their local reputation. However, the minute that reputation is stained due to negligence or financial irresponsibility, developer/builders will have little hope of being funded especially now in an era of tight money. Lenders show

financial responsibility and safe policies by dealing in this way with builders.

34. What precautions do you take to insure that a developer/ contractor does not commingle funds of different projects or take dollars drawn for hard costs to pay for other projects or to pay soft costs ? (circle one for each that applies) 1=never to 5=always

( )None	1	2	3	4	5
( )Builder certification on disbursements	1	2	3	4	5
( )Audit of Builder records	1	2	3	4	5
( )Review of builder banking records	1	2	3	4	5
( )Other________________	1	2	3	4	5

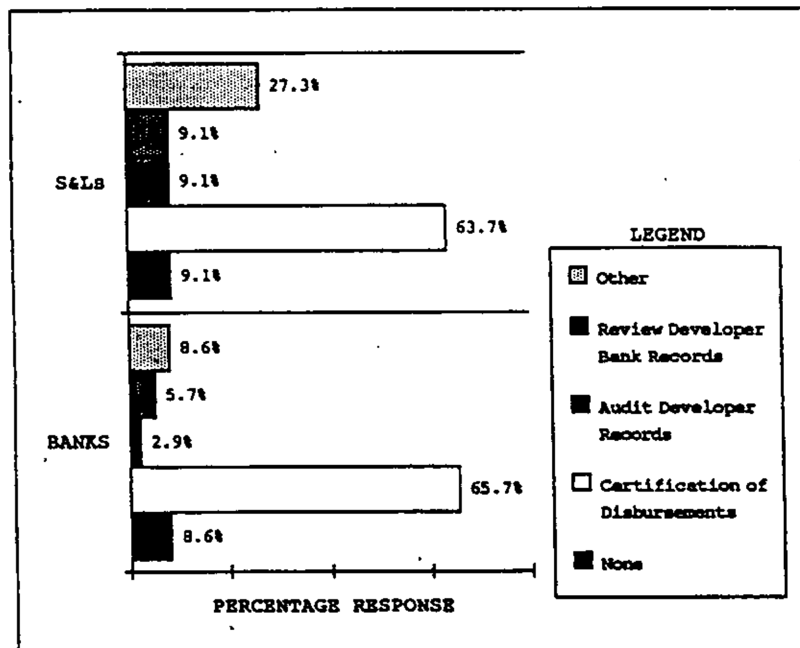

Figure 6.34 Methods Used to Protect Against the Commingling of Funds.

The commingling of funds is a serious dilemma in the residential industry.

In the information phase of this study, the majority of residential developer/builders that were interviewed stated they frequently engage in this activity and that it was common industry practice to do so. Once again, lenders rated each answer with a frequency of occurrence of 1 to 5. Only answers of 3 and above were chosen since the response could only be valid if the lenders rely on it at least half of the time. The responses of lenders are shown in Figure 6.34.

Both the S&Ls and the banks gave the strongest response for using the certification on disbursement method. According to the survey, 63.7% of the S&Ls and 65.7% of the banks stated that they used this method at least half of the time. A much lower response was given for the other options. The figure shows that 9.1% of the S&Ls and 5.7% of the banks stated that they reviewed the developer/builder's bank records. In addition, 9.1% of the S&Ls and 2.9% of the banks stated that they audited the developer/builder's records.

Only a small minority stated that they do nothing to the prevent the commingling of funds as seen by 9.1% of the S&Ls and 8.6% of the banks. Finally, 27.3% of the S&Ls and 8.6% of the banks replied that they used

other methods besides those mentioned in the response options. These additional options included staying in touch with suppliers and subcontractors to make sure they get paid, requiring lien releases and staying in touch with the builder to make sure that the projects remains financially sound.

Lenders seem to rely almost exclusively on the certification of disbursements to protect themselves. This may be due to the fact that it is a less time consuming and less expensive method to carry out on the part of lenders. Also, it does not require to much work from the developer/ builder so it preserves a more benign relationship between the lender and the borrower.

35. Do you believe the Lending Industry should become more responsible for insuring that all parties for whom moneys are drawn are in fact paid with those funds ?
( ) Yes ( ) No

This was a key question to ask lenders because so many issues within the industry have to do with subcontractors not getting paid for one reason or another. Lenders are in a key position to require developers/builders to fulfill certain requirements as a condition of receiving the loan. They may

impose requirements that would not only reduce their risk but also guarantee that all construction laborers get paid correctly. The responses of lenders are exhibited in Figure 6.35.

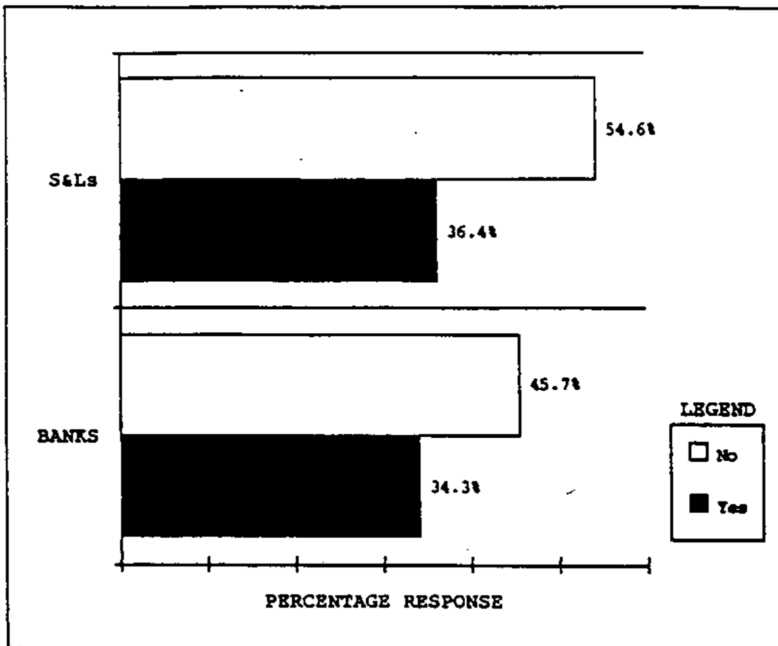

Figure 6.35 Lenders to Accept More Responsibility to Ensure Parties Entitled to Part of the Draw are Paid.

The overall consensus among the lending industry is that, presently, enough is being done. According to the survey, 54.6% of S&Ls and 45.7% of the banks stated that they were not willing to do more to ensure that subcontractors, suppliers and others get paid. There were some in the industry that felt differently. Evidently, 36.4% of the S&Ls and 34.3% of the banks stated that lenders should do more than they do presently.

There were strong remarks from some of the lenders that did not want greater responsibility. One representative of a lending institution summarized the majority opinion when he stated,

"...Why should the lender be made responsible to anyone but the owner/borrower?..."

Another comment received stated the following:

"...Monitoring of the payments to ensure that all get paid down the chain would be very cost prohibitive...."

36. Do you believe that lenders should be required to set aside the portion of the Loan for Construction Costs and that there should be restrictions on the owner and lender to use those funds for other purposes ? ( ) Yes ( ) No

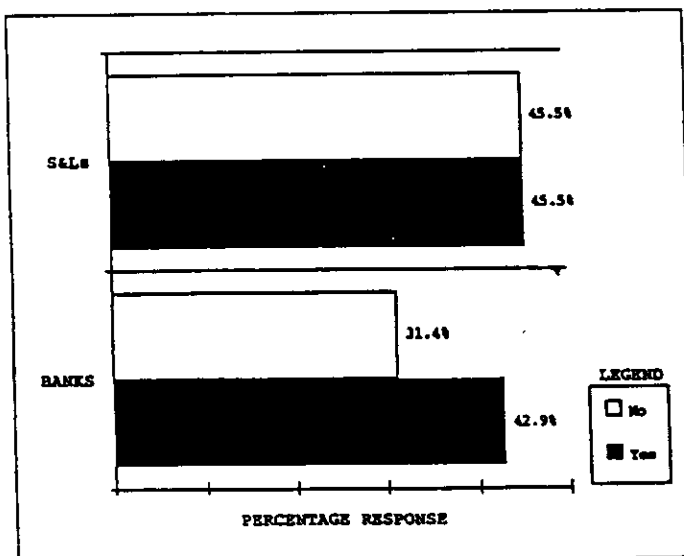

Figure 6.36 Should Funds for Hard Costs be Restricted

A limited amount of funds available to cover construction. Those subcontractors that finish their work or suppliers that furnish materials toward the end of the project are placed at high risk since there may not be enough money at that time with which to pay them. In addition, if the developer/ builder defaults on the loan and has used up some of the hard costs to cover the soft costs, or has commingled funds, the lender may foreclose on the property and put all affiliated with the project in jeopardy of not getting paid. In this case, the lender is the first lien holder and may take over the project, according to the In addition, if the developer/ builder defaults on the loan and has used up some of the hard costs to cover the soft costs, or has commingled funds, the lender may foreclose on the property and put all affiliated with the project in jeopardy of not getting paid.

In this case, the lender is the first lien holder and may take over the project, according to the loan contract. The lender is under no obligation to pay those parties that have worked on the project prior to default but have not been paid. This is a serious problem and perhaps the best solution is simply to require that the money intended for construction be set aside and used only for this purpose.

This requirement is not a new idea, it has been around for some time. Many construction companies that have surety with a large surety company are often required to assure that the funds intended only for construction are set aside and used only for this purpose. However, this is not always the case and sometimes developer/builders have little restriction on the use of funds. According to Figure 6.36, the majority of the lenders responding to the survey stated that they would accept being restricted in using the construction cost accounts only for this purpose.

According to the survey, 45.5% of the S&Ls and 42.9% of the banks stated that they would be willing to do this. However, a strong percentage of the responses were opposed to this as seen by 45.5% of the S&Ls and 31.4% of the banks. For the most part, the industry seems to be split on its opinion regarding this matter.

37. Do you believe that the lender should be required to give notice to the subcontractors in the event of a default by the developer ?
( ) Yes ( ) No

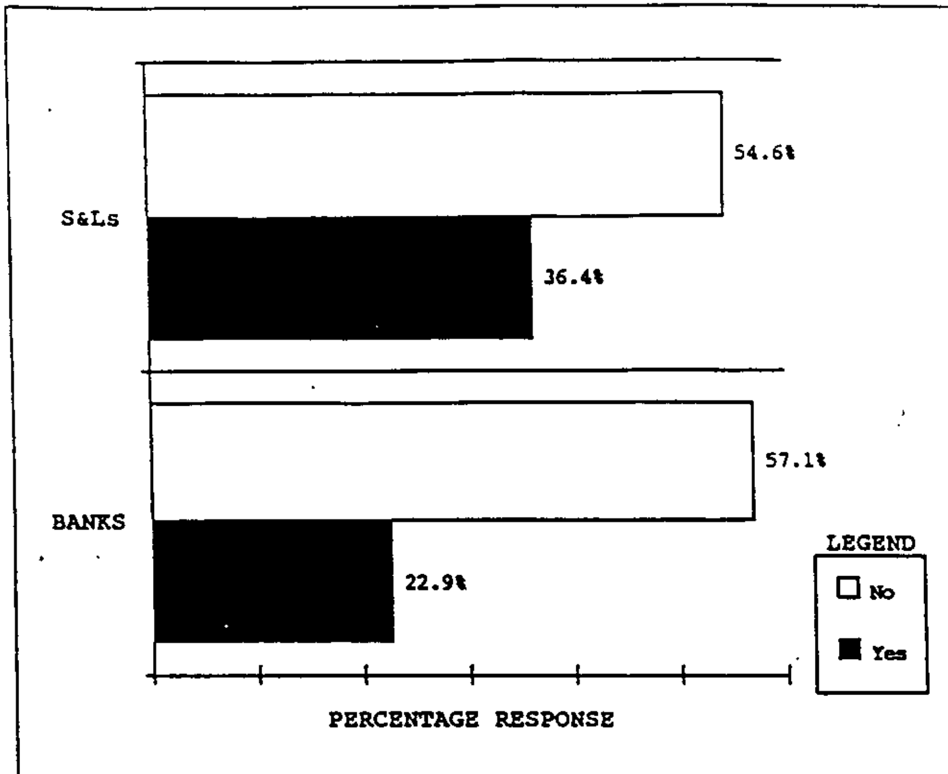

Figure 6.37 Lenders Willing to Give Subcontractors Notice of Developer/Contractor Default.

This question, similar to the last few questions, asks lenders whether or not they are willing to use their key position in the residential construction industry to protect those that may be exposed to greater risk. In particular, this question deals with the problems that result when the developer defaults on the construction loan.

Lenders only have "contract privity" with the developer/builder and have no real obligation to inform subcontractors and suppliers of the

developer/builder's default. Contract privity between the lender and borrower means they have a legally binding contractual relationship with one another. News of a developer's default may be vital for those under the developer/builder to limit their losses in this situation. However, lenders may not want to inform subcontractors working under the developer/builder since this may only complicate the situation by stopping the work, creating project delays and creating greater uncertainty throughout construction.

However, subcontractors are placed at great risk when not informed in this situation. The project may be in trouble, face default and foreclosure while the subcontractors, suppliers and others are still bringing about improvements to the property for which they may never get paid. It is possible, if a loan draw request has just been submitted and is due within the next 30 days, for subcontractors to work an additional 30 days beyond this before they receive payment. This adds up to a possible 60 days of accumulated, unpaid work which can translate into hundreds of thousands of dollars worth of property improvements for which subcontractors will never be reimbursed.

If the developer/builder defaults at this point he/she can not pay the subcontractor and suppliers for this work. The lender, usually has first lien on the property and a contractual obligation only to the developer/builder. The lender is under no obligation to pay for any improvements done to the property before the developer defaults. It is only responsible after foreclosure. If lenders would communicate the news of the default, subcontractors could stop work immediately and forego greater losses. As can be seen, this question covers an important issue related to lender responsibility. The lender responses are summarized in Figure 6.37.

The majority of the lenders were not willing to give subcontractors notice of developer/contractor default. According to the survey, 54.6% of S&Ls and 57.1% of the banks stated this was the case. Obviously, lenders are not willing to complicate an already complicated situation by involving subcontractors within the lender-borrower relationship. Despite this, 36.4% of the S&Ls and 22.9% of the banks stated that they would be willing to inform subcontractors. They believe it is their responsibility to limit losses within the industry if it is within their power. However, they represent the minority opinion of the A,D&C lending industry.

38. Should the lender be required to pay for all improvements made prior to the date of the default by the developer/ contractor ?
( ) Yes ( ) No

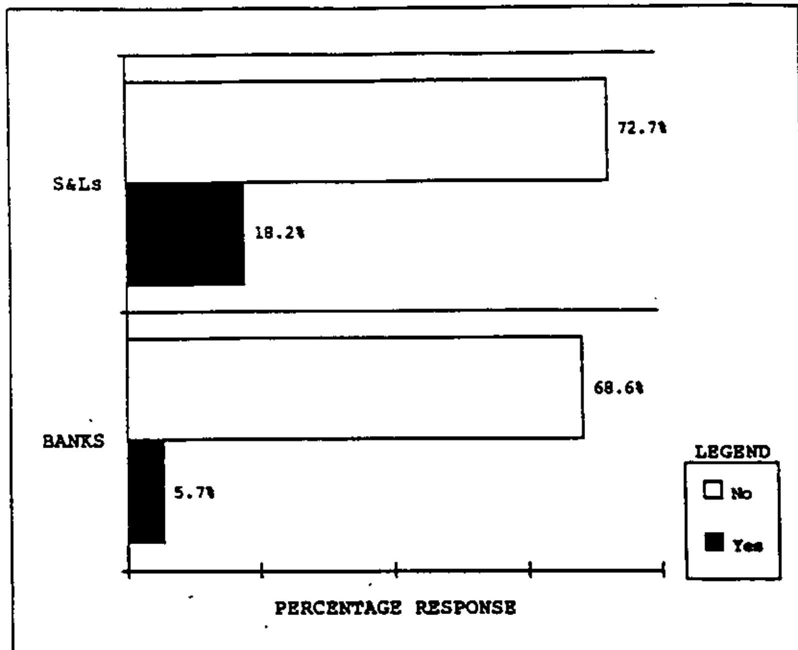

Figure 6.38 Lenders Willing to Pay for Improvements Prior to the Date of Default.

It was learned in the previous question that lenders by not informing subcontractors of the developer/contractor's default, may allow them to incur greater losses than they would otherwise face. The question then arises as to who should reimburse subcontractors for the property improvements made but not paid for. Lenders were asked if they should be held responsible for making sure that the subcontractors get paid. Their responses are organized in Figure 6.38.

As shown, there was a strong response from the lending industry against being held responsible for anything that occurs outside the lender - borrower relationship. According to the survey, 72.7% of the S&Ls and 68.6% of the banks stated that they were not willing to pay for improvements prior to the date of default. There was a small response from lenders who felt they should be held responsible. Only, 18.2% of the S&Ls and 5.7% of the banks stated that they would be willing to compensate the subcontractors.

Emotional responses were generated from most of the lenders that were fiercely opposed to reimbursement of subcontractors. By accepting responsibility on this issue, they felt they would be made to suffer for the mistakes or negligence of others as explained by this irate bank president: "...Why should a lender be made responsible to anyone other than the owner/borrower ?...The "deep pockets" theory must be stopped or there will be no loans to this industry !..."

39. Do you require verification of the contractor /developer's draw request ? ( ) Yes ( )No

The loan draw is usually disbursed according to a schedule of values. This

schedule of values may be based on a percentage completion or on the completion of certain key activities in construction like the placement of the floor slab. When it comes time to receive a payment the builder will issue to the lender a draw request specifying that the percentage of project completion has been reached or that the activity signaling payment has been completed. The lender may then issue payment or may choose to verify that it is time for payment.

It is advisable that lenders do verify the developer/ contractor's draw request since this guarantees against paying ahead of actual construction. However, there are some lenders that do not verify the draw. This question seeks to investigate what percentage of the lending industry does not verify draws. The responses of lenders are shown in Figure 6.39.

Most of the lenders surveyed indicated that they did verify the construction draw request. According to the survey, 72.7% of the S&Ls and 77.1% of the banks stated that this was done. Only 18.2% of the S&Ls and 2.9% of the banks did not verify the request. It appears that the lending industry is very careful now to make sure not to pay ahead of construction. It should also be mentioned that the banks are more likely

to verify the request than are the S&Ls as is evident from the illustration.

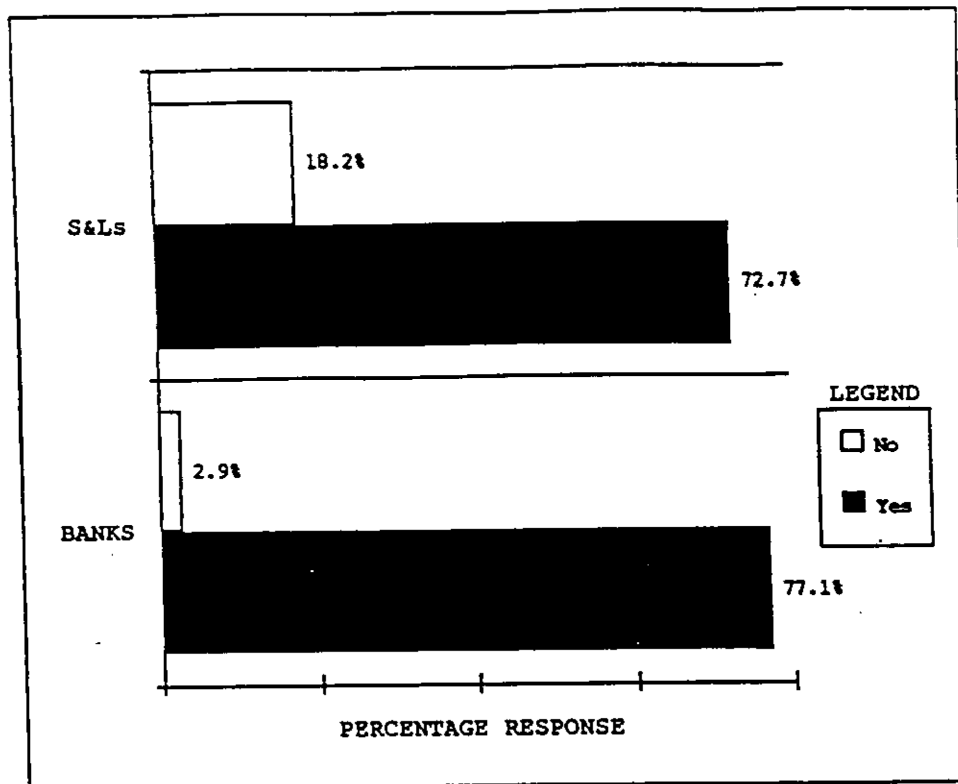

Figure 6.39 Required Verification of the Developer / Builder's Draw Request.

40. If yes, to the above question, which of the following is used as verification ? (check all that apply)

( )Receipts
( )As per a lender - specified draw schedule
( )Progress inspection based on a builders estimation
( )Other________________

Lenders surveyed were given an open response option to state additional methods they use to verify the draw. The responses of the lenders surveyed are exhibited in Figure 6.40.

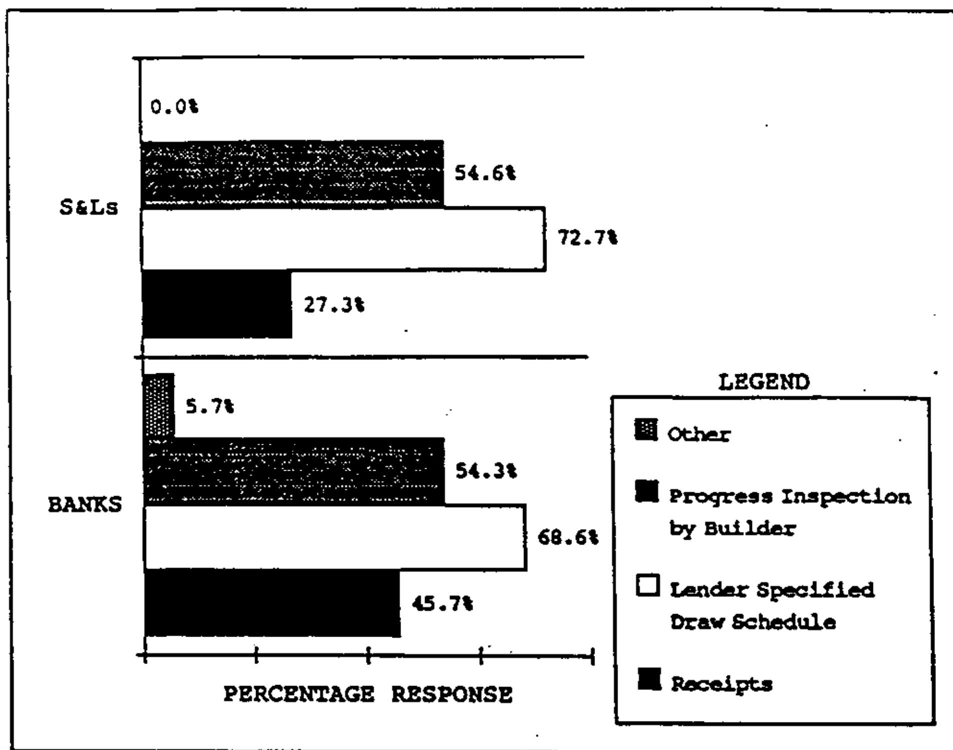

Figure 6.40 Methods Used to Verify the Loan Draw Request

It seems, in this case, that all lenders were in agreement as to the most commonly used methods. The method bringing the greatest percentage response was the lender specified draw schedule, followed by the progress inspection based on the builder's estimation. The least selected method involved the review of receipts.

According to the survey, 72.7% of the S&Ls and 68.6% of the banks relied on the lender specified draw schedule. It seems that lenders recognize

that this method is safer and more reliable than the rest. Also, 54.6% of the S&Ls and 54.3% of the banks relied on progress inspections based on the builders estimate. This was surprising since this method tends to require more trust between the lender and the borrower. Only 27.3% of the S&Ls and 45.7% of the banks reviewed the developer/builders receipts before issuing loan draws. It seems lenders understand the amount of work involved with this method and wish to rely on more efficient and less taxing methods. Finally, none of the S&Ls and 5.7% of the banks used filled in additional methods not mentioned among the response options. Of these additional methods, the most often used were lien waivers.

41. In the past 2 years have you changed your loan-to-value ratio significantly ?
( )Yes ( )No

This question was added to the survey to find out about recent changes in the loan-to-value ratio. Most developer/builders frequently complain about the difficulties involved with this ratio. This seems to be one of the more difficult changes to deal with since it requires developers to generate more equity capital. The responses of lenders are exhibited in Figure 6.41.

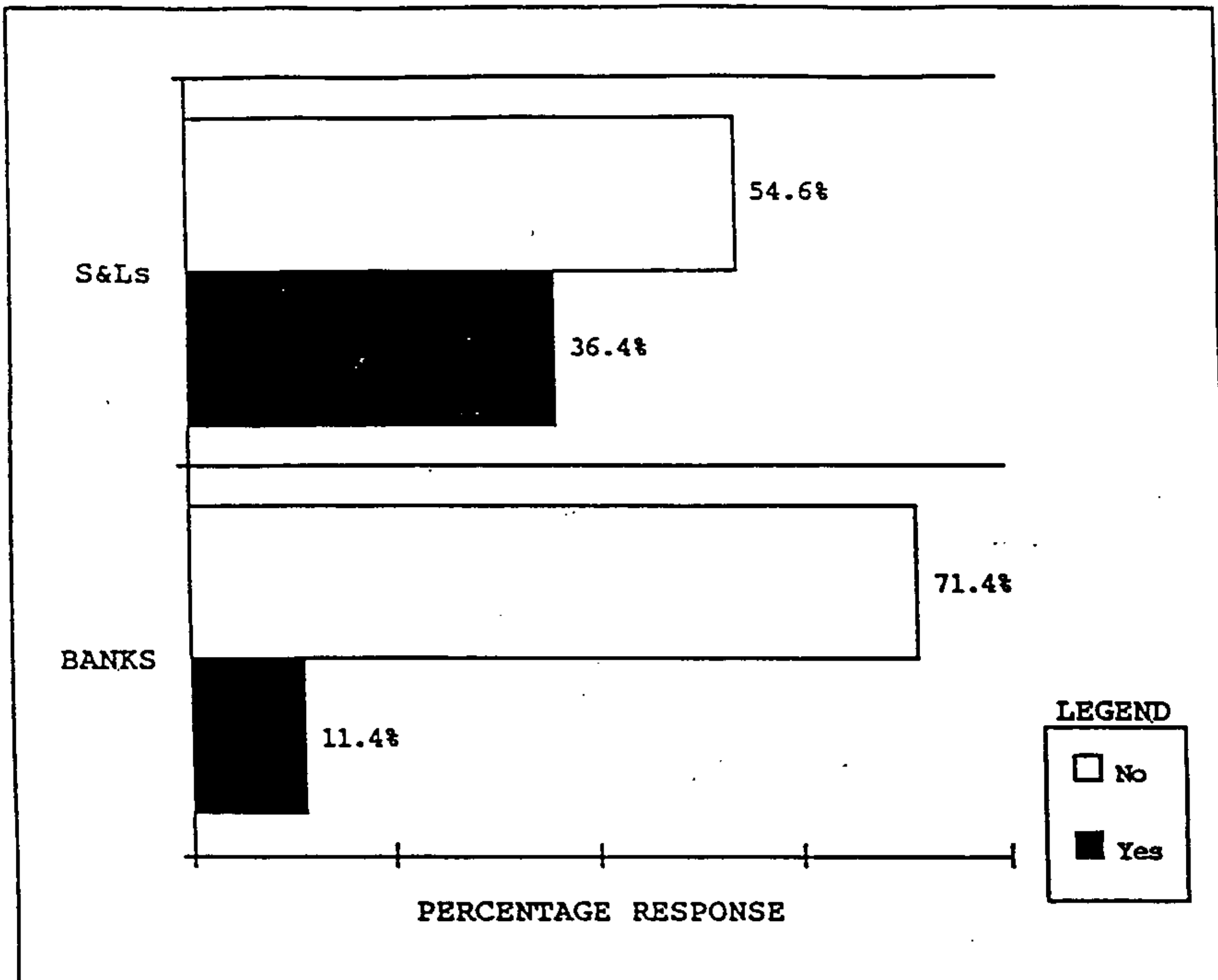

Figure 6.41 Significant Changes to Loan-to-Value Ratio.

It appears that the majority of the lenders have not had changes to their loan-to-value ratio. It has been mainly S&Ls that have made changes in this area. According to the survey, 54.6% of the S&Ls and 71.4% of the

banks stated that they have not changed this ratio. On the other hand, 36.4% of the S&Ls and 11.4% of the banks stated that they have changed it. It was no surprise that more S&Ls have changed than banks. S&Ls have been subject to more regulations and restrictions than banks. They are still adjusting to the traumatic effects of FIRREA and other legislative acts. The loan-to-value ratio serves as an example of these adjustments. Some S&Ls may be tightening this ratio finding that their policies are not safe enough while others may be loosening it believing that their policies may be too restrictive. Whatever the case, it seems they have not yet reached a state of equilibrium in their policies, but they are close.

42. If yes, which of the following would be most accurate ?

( )Reduced by 10%
( )Reduced by 20%
( )Increased by 10%
( )Increased by 20%

This question serves as an extension of the previous question. Those that replied that they had adjusted their loan-to-value ratio were then asked what these changes entailed. In this question, to reduce the loan-to-value ratio means to reduce the loan amount relative to the value of the project. On the other hand, increasing it would mean that the loan would cover a

greater percentage of the project value.

Although it would seem logical to say that the loan-to-value ratio is set by the law and therefore cannot be changed, it was discovered that this is not always the case. Financial regulations place a ceiling on this ratio when used for different loan types so that lenders cannot have it above this limit. However, lenders, in an effort to be more conservative may set their ratio substantially below the limit. They are allowed by law to increase or decrease their loan-to-value ratio as long as they maintain it below the maximum allowed. The responses from lenders are given in Figure 6.42.

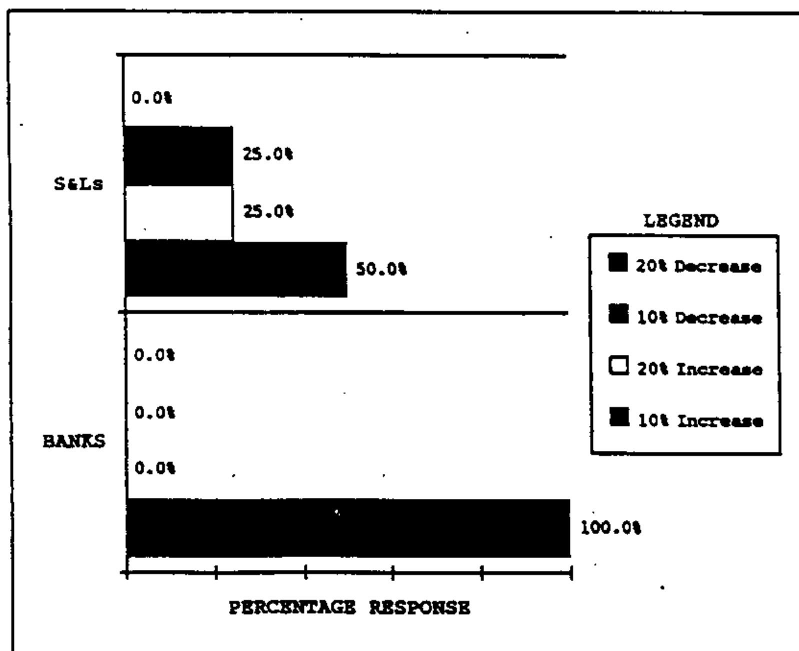

Figure 6.42 The Percentage Change to Their Loan-to-Value Ratio.

In the previous question, it was seen that more S&Ls have changed their ratio than banks. However, all changes done by banks have been to increase the loan-to-value ratio while S&Ls have both increased and decrease it. As shown by the illustration, the overall result is that lenders have changed their ratios by increasing them.

According to the survey, 100% of the banks and 50.0% of the S&Ls stated that they have increased their loan-to-value ratios. Lending institutions are understanding that the industry has been well intentioned but in many areas has gone overboard. Some have tried to balance things out through the adjustment of this ratio. Further, 25.0% of the S&Ls have increased their loan-to-value ratio by 20%. This may again be seen as an attempt to balance things out in the lending industry. Finally 25.0% of the S&Ls have attempted to decrease their ratio. These are the lending institutions that have felt that their policies are not safe enough and need stricter policies to prevent losses.

CHAPTER SEVEN
RESEARCH CONCLUSIONS

Introduction

The following is a summary of the more important information obtained through the research pertaining to this report. Conclusions and recommendations for further study are included. Primary topics include builder and lender opinions on FIRREA, payment issues, preferred builder size of lenders, the role of the appraisal, residential lending risks, information required for loans, the nature of construction loan departments, commingling of funds, and disclosure of borrower default. Findings are derived from both surveys and the comparison of the responses.

In some cases, the responses of the builders and lenders were surprisingly similar. In others, the vested interests of each party create a difference in position. A predominate theme throughout the entire lending process is the marked increase in requirements for personal and project documentation provided by the builder to the lender.

A Comparison Between the Lender and the Builder Responses

Fifteen questions on each survey were identical. The issues the fifteen questions address revolve around the following concepts:

Accuracy of appraisals

Reliance on appraisals for setting loan-to-value ratios

Influences over appraisal outcome

Prevention of appraisal fraud

The nature of construction loan departments

Accuracy of a developer's statement of financial position

Commingling of funds

Lender accountability for payment draws

Restrictions on the use of construction funds

Lender disclosure of developer default

Methods for verifying draw requests

Recent changes to the loan-to-value ratio

Accuracy of Appraisals

The question asked of both lenders and builders was to state whether inaccurate appraisals are due to the appraiser's or the contractor's over/under evaluation. The lenders were split on their responses to this question. The majority of the S&Ls responding, 72.7%, stated inaccurate appraisals are due to the contractor while the majority of the banks responding, 40.0%, stated that they are due to the appraiser. According to the builder survey, most builders agree with banks that appraisers create most of the inaccurate appraisals as seen by a 59.1% response .

From the survey results, it can be seen that a majority of those affiliated with the A,D&C lending process believe it is the appraiser who should be credited for inaccurate appraisals. The reason why S&Ls blame contractors so fiercely may be because they still feel a deep mistrust for builders after the big losses seen in the S&L crisis.

This study found that, in general, lenders believe that appraisals could be an inaccurate method for calculating the value of property. Despite this, nearly all lenders stated that they rely on the appraisal for setting the

loan-to-value ratio. The majority of lenders believe, that when an appraisal is not accurate, it is usually due to the appraiser's, not the contractor's, over/under evaluation. Builders agreed with lenders that this is the case.

Reliance on Appraisals for Setting Loan-to-Value Ratio

Both lenders and builders were asked to state how much lenders rely on the appraisal for setting loan-to-value ratio. Those surveyed could have answered by stating that it is used always, almost always, sometimes or never. However, the majority of lenders responding, 91.0% of S&Ls and 74.2% of banks, stated that the appraisal was either always or almost always used. Few lenders stated that it is sometimes or never used for this purpose.

On the other hand, only 45.5% of the builders believe that lenders always or almost always use the appraisal for this purpose. In addition, 31.8% of all builders responding believe lenders never use the appraisal for setting the loan-to-value ratio. This response indicates that builders might be unaware of how important the appraisal is in setting project value. Either

To prevent fraud, lenders resort to a number of methods. However, the method most popular among lenders is the use of in-house review appraisers. Finally, it was discovered that lenders believe they do enough to prevent appraisal fraud and therefore are not willing to take greater responsibility in this area. The majority of builders responding in the builder survey confirm the lenders response by stating they also believe enough is done by lenders.

Construction Loan Departments

Lenders and builders were asked whether or not lenders issue construction loans through a construction department separate from commercial loan departments. The majority of the lenders responding, 54.6% of the S&Ls and 57.1% of the banks, stated that construction loan departments are not used. Surprisingly, the majority of the builders, or 77.3% of those responding, contradicted the above results by stating that the majority of lenders do issue residential construction loans through construction loan departments.

Obviously, there seems to be some contradiction between lenders and

builders. A possible reason for this is that perhaps the majority of builders are more likely to approach those few lenders that have these special departments since their needs are better met by these lenders. By having construction loan departments, lenders are better able to accommodate builders or are better able to guide them through technical lending procedures that are exclusive to A,D&C lending.

Staffing of Construction Loan Departments

Builders dealing with these departments and lenders running these departments were asked whether or not these special departments contain staff experienced in construction. The majority of the lenders responding, which includes 100.0% of the S&Ls and 77.8% of the banks, stated that these departments include experienced staff. The results provided by the majority of the builders in the builder survey agreed with lender responses. According to the builders, 64.7% stated that construction loan departments have experienced construction staff as opposed to 23.4% that stated they usually do not. Once more, there is a consensus among the entire industry that lenders are beginning to take greater precaution to provide the experienced staff that are more capable of accessing the risk

involved in A,D&C lending.

Accuracy of a Developer's Statement of Financial Position

In this question, survey participants were asked whether they felt developer/builders represent their true financial position, a slightly exaggerated position, or a highly exaggerated position when applying for A,D&C financing. The majority of the lenders responding, which constituted 54.2% of the S&Ls and 57.2% of the banks, stated that developer/builders either slightly or highly exaggerate their financial position. The majority of the builders closely confirm this with 54.5% stating that they either slightly or highly exaggerate their financial position.

It seems that the entire industry is aware that the majority of all builders will attempt to some degree to make their financial position look better than it really is. This may be seen as another attempt by builders to obtain larger amounts of capital in a time when A,D&C loans are hard to come by. The restrictive nature of lending money for residential projects

is being felt by all builders in their search for financing. The survey showed that the reputation of the builder is the most important aspect in evaluating the qualifications of the builder to complete a project. This indicates that builders are seeking financing from the same lenders who have had good experience with the builder's capabilities. It also indicates a possible impediment to new builders or to builders seeking new sources of financing.

The Commingling of Funds

Lenders and builders were asked to state what methods lenders rely upon to prevent this activity throughout construction projects. A variety of methods were listed in this question as response options. The majority of lenders responding, as seen by 63.6% of S&Ls and 65.7% of banks stated that certification of disbursements were used. Very few lenders responded that other methods are used. Finally, only 9.1% of the S&Ls and 8.6% of the banks stated that they do nothing to prevent the commingling of funds.

Similar to lenders, the majority of builders, expressed through 40.9% of

the responses, indicated they use certification of disbursements. The rest of the methods to choose from received much weaker responses. For the most part, lenders relied on satisfactory but not fool-proof methods to monitor and control the commingling of funds. For example, very few lenders audited the developer's records or reviewed the developer's banking statements. According to the lender survey, less than 10% of the lenders stated they do nothing to prevent the commingling of funds. Surprisingly, 45.5% of the builders responding stated that lenders did nothing to prevent the commingling of funds. This is a direct contradiction to the information in the lender survey.

A possible explanation for this is that builders are seeking to obtain loans from those few lenders that are known to not closely monitor commingling of funds. This way builders may have greater freedom to use loan disbursements as they wish. Either that or lenders are simply overstating the safety of their policies. Whatever the case, the consequences are questionable to all industry participants since nearly half of all builders are not prevented in any way from commingling funds. Builders also noted that this is a prevalent practice in residential development and building and indeed, in many cases, their business could

not remain viable if this was not done on occasion.

Lender Accountability for Payment Draws

Both lenders and builders were asked whether they believe that lenders should become more responsible to see that parties for whom moneys are drawn are in fact paid with those funds. The majority of all lenders responding, evidenced by 54.6% of the S&Ls and 45.7% of the banks, stated that they did not believe this should be so. However, the majority of builders responding, as seen by 54.5%, disagree with lenders and believe that lenders should take a greater role.

Prompt payment of the subcontractors and suppliers by the developer/builder in residential construction is not perceived to be a problem by the majority of lenders. Although some showed concern, they represented a slight minority. In addition, the majority of lenders were not willing to take greater responsibility to ensure that all parties for whom moneys are drawn are in fact paid with those funds

Obviously, contractors and subcontractors want to guarantee that they get

paid fairly and on time. However, lenders are not legally bound for what happens outside the lender-borrower relationship and they incur great additional expense monitoring cash flows down the pay chain from developer to contractor to subcontractor. However, the majority of the builders in the builder survey felt that lenders should play a greater role in this area. Of those lenders taking steps to ensure prompt payment, the majority relied on methods such as lien releases and certifications from general contractors.

Restrictions on the Use of Construction Funds

This question asked both builders and lenders whether they believe that lenders should be required to set aside a portion of the loan for construction costs and whether the owner and lender should be restricted as to the use of these funds for other purposes. The majority of banks responding or 42.9% stated this should be the case. S&Ls were split on their decision with 45.5% stating that this should be the case and 45.5% stating that this should not be the case.

According to the builders survey, the majority of the builders responding,

as seen by 50.0% of the builders, felt that lenders should not be restricted as to the use of the loan money intended for construction hard costs. However, 40.9% of the builders stated that they should be restricted. In this case, the majority of the builders contradict the majority opinion of the lenders. Developer/builders opposed these restrictions because they would limit their freedom to use loan funds as they wish.

Despite some opposition, both lenders and builders seem willing to make improvements in this area for the enhancement of the industry. After all, it appears that most lending institutions are willing to submit to restrictions on the use of these funds to insure the timely payment of those affiliated with the construction process. Although the majority of builders are opposed, a large number of them feel that such a move would be for the best.

The majority of lenders stated they are willing to submit to restrictions on the use of construction funds. The majority of the builders, from the builder survey, stated that they would be opposed to this. This is understandable since such a move would limit their freedom to use the loan draw as they wish. Lenders show, for the most part, a substantial

degree of caution in the area of administering payments.

Lender Disclosure of Developer Default

This question asked lenders and builders whether they felt that lenders should be required to give notice to subcontractors in the event the developer/builder defaults. As expected, the majority of lenders responding, exhibited by 54.6% of the S&Ls and 57.1% of the banks, were opposed to this. However, the majority of the builders responding, or 72.7%, were in favor. It seems builders are aware of the damage that can be brought about when lenders do not provide this information to subcontractors.

At the same time lenders are not willing to risk their position as first lien holders by disclosing information concerning the lender-borrower relationship. Lenders are able to reduce dramatically the losses incurred by subcontractors yet they are not willing to play a greater role in this area. The majority of lenders are fiercely opposed to paying for improvements made prior to the date of default. There is no indication that lenders will change their minds soon on these issues since their

responses concerning these areas were very strong. Lenders seem to be comfortable with their position as first lien holders and they are not willing to risk this advantage by disclosing any information to those below the developer/builder. Also, they are not willing to compensate subcontractors and suppliers for negligence that lenders feel was not committed on their part.

Extent of Verification of the Draw Request

The majority of lenders, as seen by 72.7% of the S&Ls and 77.1% of the banks, stated that verification of the draw request is made. Builders confirmed these results with 77.3% stating that lenders verify the draw request (Hall 1993). It seems that all affiliated with the A,D&C lending process agree that the loan draw is verified by the lender. Lenders appreciate the danger of paying ahead of actual construction and are now very careful to make sure that this does not happen.

Methods of Verification of the Draw Request

In this question, both lenders and builders were asked to identify what

methods lenders use to verify this request. A variety of response options were possible when answering this question. The majority of the lenders responding, exhibited by 72.7% of the S&Ls and 68.6% of the banks, stated that the lender specified draw schedule is used. The second strongest response was given for progress inspections by the builder as seen by 54.6% of the S&Ls and 54.3% of the banks.

The builders confirmed the responses of lenders giving the strongest response for lender specified draw schedules with a 70.6% response. The second strongest response was given for the use of progress inspections based on the builder's estimate with a 58.8% response. It seems that the lending industry relies on these two methods in the majority of the cases to verify the developer/builders loan draw request.

Recent Changes to the Loan-to-Value Ratio

According to the question, both lenders and builders were asked whether they have seen the loan-to-value ratio change significantly within the last two years. The majority of lenders responding, made up of 54.6% of the S&Ls and 71.4% of the banks, stated that this has not been the case.

The majority of builders agreed with lenders with 59.1% stating that their loan-to-value ratio has not been changed. It appears that the majority of those affiliated with the A,D&C lending process agree that there has been little or no change to this ratio. This contradicts the NAHB study that shows on a national level, loan-to-value ratios have dramatically decreased.

Type of Change to the Loan-to-Value Ratio

This question was directed only toward those builders and lenders that had experienced a change in the loan-to-value ratio. This group was asked to state how this ratio has changed. The majority of the lenders in this group , as seen by 50.0% of the S&Ls and 100.0% of the banks, stated that this ratio has increased by 10%. The majority of builders in this group, as seen by 50.0% of those responding, contradict lenders by stating that the majority of lenders have decreased this ratio by 20%. This evaluation is similar to the results found in the NAHB study that polled builders nationwide.

It appears that lending institutions feel that lending policies in the last

few years, especially those regarding the loan-to-value ratio, have been too strict. There is a point where lending policies go beyond safe practice and become too restrictive. Banks are coming to this realization and are loosening their loan-to-value ratio. However, it should be kept in mind that although lenders may loosen or increase the loan-to-value ratio, they may not increase it beyond the maximum ceiling required by law. Apparently, builders are under the impression that this ratio has gotten too restrictive. They disagree with lenders and believe that the loan-to-value ratio is for the most part being decreased not increased. Builders seem to be expressing their frustration with the difficulty of obtaining A,D&C lending in today's residential construction industry.

Additional Survey Observations

The survey revealed additional concerns from both lenders ' and builders viewpoints. The following issues were brought to light through the research of this study: The role of FIRREA, residential loan risk from lender viewpoint, and preference of builder size. The increased requirements for documentation that builders believe is too costly and time consuming are also discussed.

Opinions on FIRREA

This report found that the majority of lenders felt that the removal of FIRREA would benefit the entire construction lending industry. This may be due to the overly restrictive policies imposed on lenders or it may be due to the fact that lenders are just tired of having "big brother looking over their shoulder". Whatever the case, legislators may soon expect complaints concerning FIRREA not only from builders but also lenders. Both lenders and builders may come after law makers, in a team effort, to changes this law.

Preferred Builder size

It was found in the survey that the majority of lenders have no preference as to the size of builders being funded. However, over one fifth of the industry do favor a certain size of builder. In addition, of those lenders that do have a size preference, very few of them actually restrict builders based on size. Finally, it was found that the majority of lenders, that have size preferences, prefer small builders over the rest.

Residential Lending Risk

The study showed that the majority of lenders surveyed rated residential construction loans as low risk investments as compared to other types of construction loans. This will put developer/builders ahead of other nonresidential construction contractors that are seeking funds from lending institutions or alternative sources of financing. In addition, the majority of lenders stated that their lending policies reflect these differences in risk.

Information Required For Loans

Based on the survey, the items most important to lenders in deciding whether or not to fund a project is, first, the developer/builder's reputation, and second, the developer/ builder's cash position. The majority of the lenders stated they would never fund builders with a record of past financial difficulty. Most lenders believe that builders tend to slightly exaggerate their financial position and that most are not willing to admit possible financial setbacks from other projects. The majority of builders confirm the response of lenders by stating that they

alter their statements of financial position to make them look better when applying for loans. To obtain true information on builder financial strength, lenders most often rely on an in-depth investigation of the developer/builders financial records. This is perhaps the most reliable method.

For speculative developments, it was shown that the majority of lenders responding frequently require studies covering the site analysis, market demand, and return on investment for the project. Finally, the majority of lenders surveyed stated they verify the builder's loan draw request and that they rely on the lender specified draw schedule for verification of the draw request. The majority of the builders, in the builder survey, also agreed with the response of lenders regarding the frequency of verification and the methods used for this purpose. The above shows that lenders are taking a greater role to reduce their risks and to make sure that projects do succeed.

Other Issues

In addition to the questions asked on the surveys, interviews with lenders and builders on other issues such as letters of credit, lines of credit, and

bonding were conducted to detect any problems in these areas. Two builders and four lenders were interviewed and the summary of their responses follow. All wish to remain anonymous.

1. Lines of Credit - [Also called a working capital line]

The attempt was to investigate the difference between lines of credit in speculative home and contract home construction as well as investigate the fact that banks can call these loans in at any time. Many builders believe the terms under which lenders can close out the loan are too broad. Essentially, this occurs whenever lenders "deem themselves to be insecure" or at risk.

2. Letter of Credit - The investigation centered on the Irrevocable Letter of Credit.

The attempt was to investigate the parameters in obtaining one of these letters, the problems associated, and in general how to get one of these. A letter of Credit is a letter sent out to an entity that supplies the contractor whether a product or service for money. This letter is a

guarantee to this entity that the lender will pay the cost if the contractors is not able. If due to a shortage of funds the contractor cannot pay off this entity then this letter will turn into a loan. The lender will pay the supplier and the contractor will owe the lender this money. In addition, the contractor will owe interest. To assure the contractor will pay the debt the lender will have the contractor promise the lender receivables or assets owned by the contractor as security.

3. Assignments of receivables for surety bonding

When banks give either a line of credit or a letter of credit they will require the contractor to sign an assignment of receivables saying that lender may send out a letter to all other creditors, the surety in particular, stating that it has taken over the assets of the contractor. However, most of the time the contractor has already promised these to the surety in exchange for bonding and the lender and the surety will usually fight for the same assets.

Interview Summary: Lenders

Letters of Credit

* Fee for a letter of credit is usually 2% and the contractor is charge 6% when it turns into a loan.
* Extremely rare in residential construction usually done in commercial construction but even then not very common.
* Usually done in construction when dealing with a supplier overseas that needs a guarantee in writing that it will get paid.
* Letters of credit are rarely used to purchase a bond.
* Letters of credit when they are issued require 100% collateral.
* The problem with letter of credit occurs when it turns into a loan and is unrecoverable. For this reason the lender require very strong evidence that the contractor can pay the debt.

Line of Credit

* Requires a loan-to-value ration of 75% minimum for a highly financially qualified builder.
* Charge for line of credit is Prime rate (presently around 6%) + 1.5% minimum for a very financially qualified contractor.

* Most all of the banks issue this credit on a revolving basis (revolving lines of credit)-- meaning the line of credit has a ceiling as to the amount that can be outstanding at a particular point in time. The builder may borrow out and may pay money back to stay below the ceiling.
* This credit requires security or collateral of at least 25% -- which can be obtained by owning the land on which the project will be built and promising this to the lender in case difficulty is experienced in paying of the loan.
* When issuing lines of credit it is important to know how many lenders and projects the contractor is doing business with to prevent commingling of funds and to prevent too many lenders getting involved with the project at hand and over leveraging the project.
* Before issuing a line of credit, lenders will look very carefully at 1.)Project type and salability 2.)Equity 3.)Builder track record 4.)Liquidity and 5.)How many projects the lender has funded to see if can tie up more money in further loans.
* Lenders place a lot of importance on equity--they want to make sure the builder has a margin of safety or a cushion so that the builder

can absorb certain construction problems and not rely so heavily on the draw so that if the slightest thing happens the contractor will not be able to continue the project. The contractor must not be spread too thin, the schedule must be conservative--- not over leveraged so that the interest alone on a small delay will bury the contractor.

* Another problem in lending using lines of credit is the commingling of funds which arises from a failure to monitor funds usage by the contractor.

* Usually lines of credit for construction are permitted with a 1 year maturity.

* Before issuing lines of credit, lenders rate builders by looking at, most importantly, experience, then financial strength (liquidity) as determined by an in-depth financial analysis.

* Lenders will not call in a line of credit just because they feel like it [as builders fear]. In doing this lenders would be putting themselves in an a very risky legal situation. Contractors usually function under a very tight financial situation and to call the loan may cause lenders undue hardship. Lenders must be able to prove they are facing REAL, TANGIBLE risk in not recovering the loan or

else they may open themselves up to a law suit. Evidence includes the contractor not paying bills for some time, suspended construction as a result of disputes, heavy lien placement on the property and other evidence supporting the facts in court.

Problems of Assignments Receivables for Surety Bonding

* Very few builders in residential contractors are required bonds, usually less than 1%.
* In residential construction, bonding is usually obtained for the construction of street, curb and gutter. Contractors get bonded for this work to obtain liability protection required by the municipality in case this work is not done correctly.
* Yes, problems may arise between the lender and surety when dealing with contractor's receivables that may be promised to both the lender and the surety. The lender is not interested in building anything. They either want the contractor to finish the project or if not, then for the surety to keep the loan current and to continue the project. When the owner/contractor defaults on the loan, the lender will expect the surety to come on the scene quickly and continue construction, finish it and keep the loan current.

However, the surety is usually an out-of-town company that usually does not keep close tabs on what is going on with its clients. It may be the last to get the news of a default. If only they could act quickly the lenders would be pleased to have the surety finish the project. However, when it fails to act the lender will not wait to lose money on the loan. It will attempt to recover its loses by obtaining the builders assets even if it means ruining all possibility of the surety from collecting for its losses. The surety may argue that if the lender takes over the contractor's assets, the surety cannot recover its losses and it would not be feasible to finish the project. The lender's opinion is that problem arises from the surety's failure to act quickly.

When the surety usually does not act quickly enough, the lender, to protect itself, will attempt to reduce its loses by liquidating the contractors assets. Sometimes the project is in such ruin that the surety company does not want the project due to excessive cost overruns and will delay performance for this reason. In this case, the surety may incur greater losses by finishing the project than by

allowing the lender to take over the assets of the builder

* When there is a conflict with the surety and the lender in taking the assets of the builder, lenders believe they should have first claim to the builders assets since they are incurring the greater risk by putting up the money. They believe it is only fair that they should be privileged with first lien rights.
* This potential adversity could be avoided by sitting down with the surety and agreeing which assets the lender and which the surety would be entitled to.

Interview Summary: Builders

Letters of Credit

* Letters of credit are virtually unheard of. They are never given for speculative home building.

Lines of Credit

* Lenders seldom will give these out when the land to be built on is undeveloped. In general, these are difficult to obtain for A&D financing. It is easier for construction financing.
* Builders are concerned about lenders calling the loan at any time.

There is a clause to this effect in the agreement. One builder stated: "Builders just don't trust lenders any more . . .before builders would refer to their lender as 'my bank', they no longer do it. I have seen loans being foreclosed for no apparent reason and this adds to my lack of trust."

* It is difficult to obtain a line of credit-- This is for the most part is due to lenders overreacting to the S&L crisis which has resulted in the overly harsh judgment of builders.
* Irrevocable letters of credit - Usually require 100% collateralization.
* Bonding and Letters of Credit are very rare in residential construction.
* Builders interviewed had never used either a bond or needed a letter of credit -- mainly because they have never been qualified as a good enough risk to receive a letter of credit. This is not because they have never been well regarded but as one builder stated, "... you practically have to be able to walk on water to receive one. Those who qualify for a letter of credit usually are so financially secure they don't really need one. Those that don't qualify that really do need this letter would never receive one."

* Builders felt that in single family residential land acquisition, development and construction, bonding is not very necessary. In commercial construction A,D&C it is a crucial necessity.

Conclusions

1. The appraisal of residential development projects is the definitive force in setting loan-to-value ratios. The appraisal process is an inexact science and the surveys show it is frequently inaccurate. At a time when available financing for builders is very tight, this has the potential of decreasing further the funds available to any builder on a project.

2. Commingling of funds is prevalent and even considered necessary by many builders. Lenders have little responsibility for monitoring this and do not wish to have more.

3. There is no mechanism in place or responsibility on the part of the lender to ensure that subcontractors are paid promptly.

4. As with commercial projects, there is no responsibility for lenders to notify subcontractors of project loan default and no responsibility to pay for work done after default.

5. Subcontractors have as their only recourse the timely filing of liens to recover money in event of default. Yet most builders and subcontractors are unaware of the changes in the construction lien laws.

Recommendations For Further Study

1. An additional study should be made to determine if the problems being faced and the opinions felt by builders and lenders in Florida are similar to those of lenders in other states.

2. A study of the appraisal process including the licensing of appraisers, their qualifications, methods to improve the uniformity and the objectivity among appraisals and the regulation of lender in-house review appraisers should be made. This is because the

appraisal is seen to be inaccurate a large percentage of the time but used extensively to set loan-too-value ratio.

3. The shortage of investment capital in this industry is causing grave consequences for all those affiliated with it. A study should be made to determine how to generate capital for residential contractors either through traditional or nontraditional methods.

4. It was learned in this report that commingling of funds is prevalent among residential developer/builders. This topic should be studied more closely to find out how much money is involved in the commingling of funds statewide, how much risk is incurred and what new and more effective methods if any could be used to disburse funds.

5. There are other laws that, although lack the impact of FIRREA, still have a substantial influence on the residential construction industry. These laws include FDICIA and the Interagency Guidelines for Real Estate Lending Policies. These laws should be further studied to find what impact they will have on residential

construction lending.

6. Additional methods that lenders might use to investigate the reputation of builders should be studied. This will prevent such things as the Construction Industry Licensing Board from being virtually unused by the lending industry, even though it is one of the better industry information sources. The information derived from this study should then be distributed to lenders.

7. Methods to produce greater information disclosure among all industry participants, for the benefit of all, should be studied. subcontractors will benefit from knowing when a developer defaults and lenders will benefit from knowing if the property title is about to be stained with construction liens. Trade offs will have to be made since not all will want to disclose information.

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Appendix A

Builder Mailing List

Raycon Development Corporation
15307 Amberly Drive
Tampa, FL 32647

Young Homebuilders
P.O. Box 433
Doctors Inlet, FL 32030

Williams Construction, Je
P.O. Box 2082
Lake City, FL 32056

Trane Builders
P.O. Box 3634
Ormond Beach, FL 32074

RW Custom Builders Inc.
955 Orange Ave.
Daytona Beach, FL 32114

JLR, Inc.
210 Cessna Blvd.
Daytona Beach, FL 32124

TurnerBuilders
109 Oak Lane
Ormond Beach, FL 32174

The Mulligan Group Inc.
4061 Dover Road
Jacksonville, FL 32207

Southeast/Zills
3908 Novaline Lane
Jacksonville, FL 32211

Homes Beautiful Constr.
1865 Everlee Rd.
Jacksonville, FL 32216

Kenco Builders
14106 Yellow Bluff Rd.
Jacksonville, FL 32226

Blank Construction
6274 Cranberry Lane
Jacksonville, FL 32244

Neptune Builders, Inc.
P.O. Box 22837
Ponte Vedra Beach, FL 32004

Turner Enterprises, A L
P.O. Box 1016
Green CV, FL 32043

Ahpla Inc.
P.O. Box 326
Orange Park, FL 32067

Thompson Properties
2730 U.S. 1 S. #N
St. Augustine, FL 32086

Richard Veddar Construc.
135 Broadway Ave.
Daytona Beach, FL 32118

Zampolino Construction
1 Farraday Lane
Palm Coast, FL 32137

Security builders
P.O. Box 280
San Mateo, FL 32187

Worsham Construc. Co.
4244 Garibaldi Ave.
Jacksonville, FL 32210

Arko Constr./Eng.
6900 Phillips Hwy.
Jacksonville, FL 32216

W.W. Builders Inc.
604 New Berlin Rd.
Jacksonville, FL 32218

Wilson Construction, J.B.
P.O. Box 14734
Jacksonville, FL 32239

Excellent Designer Homes
9250 Baymeadows Road #4
Jacksonville, FL 32256

Pennyworth Homes Inc.
2110 S. Adams St. #B
Tallahassee, FL 32301

Live Oak Construction
625 Industrial Drive
Tallahassee, FL 32310

Stephen Shelton Constr.
P.O. Box 13104
Tallahassee, FL 32317

Spencer Construction
P.O. Box 16521
Panama City, FL 32406

Toole Construction Co.
RR 1 Box 176A
Cottondale, FL 32431

Warner Works, Inc.
Route 1, Box 5978
Santa Rosa, FL 32459

Panhandle Homes
312 Fern Pointe Lane
Pensacola, FL 32505

Voght Company
P.O. Box 10637
Pensacola, FL 32524

Sunbelt Construction Co.
1403 Colwyn Drive
Cantonment, FL 32533

Olen Senterfitt Construction
1341 Blueberry Lane
Fort Walton, FL 32547

Sprague Construction Co.
1162 Sawgrass Drive
Gulf Breeze, FL 32561

Danny Warrick Gen. Contr.
3909 Rodella St.
Pace, FL 32571

Florida Fence and Deck
3060 W. Tharpe St.
Tallahassee, FL 32303

Price Vencent Constr.
1265 Penny Lane
Tallahassee, FL 32312

Joe Wallace Builders
Rt. 3, box 783-W
Havana, FL 32333

Tatum Construction
RR 1 Box 235
Altha, FL 32421

Morris & Taylor
132 Margeret Circle
Lynn Haven, FL 32444

Marshall Homes Inc.
916 E. Yonge Street
Pensacola, FL 32504

Acorn Construction
8341 Briese Lane
Pensacola, FL 32514

American Heritage Homes
2715 Nandora Ave.
Pensacola, FL 32526

Stoffels Constr. Co. Inc.
P.O. Box 1635
Destin, FL 32541

Walton Properties
701 Anchors Street N.W.
Fort Walton, FL 32548

Wayne Smith Builders
6373 Bill Lundy Road
Laurel Hill, FL 32567

H. Randolph Smith Builder
1580 Pine Street
Niceville, FL 32578

IDI, inc.
P.O. Box 750
Nieville, FL 32588

CLS Construction, Inc.
205 N.W. 22cd St.
Gainesville, FL 32601

Weseman Construction Co.
3501 N.W. 39th Ave.
Gainesville, FL 32605

Spain Constr. Co. Inc.
2321-A2 N.W. 41st St.
Gainesville, FL 32606

H.J. Scharps Construction
4505 N.W. 36th Ave.
Gainesville, FL 32606

Whitecraft Homes
7701 S.W. 10th Ave.
Gainesville, FL 32607

H. Fredrik Wetterquist Constr.
1244 N.W. 35th Ave.
Gainesville, FL 32609

United Builders of FL
P.O. Box 3290
Homosassa, FL 32646

Premier Investment Group
117 Hwy 41 S.
Inverness, FL 32650

Smith Builders
Rt. 2, Box 200
Micanopy, FL 32667

Underwood Construction
3808 S.E. Fort King St.
Ocala, FL 32671

Beeline Development, Inc.
P.O. Box 523
Ocala, FL 32678

Slater Custom Homes
19915 E. Altoona Rd.
Altoona, FL 32702

Superior Constr. Co.
65 N. Griffin Dr.
Casselberry, FL 32707

Schwab Construction
628 Nighthawk Circle
Winter Springs, FL 32708

Ernest Senez Builder
P.O. Box 956
De Bary, FL 32713

L & J Building Enterprises
821 N. U.S. Hwy. #1
Romond Beach, FL 32714

General roofing
P.O. Box 180300
Casselberry, FL 32718

AMICORP
400 Nut Tree Drive
Deland, FL 32724

Trask Contruction
2100 Avenue C.
Eustis, FL 32726

Zalloumco Construction
P.O. Box 6079
Deltona, FL 32728

Sterling Construction Co.
259 Clermont Ave.
Lake Mary, FL 32746

Vincent Development Corp.
244 Tollgate Trail
Longwood, FL 32750

Russell C. Strouse Inc.
262 Marjorie Blvd.
Longwood, FL 32750

WLW Construction Inc.
P.O. Box 1582
Longwood, FL 32751

Sierra Homes Inc.
1101 N. Lake Destiny Road
Maitland, FL 32751

Morrison Homes
1400 Country Club Blvd.
Mount Dora, FL 32757

Homes By Charlie
702 Hwy. 19A
Mount Dora, FL 32757

Pioneer Devel. & Contractors
P.O. Box 1227
Tavares, FL 32778

Major Building Corp.
2973 W. SR 434
Longwood, FL 32779

Intec Computer Service
1300 Armstrong Dr. #103
Titusville, FL 32780

Edwin Skaggs Masonry
855 Cynthia Drive
Titusville, FL 32780

Colony Homes
1069 W. Morse Blvd.
Winter Park, FL 32789

Van Home Builders Inc.
P.O. Box 915927
Longwood, FL 32791

Pristine Custom Homes
P.O. Box 940474
Maitland, FL 32794

Snowden Construction
4125 Alachua Avenue
Titusville, FL 32796

Tramell Webb Partners Inc.
P.O. Box 2501
Orlando, FL 32802

Stowell Builders.
724 Brookhaven Dr.
Orlando, FL 32803

D & D Smith Constructors
2500 Kunz Ave. #8
Orlando, FL 32806

Davex Corporation
710 Romano Ave.
Orlando, FL 32807

Diver Homes Corp. of Fl.
3504 Lake Lynda Dr.
Orlando, FL 32817

All Construction & Design
2535 Woodhaven Ct.
Orlando, FL 32818

Progressive Construction Co.
5750 Major Blvd. #215
Orlando, FL 32819

Rockwood Design & Constr.
6739 Narcoossee Rd.
Orlando, FL 32822

Silliman Homes
1192 Palm Cove Drive
Orlando, FL 32835

Newcastle Enterprise
P.O. Box 690249
Orlando, FL 32869

Schopke Constr. Inc.
1620 Tangerine St.
Melbourne, FL 32901

Dane Contracting, Inc.
P.O. Box 033663
Indialantic, FL 32903

Umbenhauer Remodeling
2762 School Drive, NE
Palm Bay, FL 32905

JT Tile Installation Inc.
972 Schean Ave. SW
Palm Bay, FL 32907

Jason Corporation
3815 N. U.S. #1
Cocoa, FL 32926

Hegemen-Harris Co.
P.O. Box 361345
Melbourne, FL 32936

Dumont Smith Constr.
475 Hamlin Ave.
Satellite Beach, FL 32937

Castle Builder of Brvd.
6955 N. Wickham Rd.
Melbourne, FL 32940

Wise Brothers Gen. Contr.
230 Parnell St.
Merritt Island, FL 32953

Ocean Reef Construction
505 Beachland Blvd.
Vero Beach, FL 32960

Fantasy Kitchens and Baths
P.O. Box 650517
Vero Beach, FL 32965

James Young Construction
445 27 Ave S.W.
S. Vero Beach, FL 32968

RBW Communities Corp.
4056 S.W. 69th Ave.
Miramar, FL 33023

Legacy Development Corp.
900 S.W. 116th Terrace
Pembroke Pines, FL 33025

R.V. Construction
16635 S.W. 236 St.
Homestead, FL 33031

FCB Development
1940 S.E. 2nd St.
Pompano Beach, FL 33060

Doral Ridge Properties
9335 W. Sample Road
Coral Springs, FL 33065

Coral Ridge Properties
8357 N.W. 51 Manor
Coral Springs, FL 33067

Landstar Homes
100 Chopin Plaza #3190
Miami, FL 33131

Shahin Construction
2600 Douglas Road
Coral Gables, FL 33134

Tutt Renovation & Dev.
6055 Pinetree Dr.
Miàmi Beach, FL 331400

Vernon Construction
7241 S.W. 168th St. #D
Miami, FL 33155

H A S Builders Inc.
5135 S.W. 113th Ct
Miami, FL 33165

Stefan Development Corp.
11420 S.W. 109th Street
Miami, FL 33176-3149

Monogram Homes
21141 N.E. 22 Court
N. Miami Beach, FL 33180-1001

Slater Corp.
4700 S.W. 51 St.
Davie, FL 33314-5504

Connors Brothers Construction
3430 S.W. 40 Court
Davie, FL 33328

Ecclestone Signature
1555 Palm Beach Lakes
West Palm Beach, FL 33401

F.J. Wolf Enterprises
4200 Spruce Avenue
West Palm Beach, FL 33407

St. Laurent Glass
1696 Old Okeechobee Rd.
West Palm Beech, FL 33409

Suniand Construction of PB
1120 Royal Palm Beach Blvd.
West Palm Beach, FL 33411

Simmons Building Corp.
175 Cleery Rd. #A-6
West Palm Beach, FL 33413

Crossroads Construction
12798 W. Forest Hill Blvd.
West Palm Beach, FL 33414

D.A. Silvester Inc.
6086 Mullin Street
Palm Beach, FL 33418

William Safreed
2101 Corporate Drive
Boynton Beach, FL 33426

Center Construction
500 N.E. Spanish Trail
Boca Raton, FL 33431

Weaver Development Corp.
9400 Military Trail
Boynton Beach, FL 33436

Britannica Homes Inc.
11222 Westbourne Dr.
Boynton Beech, FL 33437

George White, Inc.
649 East Drive
Delray Beach, FL 33445

Sixwoods, Inc.
9265 S.E. Karin Street
Hobe Sound, FL 33455

Schaaf Development Group
1052 Keystone Drive
Jupiter, FL 33458

Talon Construction
311 North K Street
Lake Worth, FL 33460

Best Masonry & Constr.
7926 Blackwood Lane
Lake Worth, FL 33467

Thomas Companies
1340 U.S. 1, Suite 102
Jupiter, FL 33469

Sixwoods Inc.
P.O. Box 812
Hobe Sound, FL 33475

Sloane Construction Co.
P.O. Box 2251
Palm Beach, FL 33480

Acme Construction, Inc.
5633 American Circle
Delray Beach, FL 33484

Natl. Bldg. & Dev. Corp.
16758 Knightsbridge Lane
Delray Beach, FL 33488

Sunrise Homes, Inc.
P.O. Box 2161
Brandon, FL 33509

Sandy Development Co.
1723 N. U.S. 301
Dade City, FL 33525

G.L. Steve Construction
37746 Glades Lane
Zephyrhills, FL 33541

L.C.C. Suncoast
2410 Success Drive
Odessa, FL 33556

Paragon Group, Inc.
101 E. Kennedy Blvd. #4000
Tampa, FL 33602

Walter Industries, Inc.
1500 North Dale Mabry
Tampa, FL 33607

Westchester Group Inc.
3917 W. Humphrey St. # 205
Tampa, FL 33614

Crystallare Manors, Inc.
11008 Carrollwood Dr.
Tampa, FL 33618

Town N Country Park
3550 W. Busch Blvd. #145
Tampa, FL 33618

Crest Builders
2910 Bay to Bay Blvd.
Tampa, FL 33629

Professional Builders of Amer.
19651 Bruce B. Downs Blvd.
Tampa, FL 33647-2445

Pulte Homes
P.O. Box 27090
Tampa, FL 33688-0603

Wadsworth Development Corp.
83511 Blind Pass Road
St. Petersburg Beach, FL 33706

Stephenson Land Co.
6501 25th Way S.
St. Petersburg, FL 33712

Arnie Smith Construction
P.O. Box 91413
Lakeland, FL 33804

Florida Leisure Comm.
146 Horizon Court
Lakeland, FL 33807

Leroy Wells Construction
5137 Weindell Rd.
Lakeland, FL 33809

NCF Associates Inc.
P.O. Box 7069
Lakeland, FL 33813

Williams & Son Construction
12165 Payne Road
Sebring, FL 33822

White Res. Constr. Co.
P.O. Box 365
Kathleen, FL 33849

Arthur Rutenberg Homes
5950 Imperial Lakes Blvd.
Mulbery, FL 33860

Cruder Construction
933 Fielder Ave.
Sebring, FL33870

WheelerBuilders
P.O. Box 1327
Wauchula, FL 33873

Varnadore Construction
1503 3rd St., S.E.
Winter Haven, FL 33880

Varnadore Construction
P.O. Box 1677
Winter Haven, FL 33882-1677

Vegter Construction, Inc.
3823 Gaines Court
Winter Haven, FL 33884

Innovative Builders
3040 Del Prado Blvd.
Cape Coral, FL 33904

Showcase Homes
12764 Kenwood Lane
Ft. Myers, FL 33907

Gary D. Waldrop, inc.
15280 Fiddlesticks Blvd.
Ft. Myers, FL 33912

Tull Construction, Inc.
4926 S.W. 10th Ave.
Cape Coral, FL 33914

Tidewater Island Dev. Corp.
6700 Winkler Road #1
Ft. Myers, FL 33919

Williams Construction
611 Lake Shore Drive
Immokalee, FL 33934

Masterplanned Communities
801 12th Ave. South
Naples, FL 33940

Enterprise Ventures
P.O. Box 7937
Naples, FL 33941

U.S. Capital & Dev.
4227 Exchanges Ave.
Naples, FL 33942

The Construction Co., Inc.
3306 Europa Drive #11
Naples, FL 33942

Mitchelle & Stark Constr.
2319 J & C Blvd.
Naples, FL 32942

Custom Built Homes
2925 Tamiami Trial
Punta Gorda, FL 33950

Shelton Homes Inc.
4414 S.E. 16th Place
Cape Coral, FL 33904-7458

The Wolter Group, Inc.
16680 McGregor Blvd.
Ft. Myers, FL 33908-3866

Schehr Construction Co.
6086 Cocos Drive
Ft. Myers, FL 33912

Wood Construction
906 Adelphi Court
Ft. Myers, FL 33919

Bonita Bay Properties
3451 Bonita Bay
Bonita Springs, FL 33923

Larry Taylor Construction
911 Moon Court
Marco Island, FL 33937

Willey Construction
4062 Belair Lane
Naples, FL33940

Weston Construction
3106 Horseshoe Dr.
Naples, FL 33942

Schmeckpeper Inc.
4755 Mercantile Ave.
Naples, FL 33942

Nassau Pools Constr.
3420 Westview Dr.
Naples, FL 33942

Richland Building & Dev.
P.O. Box 2700
Pt. Charlotte, FL 33949

Prestige Homes
109 E. Olympia Ave.
Punta Gorda, FL 33950

Creative Construction
220 Gardner Drive NE
Port Charlotte, FL 33952

Conshor Inc.
P.O. Box 1777
Bonita Springs, FL 33959

Stone Building Corp.
2500 Airport Road South
Naples, FL 33962

W & W Ltd.
1427 Marlin Drive
Naples, FL 33962

Audubon Builders, Inc.
6603 Southfork
Naples, FL 33963

Wilson Construction Inc.
P.O. Box 1906
Marco, FL 33969

Myakka River Homes Inc.
5929 Gillot Blvd.
Port Charlotte, FL 33981

Holiday Builders Inc.
1517 S.E. 16th PL #3
Cape Coral, FL 33990

Bozeman-Alleman
2530 55th St. S.W.
Naples, FL 33999

Arthur Rutenberg Homes
10303 Clubhouse Drive
Bradenton, FL 34202

BW General Contractors, Inc.
3008 8th Ave. West
Palmetto, FL 34221

O.C. Associates, Ltd.
6500 Oriole Blvd.
Englewood, FL 34224

STC Corporation
P.O. Box 3178
Sarasota, FL 34230

Radnor Sarasota Corp.
P.O. Box 910
Sarasota, FL 34230

Svenson Enterprises Inc.
1057 Sirus Trail
Sarasota, FL 34232

Medallion Homes
4270 Brittney Lane
Sarasota, FL 34233

Ted Wolff Building, Inc.
1748 Independence Blvd.
Sarasota, FL 34234

Johnson Construction
7535 Celle Fecil
Sarasota, FL 34238

Slabach Inc.
6398 Danner Drive #1
Sarasota, FL 34240

Custom Homes By Don
6145 Misty Oaks Ct.
Sarasota, FL 34243

Ammon Schrock Inc.
P.O. Box 20759
Sarasota, FL 34276

Mel Yoder Homes
P.O. Box 7439
Sarasota, FL 34278

Castle Builders
530 W. Benice By Pass
Venice, FL 34292

Pine Hollow Construction
P.O. Box 1863
Englewood, FL 34295

Seijas Construction
P.O. Box 187
LeCanto, FL 34460-0137

Jamelin Custom Homes Inc.
P.O. Box 3475
Spring Hill, FL 34606

Quail Ridge Development
12518 Flamingo Parkway
Spring Hill, FL 34610

The Straubinger Companies
19567 Gulf Blvd.
Indian Shores, FL 34635

Office of David Williams
P.O. Box 2003
New Port Richey, FL 34656

Ward Plastering
P.O. Box 954
Crystal Beach, FL 34681

Pioneer Developers of Amer.
46 West Lemon Street
Tarpon Springs, FL 34689

Bill Thomas Construction Inc.
P.O. Box 448
Clermont, FL 34711

Tompkins Heritage Homes Inc.
1637 E. Vine Street
Kissimmee, FL 34744

Watson Construction Co. Inc.
P.O. Box 865
Windermere, FL 34786

E & S General Contractors
2130 N. U.S. Hwy. 1
Fort Pierce, FL 34946

D.A. Scholes Construction
1489 S.E. Village Green Dr.
Port St. Lucie, FL 34952

Centron Homes
P.O. Box 189
Ocala, FL 34478

Cornerstone Builders
13407 Twin Lake Ave.
Spring Hill, FL 34609

Lennar Homes
13700 58th St. N.
Clearwater, FL 34620

Samuelsen Builders
3251 Seaway Drive
New Port Richey, FL 34652

Hunter's Development
8410 U.S. 19 #105
Port Richey, FL 34668

F&S Frame & Trim
3511 Alt. 19 N.
Palm Harbor, FL 34683

The Trace Partnership
3012 Peterborough St.
Holiday, FL 34690

Sutherland Construction
P.O. Box 120486
Clermont, FL 34712-0486

Wagner Construction
P.O. Box 490002
Leesburg, FL 34749

Sikes Construction
P.O. Box 171
Yalaha, FL 34797

Worthington Construction
1722 S.E. Lorraine Street
Port St. Lucie, FL 34952

McGee & Associates, Inc.
321 Olive Ave.
Port St. Lucie, FL 34952

General Contractor
P.O. Box 346
Jensen Beach, FL 34958

Wagner Builders
3262 S.W. 4th Ave. #2
Okeechobee, FL 34974

Brookfield Homes Inc.
514 S.E. Pt. St. Lucie Blvd.
Port St. Lucie, FL 34984

DS General Contractors
1125 S.W. Martin Downs Blvd.
Palm City, FL 34990

Beilissima Homes, Inc.
701 N. Federal Hwy. #207
Stuart, FL 34994

Townsend Inc.
2569 N.E. 54 Trail
Okeechobee, FL 34972

Turner Homes
662 N.E. Horizon Lane
Port St. Lucie, FL 34983

Nail Head Constrution
P.O. Box 7942
Port St. Lucie, FL 34985

J.W. Wheeler & Sons
2502 S.W. Raquet Club Dr.
Palm City, FL 34990

F & D Wilberding
3151 S.E. Dominica Ter.
Stuart, FL 34997

Appendix B

Lender Mailing List

Mailing Addresses of Banks

Branford State Bank
PO Box 447
Branford, FL 32008-0447

First Coast Community Bank
PO Box 1739
Fernandina Beach, FL
32034-1739

Barnett Bank/North
Central FL.
PO Box 1058
Lake City, FL 32056-1058

Citizens Bank of Macclenny
PO Box 545
Macclenny, FL 32063-0545

Clay County Bank
PO Box 2107
Orange Park, FL 32067-2107

Barnett Bank of St. Johns
PO Box 1929
St. Augustine, FL 32085-1929

First Natl. Bank/Bradford
PO Box 6008
Starke, FL 32091-6008

Sun Bank of Volusia
PO Box 2120
Daytona Beach, FL 32115-2120

Industrial Natl Bank
PO Box 3726
Tallahassee, FL 32315-3726

Capital City Second Natl Bank
PO Box 2805
Tallahassee, FL 32316-2805

C & L Bank of Bristol
PO Box 550
Bristol, FL 32321-0550

Gulf State Bank
PO Box GG
Carrabelle, FL 32322-1233

Gadsden State Bank
PO Box 5
Chattahoochee, FL 32324-0005

Southtrust Bank of Volusia
PO Box 3760
Deland, FL 32723

First Bank of the Villages
903 Avenida Central
Lady Lake, FL 32159-0018

Putnam State Bank
PO Box 1299
Palatka, FL 32178-1299

Marine Natl Bank Jacksonville
PO Box 179
Jacksonville, FL 32201-0179

Sun Bank North Florida N.A.
PO Box 2340
Jacksonville, FL 32203-2340

Southtrust Bank/Jacksonville
PO Box 7219
Jacksonville, FL 32238-0219

Capital City First Natl Bank
PO Box 900
Tallahassee, FL 32302-0900

City National Bank
PO Box 5737
Tallahassee, FL 32314-5737

Wewahitchka State Bank
PO Box 100
Wewahitchka, FL 32465-0100

Sunshine Bank
50 Beverly Pky
Pensacola, FL 32505-2814

Bank of the South
PO Box 3229
Pensacola, FL 32516-3229

First Bank of Crestview
PO Box 877
Crestview, FL 32536-0877

First American Bank
PO Box 6339
Destin, FL 32541-6339

The Citizens Bank of Wakulla
PO Box 1240
Crawfordville, FL 32327-1240

The Farmers & Merchants Bank
PO Box 340
Monticello, FL 32344-0340

The Citizens Bank of Perry
PO Box 1247
Perry, FL 32347-0781

Gadsden National Bank
PO Box 1080
Quincy, FL 32353

First Natl Bank/Northwest FL
PO Box 2900
Panama City, FL 32402-2900

Bank of Jackson County
PO Box 677
Graceville, FL 32440-0677

First National Bank/Alachua
PO Box 219
Alachua, FL 32615-0219

Crystal River Bank
PO Box 607
Crystal River, FL 32623-0607

Bank of Florida
PO Box 1010
Chiefland, FL 32626-1010

Dunnellon State Bank
PO Box 1189
Dunnellon, FL 32630-1189

Brannen Banks of Florida Inc.
PO Box 1929
Inverness, FL 32651-1929

Sun Bank of Ocala
PO Box 310
Ocala, FL 32678-0310

Farmers & Merchants Bank
PO Box 476
Trenton, FL 32693-0476

Perkins State Bank
PO Box 788
Williston, FL 32696-0788

First National Bank & Trust
PO Box 1327
Ft. Walton Bch, FL 32549-1327

Vanguard Bank & Trust
PO Box 888
Mary Esther, FL 32569-0888

First Natl Bank/Santa Rosa
PO Box 3654
Milton, FL 32572-3654

Amsouth Bank
PO Box 12790
Pensacola, FL 32575-2790

Peoples Natl Bank/Niceville
PO Box 517
Niceville, FL 32588-0517

Barnett Bank of Alachua
PO Box 1229
Gainesville, FL 32602-1229

First State Bank
800 Deltona Blvd.
Deltona, FL 32725-7163

First Mercantile Bank
PO Box 6060
Longwood, FL 32752-6060

First Community Bank/Orange
2240 S. Volusia Ave.
Orange City, FL 32763-7614

Seminole National Bank
PO Box 2057
Sanford, FL 32772-2057

National Bank of Commerce
1201 S. Orlando Ave.
Winter Park, FL 32789-7107

First National Bk/Central FL
PO Box 913900
Longwood, FL 32791-3900

First Seminole Bank
PO Box 951629
Lake Mary, FL 32795-1629

Southtrust Bank of Orlando
PO Box 2166
Orlando, FL 32802-2166

Security National Bank
Altamonte OFC
360 W. Highway 436
Altamonte Spg., FL 32714-4134

Barnett Bank of Volusia
PO Box 2077
Deland, FL 32721-2077

Fidelity Bank of Florida
PO Box 540160
Merritt Island, FL 32954-0160

1st American Bank Indn Rvr.
4000 20th St.
Vero Beach, FL 32960-2414

Consolidated Bank, N.A.
PO Box 2157
Hialeah, FL 33012-0157

First National Bank/Hollywood
3900 Hollywood Blvd.
Hollywood, FL 33021-6732

TIB Bank of the Keys
PO Box 2808
Key Largo, FL 33037-7808

First Natl Bk of Florida Keys
PO Box 50098
Marathon, FL 33050-0098

National City Bank
PO Box 9747
Coral Springs, FL 33075-9747

Florida First Internatl Bank
PO Box 6699
Hollywood, FL 33081-0699

First Natl Bank of Homestead
PO Box 128
Homestead, FL 33090-0128

First Union bank
PO Box 12500
Miami, Fl 33101-2500

Banco Pedrosa NA
PO Box 149004
Coral Gables, FL 33114-9004

Florida International Bank
PO Box 570070
Perrine, FL 33157-0070

Independent Bankers Bank
PO Box 4998
Orlando, FL 32802-4998

Security Natl Bank of Brevard
PO Box 1238
Melbourne, FL 32902-1238

The Internatl Bank/Miami NA
2121 SW 3rd Ave
Miami, FL 33129-14589

Barnett Bk of South Florida
PO Box 450310
Miami, FL 33131-0310

Sun Bank of Miami
777 Brickell Ave
Miami, Fl 33131

Popular Bank of Florida
888 Brickell Ave
Miami, FL 33131-2913

Commercial Trust Bank
1101 Brickell Ave
Miami, FL 33131-3104

Pacific National Bank
1390 Brickell Ave STE 400
Miami, FL 33131-3316

Eastern Natioanl Bank
PO Box 14400
Coral Gables, FL 33134-4400

The Bank of Coral Gables
2701 Ponce De Leon Blvd.
Coral Gables, FL 33134-6020

Jefferson National Bank
PO Box 402249
Miami, FL 33140-0249

Westchester Bank
PO Box 441900
Miami, FL 33144-1900

Key Biscayne Bank/Trust Co.
95 W McIntyre St.
Key Biscayne, FL 33149

Regent Bank
PO Box 291980
Davie, FL 33329-1980

Peoples First National Bank
PO Box 900
N. Miami Beach, FL 33160-0900

Central Bank
7970 NW 36th St.
Miami, Fl 33166-6604

Executive National Bank
9600 N Kendall Dr.
Miami, FL 33176-1919

Citibank (Florida) N.A.
8750 NW Doral Blvd.
Miami, FL 33178-2402

First Natl Bank of S. Miami
PO Box 431000
South Miami, FL 33243-1000

Metro Bank of Dade County
PO Box 560425
Miami, FL 33256-0425

American National Bank
4301 North Federal Hwy
Oakland Park, FL 33308-5692

C & S National Bank of FL
PO Box 5367
Fort Lauderdale, FL 33310-5367

Union Bank of Florida
PO Box 5787
Lauderhill, FL 33313-5874

Suburban Bank
PO Box 5619
Lake Worth, FL 33466-5619

Jupiter-Tequesta Natl Bank
250 Tequesta Dr.
Tequesta, FL 33469-2763

Bank of Pahokee
PO Box 599
Pahokee, FL 33476-0599

The Merchant Bank of Florida
PO Box 1970
Brandon, FL 33509-1970

Sun Bank/Pasco County
PO Box 609
Zephyrhills, FL 33539-0609

Bankers Trust Co. of FL, N.A.
505 S Flagler Dr. FL 6
W. Palm Bch, FL 33401-5923

First Natl Bank/Lake Park
PO Box 12217
Lake Park, FL 33403-0217

Manufacturers Bank & Trust/FL
The Harbour, 2401 PGA Blvd.
Plm Bch Grdens, FL 33410-3598

Carney Bank
PO Box 3219
Boynton Bch, FL 33424-3219

Prime Bank
PO Box 460
Boynton Bch, FL 33425-0460

Bank of Belle Glade
PO Box 790
Belle Glade, FL 33430-0790

The Guardian Bank
2255 Glades Rd., Ste 140w
Boca Raton, FL 3341-7360

First Bank of Clewiston
PO Box 1237
Clewiston, FL 33440-1237

Great Southern Bank
6266 Congress Ave., Ste. 12
Lantana, FL 33462-2308

University State Bank
PO Box 17744
Tampa, FL 33682-7744

Terrace Bank of Florida
PO Box 16828
Temple Terrace, FL 33687-6828

First Gulf Bank
6025 4th St. N
St. Petersburg, FL 33703-1419

The Chase Manhattan Bk/FL
PO Box 12408
St. Petersburg, FL 33733-2408

First State Bank of Arcadia
PO Box 1400
Arcadia, FL 33821-1400

The Hillsboro Sun Bank
PO Box B
Plant City, FL 33564-9002

Valrico State Bank
PO Box 849
Valrico, FL 33594-0849

Enterprise National Bank
201 E Kennedy Blvd., Ste 1800
Tampa, FL 33602-5829

Southtrust Bank of Tampa
PO Box 21587
Tampa, FL 33622-1587

Columbia Bank
PO Box 5079
Tampa, FL 33675-5079

Central Bank of Tampa
PO Box 4115
Tampa, FL 33677-4115

Merchant National Bank
PO Box 06077
Ft. Myers, FL 33906-6077

Southtrust Bank/Southwest FL
PO Box 1048
Cape Coral, FL 33910-1048

First Bank of Immokalee
1400 N 15th St.
Immokalee, FL 33934-2234

Hendry County Bank
PO Box 2020
Labelle, FL 33935-2020

Sun Bank/Naples N.A.
3055 Tamiami Trl N
Naples, FL 33940-4102

Community Bank of Charlotte
PO Box 2490
Port Charlotte, FL 33949-2490

Community Bank of the Islands
PO Box 1640
Sanibel Island, FL 33957-1640

First National Bank
PO Box 2648
Bonita Spings, FL 33959-2648

Community Natl Bank at Bartow
1375 N Broadway Ave
Bartow, FL 33830-3309

Citizens Bank of Frostproof
PO Box 7
Frostproof, FL 33843-0007

Sun Bank/South Central FL
3601 U.S. 27 N
Sebring, FL 33870-1642

Wauchula State Bank
PO Box 248
Wauchula, FL 33873-0248

Commerce Bank/Central FL
141 E Central Ave
Winter Haven, FL 33880-6338

Barnett Bank of Lee County
PO Box 338
Fort Myers, FL 33902-0338

Barnett Bank of Manatee
PO Box 9390
Bradenton, FL 34206-9390

First State Bank of Sarasota
5700 Clark Road
Sarasota, FL 34223-3302

Englewood Bank
1111 S McCall Rd.
Englewood, FL 34223-4229

Enterprise National Bank
PO Box 49557
Sarasota, FL 34230-6557

First National Bank of Venice
PO Box 1780
Venice, FL 34284-1780

Plant State Bank
PO Box O
Plant City, FL 34289-9010

The Hernando County Bank
PO Box 10289
Brooksville, FL 34601-0289

First National Bank
PO Box 179
Clearwater, FL 34617-0179

Island Bank of Collier County
PO Box 845
Marco Island, FL 33969-0845

Liberty National Bank
PO Box 25002
Bradenton, FL 34206-5002

Pinellas Community Bank
PO Box 2910
Largo, FL 34649-2910

Peoples State Bank
PO Box 2133
New Pt Richey, FL 34656-2133

First National Bank
PO Box 1457
Tarpon Springs, FL 34688-1457

Gulf Bank of Dunedin
2200 Bayshore Blvd.
Dunedin, FL 34698-2507

Lake State Bank
PO Box 1439
Land of Lakes, FL 34639-1493

Rutland's FL Gulf Bank
7101 Park St.
Seminole, FL 34647-4632

First National Bank/Osceola
PO Box 420369
Kissimmee, FL 34742-0369

Citizens Natl Bank/Leesburg
PO Box 490047
Leesburg, FL 34749-0047

Public Bank
POB 235
St. Cloud, FL 34770-0235

First Bank of Indiantown
PO Box 365
Indiantown, FL 34956-0365

Mailing Addresses of Savings & Loans

Meritor Savings
203 Avenue A, NW
Winter Haven, FL 33881

First Federal S&L Assoc.
2201 Second St.
PO Box 940
Fort Myers, FL 33902-0940

World S&L Assoc.
12700 Military Trail
PO Box 259005
Boynton Bch, FL 33425

First Federal S&L
PO Box 430
Daytona, FL 32170

Harbor Federal S&L
222 N Nova Rd.
Ormond Bch, FL 32174-5124

First Federal S&L
PO Box 798
Palatka, FL 32178-0798

Peoples First Financial S&L
14333 Beach Blvd. Ste 104
Jacksonville, FL 32250-1573

First Federal S&L Assoc.
215 S Olive Ave., PO Box 3515
W. Palm Bch, FL 33402-3515

Security First Federal S&L
501 N Grandview Ave.
PO Box 2870
Daytona Beach, FL 32120-2870

Coast Federal S&L
7 Old Kings Rd. N Ste 36
Palm Coast, 32137-8230

Meritor Savings
490 N Orlando Ave
Winter Park, FL 32789

Coral Gables Federal S&L
455 S Orange Ave
Orlando, FL 32801-3342

Lochaven Federal S&L Assoc.
2415 N Orange Ave.
Orlando, FL 32804

Harbor Federal S&L Assoc.
2255 W New Haven Ave.
W Melbourne, FL 32904

Peoples First Financial S&L
PO Box 13895
Tallahassee, FL 32317-3895

Peoples First Financial S&L
PO Box 2950
Panama City, FL 32402-2950

Peoples First Financial S&L
PO Box 30379
Pensacola, FL 32503-1379

Peoples First Financial S&L
PO Box 979
Shalimar, FL 32579-0979

First Federal S&L
800 W. Main ST.
Inverness, FL 32651-1569

Crown Savings Assoc.
105 Live Oaks Gardens, #129
Casselberry, FL 32707

First Family Federal S&L
PO Box 1090
Eustis, FL 32727-1090

Ponce De Leon Federal S&L
1220 Ponce De Leon Blvd.
Coral Gables, FL 33134-3376

Coral Gables Federal S&L
2511 Ponce De Leon Blvd.
Coral Gables, FL 33134-6084

American S&L of Florida
17801 NW 2nd Ave
Miami, FL 33169-5003

Turnberry S&L Assoc.
19575 Biscayne Blvd.
N. Miami Bch, FL 33269

Glendale Federal S&L
PO Box 406008
Fort Lauderdale, FL
33340-6008

Community Savings, F.A.
660 U.S. Highway One
N. Palm Beach, FL 33408

Palm Bch S&L
1818 S Australian Ave Ste
West Palm Bch, FL 33409-6463

F.A. Meritor Savings
4701 Babcock St. NE
Palm Bay, FL 32905-2828

Coral Gables Federal S&L
333 17th St. #J
Vero Beach, FL 32960-5636

Financial Federal S&L Assoc.
6625 Miami Lakes Dr.
Miami Lakes, FL 33014

Gibralter S&L Assoc.
18590 NW 67 Ave,PO Box 170710
Hialeah, FL 33017-0710

Truman S&L Assoc.
4651 Sheridan St., # 125
Hollywood

Suncoast S&L Assoc.
4000 Hollywood Blvd.
Hollywood, FL 33021-6747

Flagler Federal S&L Assoc.
101 NE 1st Ave.
Miami, FL 33132

Meritor Savings
405 N Westshore Blvd.
Tampa, FL 33609-1921

First Federal S&L Assoc.
205 E Orange St.
Lakeland, FL 33802-1527

First Federal S&L Assoc.
One First St., PO Box 1290
Lak Wales, FL 33859-1290

Bayside Federal S&L Assoc.
3280 Tamiami Trl
Pt. Charlotte, FL 33952-8048

Coast Federal S&L
5714 14th St. W
Bradenton, FL 34207-4096

Meritor Savings
4462 Bee Ridge Rd.
Sarasota, FL 34233-2502

Crown Savings
2900 S Tamiami Trl #1st
Sarasota, FL 34239-5105

Coral Gables Federal S&L
22893 Sandalfoot Plaza Dr.
Boca Raton, Fl 33428-6629

Charter S&L Assoc.
5300 Atlantic Ave.
Del Ray Bch, FL 33484-7568

Sunshine State Federal S&L
PO Box F
Plant City, FL 33564-9056

First Federal S&L Assoc.
800 North Blvd., West
Leesburg, FL 34749-0420

First Federal S&L Assoc.
1200 S. McCall Rd.
Englewood, FL 34295-1286

Madison S&L Assoc.
35388 U.S. 19 North
Palm Harbor, FL 34684-1931

First Federal S&L Assoc.
200 E. Broadway
Kissimee, Fl 34741-5791

Community Savings
101 S Federal Hwy
Stuart, FL 34994-2001

Mailing Adresses of Mortgage Bankers

1st Surety Mtg. Corp.
1071 Pt. Malabar Blvd. NE, #202
Palm Bay, FL 32905-5161

American Heritage Mtg. Corp.
2170 SR 434 W #494
Longwood, FL 32779

American Mtg. Corp.
PO Box 540548
Merritt Island, FL 32954-0548

Amerimortgage Corp.
1300 S Roosevelt Blvd.
Key West, FL 33040

Big First Mortgage Corp.
500 Federal Hwy
Lake Park, FL 33403-3558

Booker Mortgage Company
PO Box 2219
Titusville, FL 32781-2219

Camelot Mortgage Corp.
300 S Pine Island Rd., #3033
Plantation, FL 33324-2620

Community Mortg. Co.
2700 Westhall Ln., #137
Maitland, FL 32751

Community State Mortgage
2101 E SR 434 #317
Longwood, FL 32779

Capital Commercial Mtg. Co.
PO Box 2391
Orlando, FL 32802-2391

Centerbank Mtg. Co.
801 N Douglas Ave, #103
Altamonte Springs, FL 32714

Chase Home Mortgage Corp.
4651 Salisbury Rd.
Jacksonville, FL 32256-6187

Coastal States Mortgage Corp.
4000 Hollywood Blvd.
Hollywood, FL 33021

Collateral Mortgage, Ltd.
2727 NW 43rd St., #3
Gainesville, FL 323606

Colonial Mtg. Co.
2852 Remington Green Cr #102
Tallahassee, FL 32308

Combank Mortgage Co.
15600 SW 288th St., 4th Floor
Homestead, FL 33033-1200

Gulf States Mtg. Co., Inc.
3859 Bee Ridge Rd., #101
Sarasota, FL 34233

Homebanc Mortgage Corp.
600 W. Hillsboro Blvd.
Deerfield Bch, FL 33441

Countrywide Funding Corp.
1790 N Hwy A1A, #109
Melbourne. FL 32937

CTX Mortgage Co.
6440 S Point Pkwy. #180
Jacksonville, FL 32216

Enterprise Mortgage Corp.
1120 E. Semoran Blvd.
Apopka, FL 32703-5523

First Bancorp Mortgage, Inc.
8211 W Broward Blvd.
Plantation, FL 33324

First Florida Funding Corp.
6447 Miami Lakes Dr. E., #202
Miami Lakes, FL 33014-2703

First State Mortgage Co.
2484 W SR 434 #108
Longwood, FL 32779

First Unity Mortgage Corp.
9050 Pines Blvd. #100
Pembroke Pines, FL 33024

Flagship Mortgage Bankers
1301 Seminole Blvd. #170
Largo, FL 34640

Mortgage First
PO Box 670
Panama City, FL 32402

Mortgage Network Centers
13902 N Dale Mabry Hwy, #212
Tampa, FL 33618-2424

NBD Mortgage Company
PO Box 848
Venice, FL 34284-0848

North American Mortgage Co.
11300 4th St. N. #417
St. Petersburg, FL 33716

Ocean States Mortgage Corp.
7270 NW 12th St. #660
Miami, FL 33126-1927

Palm Coast Mortgage Co.
14 Office Park Dr., Ste. 1
Palm Coast, FL 32137-3830

Hovnanian Mtg./FL
1800 S Australian Ave., #102
West Palm Bch, FL 33409-6450

Huntington Mtg. Co.
400 5th Ave. S., #204
Naples, FL 33940

IDL Mortgage Corp.
6338 Presidential Ct, Ste 205
Ft. Myers, FL 33919-3504

Interbanc Mortgage SVCS.
901 Lake Destiny Dr. #139
Maitland, FL 32751

Kendall Mortgage Corp.
758 Country Club Dr.
Titusville, FL 32780

Kislak Mortgage Corp.
7900 Miami Lakes Dr. W.
Miami Lakes, FL 33016-5897

McCaughan Mortgage Co., Inc.
1320 S. Dixie Hwy. #950
Coral Gables, FL 33146-2913

Mortgage Dynamics, Inc.
1761 W. Hillsboro Blvd.
Deerfield, Bch, FL 33442-1502

Ryland Mortgage Company
605 E. Robinson St. #350
Orlando, FL 32801

Sears Mortgage Corp.
6767 N Wickham Rd. #214
Melbourne, FL 32940

Southpointe Mtg. Corp.
3874 Sheridan St.
Hollywood, FL 33021

Sunbelt National Mortgage
2194 Hwy. A1A
Indn Harbr Bch, FL 32937-4930

Thomas Mortgage
1180 Spring Centre S. #223
Altamonte Spgs, FL 32714

Waters Mortgage Corp.
6190 NW 11th St.
Ft. Lauderdale, FL 33313-6116

Prudential Home Mortgage
174 W. Comstock Ave. #203
Winter Park, FL 32789

Riverside Mortgage Company
7800 Belfort Pkwy.
Jacksonville, FL 32256

Westlake Mortgage Corp.
9075 Seminole Blvd. #B
Seminole, FL 34642

Barnett Mortgage Co.
PO Box 40843
Jacksonville, FL 32203-0843

Appendix C

Builder Survey

1. Would you primarily consider yourself a:
   (36.4%)Small-Less than $1 million
   (45.5%)Medium-$1 to $9.5 million
   (9.1%)Large-$10 million and over
   (81.8%)Single Family Homes
   (13.6%)Multifamily Homes
   (18.2%)Remodeling
   (13.6%)Land Development
   (0.0%)Institutional
   (0.0%)Other

2. Please indicate the total number of residential units for the following categories for 1992:

	Started	Completed
(86.4%)Single Family		
(13.6%)Multifamily (sales)		
(0.0%)Multifamily (rental)		
(0.0%)Total		

3. Please indicate the total dollar volume of all your land development activity during 1992.
   (40.9%)Less than $1 million
   (13.6%)$1 million to $3 million
   (9.1%)$3 to $9.5 million
   (0.0%)$10 to $24.5 million
   (0.0%)$25 million and over

4. Please indicate the total dollar volume of all your building construction activity during 1992.
   (36.4%)Less than $1 million
   (30.4%)$1 million to $3 million
   (18.2%)$3 to $9.5 million
   (4.5%)$10 to $24.5 million
   (0.0%)$25 million and over

5. How many total land development projects have you been involved with in the last five years?

6. How many land development projects with which you have been involved in the last five years have gone into lender foreclosure?
   (4.5)

7. How many total residential units have you been involved with in the last five years?

8. How many residential units with which you have been involved in the last five years have gone into lender foreclosure? (9.1)

9. How many total multi-family units have you been involved with in the last five years?

10. How many multi-family units with which you have been involved in the last five years have gone into lender foreclosure? (0)

11. Please check your primary source of funding.

(36.4%)Thrift Institutions (22.7%)Mortgage Company
(54.5%)Commercial Bank (9.1%)Other

12. What ways have your thrifts changed their lending practices?

(27.3%)Decreased lending for residential developments
(9.1%)No longer lending for residential developments
(45.5%)More equity required (63.6%)Increased documentation
(36.4%)Personal guarantees (40.9%)Reduces amount of lending
(4.5%)No changes
(13.6%)Other

13. If the thrift has changed its practices, what reasons did it give?
(31.8%)Changes brought about by FIRREA
(50.0%)Increased control by regulators
(22.7%)The economy/recession
(9.1%)No reason given

14. Have you attempted to make other arrangements for financing as a result of problems with your thrifts?
(68.2%)Yes (22.7%)No

15. If yes, did you succeed in finding other financing?
(60.0%)Yes (40.0%)No

16. What were the sources of alternate financing?
(45.5%)Commercial banks (22.7)Private sources
(22.7%)Personal/company cash (0.0%)Other
(9.1%)New methods of lot sales and development

17. What ways have your commercial banks changed their lending practices?
(54.5%)More equity required (63.6%)Increased documentation
(45.5%)Personal guarantees (27.3%)Reduced amount of lending
(0.0%)No changes (0.0%)Other
(27.3%)Decreased lending for residential developments
(18.2%)No longer lending for residential developments

18. If the commercial banks have changed their practices, what reasons did they give?
(31.5%)Changes brought about by FIRREA
(50.0%)Increased control by regulators
(18.2%)The economy/recession
(13.6%)No reason given

19. Have changes in lender practices affected your building plans for 1993?
(45.5%)No changes (22.7%)Decreased land development
(36.4%)Decreased number of units started

20. Does your lender administer development and construction loans within a separate residential loan department?

(77.3%)Yes (13.6%)No

21. If yes, does the residential construction loan department include staff experienced in the residential construction industry?
(64.7%)Yes (23.5%)No

22. In what percentage of your projects involving a construction lender have there been payment delays due to the lender's involvement in the disbursement process?
(40.9%) - 0%
(9.1%) - .01%-10%
(13.6%) - 11%-25%

23. What type of documentation do lender require in order to verify your financial position?
(40.9%)Certified financial statement
(18.2%)Interviews with those doing business with the developer
(59.1%)Business reference check
(81.8%)Tax Returns
(90.9%)Personal financial statement
(18.2%)In-depth investigation of financial statement
(0.0%)Dun and Bradstreet
(0.0%)Other____________________

24. What percentage of the time in single family loans is the appraisal significantly higher or lower than the builder's contract amount?
(36.4%)Higher______%
(59.1%)Lower______%

25. When the appraisal is significantly higher or lower than the builder's contract amount, it is usually due to:
(59.1%)Appraiser over/undervaluation
(4.5%)Contractor over/undervaluation

26. What percentage of the time does an incorrect appraisal play a significant role in project foreclosure?
(31.8%) - 0%
(9.1%) - .1%-10%
(0.0%) - 11%-25%
(4.5%) - 26%-50%
(0.0%) - 51%+

27. How often is the appraisal within the following percent correct margin of the actual market value of the property involved?

	1=Never			5=Always	
5%	1	2	3	4	5
10%	1	2	3	4	5
20%	1	2	3	4	5
30%	1	2	3	4	5

	1	2	3	4	5
5%	0.0%	9.1%	31.8%	13.6%	4.5%
10%	0.0%	4.5%	27.3%	13.6%	4.5%
20%	13.6%	4.5%	4.5%	13.6%	13.6%
30%	13.6%	0.0%	9.1%	9.1%	18.2%

28. How much do you rely upon the appraisal for setting loan to value?
(9.1%)Always (36.4%)Almost always
(9.1%)Sometimes (31.8%)Almost never

29. Which of the following more often tries to influence the outcome of the appraisal?
(18.2%)Lender (59.1%)Contractor

30. What does your company do to prevent appraisal fraud?
(9.1%)Nothing
(54.5%)Rely on the reputation of the appraiser
(0.0%)Independent appraisal consultant
(9.1%)Multiple appraisals
(40.9%)In-house review of appraisals
(4.5%)Other____________________

31. Do you think the lending industry does enough to prevent appraisal fraud?
(63.6%)Yes (13.6%)No

32. In the past two years has your loan-to-value ratio changed significantly?
(27.3%)Yes (59.1%)No

33. If yes, by how much?
(16.7%)Reduced by 10%
(50.0%)Reduced by 20% or more
(16.7%)Increased by 10%
(0.0%)Increased by 20% or more

34. Do you believe when Builders/Developers make an application for a Construction or Land Acquisition Loan they typically represent:
(40.9%)Their true financial position
(40.9%)A slightly exaggerated financial position
(13.6%)A highly exaggerated financial position

35. What steps are being taken by lenders to reduce their risk when making construction loans?
(72.7%)Builder equity (77.3%)Personal guarantees
(54.5%)Pre-sales (9.1%)Other________________

36. What is the most reliable method to monitor the monthly construction draw to insure that the project is not overdrawn?

	1=Most reliable			5=Least reliable	
In-house bank official	1	2	3	4	5
Outside Construction consultant	1	2	3	4	5
Architect of record	1	2	3	4	5
Other________________	1	2	3	4	5

	1	2	3	4	5
In-House Bank Official	31.8%	9.1%	27.3%	0.0%	4.5%
Outside Consultant	13.6%	18.2%	4.5%	13.6%	9.1%
Architect of Record	22.7%	13.6%	9.1%	4.5%	18.2%
Other	13.6%	4.5%	0.0%	0.0%	4.5%

37. What precautions do lenders take to assure that you do not co-mingle funds for different projects or take dollars drawn for hard costs to pay for other projects or to pay soft costs?

(45.5%)None
(40.9%)Builder certification of disbursement
(0.0%)Audit of builder/developer records
(4.5%)Review of builder/developer banking records
(4.5%)Other________________

38. Does your lender require verification of your draw request?
(77.3%)Yes (13.6%)No

39. If yes, which of the following is used?
(0.0%)Receipts
(70.6%)As per lender-specified draw schedule
(58.8%)Progress inspection based on your estimation
(0.0%)Other

40. Does your lender take any precautions to insure that you pay your subcontractors and suppliers on a timely basis?
(63.6%)Yes (13.6%)No

41. Please rank how often the following professionals are involved in your projects.
1=Always 2=Almost always 3=Sometimes 4=Almost never 5=Never

Architect	1	2	3	4	5
Engineer	1	2	3	4	5
Professional Planner	1	2	3	4	5
Environmental Consultant	1	2	3	4	5
Marketing Consultant	1	2	3	4	5

	1	2	3	4	5
Architect	13.6%	22.7%	13.6%	27.3%	18.2%
Engineer	31.8%	13.7%	13.6%	9.1%	22.7%
Professional Planner	0.0%	0.0%	18.2%	13.6%	59.1%
Environmental Consultant	4.5%	4.5%	13.6%	27.3%	40.9%
Marketing Consultant	4.5%	9.1%	18.2%	18.2%	40.9%

42. Do you believe the Lending Industry should become more responsible for insuring that all parties for whom monies are drawn are in fact paid with those funds?
(45.5%)Yes (54.4%)No

43. Do you believe the lender should be required to set aside the portion of the loan for Construction Costs and that there should be restrictions on the developer and lender using those funds for other purposes?
(40.9%)Yes (50.0%)No

44. Do you believe the lender should be required to give notice to the subcontractors in the event of a default by the Builder/Developer?
(72.7%)Yes (13.6%)No

45. What % of the time are you required to provide a performance and payment bond? ____________%
(59.1%) - 0%
(13.6%) - 1%-10%
(0.0%) - 11%-25%
(0.0%) - 26%-50%
(4.5%) - 51+

46. Are you knowledgeable about the Construction Lien Law?
(86.4%)Yes (9.1%)No

47. Have you or someone in your organization attended a Construction Lien Law seminar in the last 2 years?
(40.9%)Yes (59.1%)No

48. Do you or someone in your organization plan to attend a Construction Lien Law seminar in the next year?
(22.7%)Yes (72.7%)No

49. Have you ever had an OSHA inspector visit any of your jobsites?
(31.8%)Yes (68.2%)No

50. Have you or someone in your organization attended an OSHA or safety related seminar in the last 2 years?
(36.4%)Yes (63.6%)No

51. Do you or someone in your organization plan to attend an OSHA or safety related seminar in the next year?
(27.3%)Yes (68.2%)No

Appendix D

Lender Survey

THE ROLE OF LENDERS IN RESIDENTIAL CONSTRUCTION

1. What percentage of construction loans does your lending institution do for each type of work?
   - ( ) Residential_________% $ volume ______________/year
   - ( ) Commercial_________% $ volume ______________/year
   - ( ) Industrial_________% $ volume ______________/year

<u>S&Ls and Banks:</u> (Answers to question #1 organized into categories)

Categories of Involvement in Residential	Banks	S&Ls
Residential loans ÷ all loans > 75%	[40.1%]	[81.8%]
Residential loans ÷ all loans = 50% to 75%	[11.1%]	[0.0%]
Residential loans ÷ all loans = 25% to 50%	[11.4%]	[0.0%]
Residential loans ÷ all loans < 25%	[11.4%]	[9.1%]
No answer	[25.7%]	[9.1%]

<u>S&Ls and Banks:</u> (Answers to question #1 organized into categories)

Categories of Involvement in Residential	Banks	S&Ls
Total residential loans ≥ $20 million	[5.7%]	[27.3%]
Total residential loans = $10-$20 million	[14.7%]	[9.1%]
Total residential loans = $1-$10 million	[31.6%]	[45.5%]
Total residential loans ≤ $1 million	[5.7%]	[9.1%]
No Answer	[42.9%]	[9.1%]

2. How would you describe your Financial Institution? (check all that apply)

( )Small		( )Commercial bank
( )Medium	and	( )S&Ls
( )Large		( )Mortgage Bank

<u>S&Ls and Banks:</u> (Answers to question #2 organized into the categories below)

(0.0%)Large S&Ls	(5.7%)Large S&Ls
(45.5%)Medium S&ls	(14.3%)Medium S&ls
(45.5%)Small S&Ls	(65.7%)Small S&Ls

3. Of your residential loans what percentage are:
   - ( )Acquisition ________% $ volume ______________/year
   - ( )Development ________% $ volume ______________/year
   - ( )Construction ________% $ volume ______________/year

<u>S&Ls</u>: (Answers to question #3 organized into categories)

Involvement in Each Loan Type	Acq.	Dev.	Const
Loan type/Total residential > 75%	[0.0%]	[0.0%]	[63.6%]
Loan type/Total residential = 50%-75%	[9.1%]	[0.0%]	[0.0%]
Loan type/Total residential = 25%-50%	[9.1%]	[9.1%]	[18.2%]
Loan type/Total residential < 25%	[18.2%]	[27.3%]	[9.1%]

<u>Banks:</u> (Answers to question #3 organized into categories)

Involvement in Each Loan Type	Acq.	Dev.	Const
Loan type/Total residential > 75%	[20.0%]	[0.0%]	[17.1%]
Loan type/Total residential = 50%-75%	[8.6%]	[0.0%]	[5.7%]
Loan type/Total residential = 25%-50%	[11.4%]	[11.4%]	[14.3%]
Loan type/Total residential < 25%	[25.7%]	[25.7%]	[34.3%]

4. How have you changed your lending policies or procedures within the past 5-10 years ?

S&Ls:

(check all that applies)	Acquisition	Development	Construction
No Changes	[0.0%]	[0.0%]	[0.0%]
Not renew loans/extend maturity	[0.0%]	[0.0%]	[0.0%]
Calling all/part of loan before maturity	[0.0%]	[0.0%]	[0.0%]
Charging higher interest rates	[9.1%]	[9.1%]	[27.3%]
More equity required	[36.4%]	[36.4%]	[63.6%]
Asking for additional collateral	[0.0%]	[0.0%]	[0.0%]
Increased documentation	[45.5%]	[45.5%]	[72.7%]
Now requiring personal guarantee	[9.1%]	[9.1%]	[27.3%]
Higher capital requirements	[9.1%]	[9.1%]	[9.1%]
No longer making loans	[45.5%]	[45.5%]	[0.0%]
Other ____________ (please specify)	[0.0%]	[0.0%]	[0.0%]

Banks:

(check all that applies)	Acquisition	Development	Construction
No Changes	[8.6%]	[0.0%]	[17.1%]
Not renew loans/extend maturity	[5.7%]	[5.7%]	[5.7%]
Calling all/part of loan before maturity	[2.9%]	[2.9%]	[2.9%]
Charging higher interest rates	[5.7%]	[8.6%]	[8.6%]
More equity required	[51.4%]	[48.6%]	[37.1%]
Asking for additional collateral	[28.6%]	[28.6%]	[20.0%]
Increased documentation	[77.1%]	[57.1%]	[54.3%]
Now requiring personal guarantee	[14.3%]	[17.1%]	[17.1%]
Higher capital requirements	[31.4%]	[31.4%]	[31.4%]
No longer making loans	[2.9%]	[5.7%]	[0.0%]
Other ____________ (please specify)	[2.9%]	[2.9%]	[2.9%]

5. If changes have occurred, what are the reasons?

S&Ls:

(check all that applies)	Acquisition	Development	Construction
Single borrower restrictions	[27.3%]	[27.3%]	[27.3%]
New capital requirements	[36.4%]	[36.4%]	[54.6%]
Company Concern for risk	[54.6%]	[54.5%]	[54.6%]
RTC takeovers	[0.0%]	[0.0%]	[0.0%]
Increase Regulatory Requirements	[36.4%]	[27.3%]	[27.3%]
Tough Regulators/Examiners	[36.4%]	[45.5%]	[36.4%]
Other ____________ (please specify)	[0.0%]	[0.0%]	[0.0%]

Banks:

(check all that applies)	Acquisition	Development	Construction
FDIC takeovers	[0.0%]	[0.0%]	[0.0%]
Higher capital requirements	[11.4%]	[11.4%]	[11.4%]
Restrictive regulations / audits	[65.7%]	[62.9%]	[57.1%]
Company concern for risk	[48.6%]	[48.6%]	[40.0%]
Other ____________ (Please specify)	[0.0%]	[2.9%]	[0.0%]

6a. Does your Institution prefer to loan to a particular size of builder?

S&Ls:
(36.4%)Yes (54.5%)No

Banks:
(20.0%)Yes (65.7%)No

6b. Does your institution have restrictions on builders according to size ?

S&Ls:
(27.3%)Yes (63.6%)No

Banks:
(8.6%)Yes (74.3%)No

7. If yes to any of the above in question #6, please rank your preferences in lending: (circle one for each that applies)

	1=lowest preference to 5=highest preference					
Small builder	1	2	3	4	5	(< $1 mil. activity)
Medium builder	1	2	3	4	5	($1-$9.5 mil. activity)
Large builder	1	2	3	4	5	(>$10 mil. activity)

S&Ls: (Only the highest rating per respondent was recorded and grouped into the options below)
(20.0%)Large builder preferred
(20.0%)Medium builders preferred
(60.0%)Small builders preferred

Banks: (Only the highest rating per respondent was recorded and grouped into the options below)
(9.1%)Large builder preferred
(45.5%)Medium builders preferred
(72.7%)Small builders preferred

8. Do you believe that the removal or modification of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) will: (check all that apply)

S&Ls:
(72.7%)Benefit all participants in residential construction
(0.0%)Disadvantage all participants in residential construction
(27.3%)Benefit lenders
(9.1%)Disadvantage builders

Banks:
(51.4%)Benefit all participants in residential construction
(8.6%)Disadvantage all participants in residential construction
(14.3%)Benefit lenders
(5.7%)Disadvantage builders

9. In residential construction loans, is prompt payment of the subcontractor by the contractor a problem?

S&Ls:

(27.3%)Yes (63.6%)No

Banks:

(28.6%)Yes (54.3%)No

10. What does your company do to insure prompt payment to subcontractors and to prevent "double payments" ? (circle one for each that applies)

S&Ls: (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(81.8%)Require lien releases/waivers.	1	2	3	4	5
(9.1%)Require "pay when paid" clauses.	1	2	3	4	5
(45.5%)Issuance of joint checks	1	2	3	4	5
(72.7%)Certification from prime contractor	1	2	3	4	5
(27.3%)Other ________ (please specify)	1	2	3	4	5

Banks: (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(80.0%)Require lien releases/waivers.	1	2	3	4	5
(31.4%)Require "pay when paid" clauses.	1	2	3	4	5
(60.0%)Issuance of joint checks	1	2	3	4	5
(62.9%)Certification from prime contractor	1	2	3	4	5
(17.1%)Other ________ (please specify)	1	2	3	4	5

11. What percentage of the time, in single family homes, is the appraisal significantly higher or lower than the builder contract amount?

Higher________% Lower________%

S&Ls: (All answers grouped into the options below)

(18.2%)Lower more than 20% of the time
(9.1%)Lower between 10-20% of the time
(18.2%)Lower between 1-10% of the time
(0.0%)On target
(27.3%)Higher between 1-10% of the time
(9.1%)Higher between 10-20% of the time
(27.3%)Higher more than 20% of the time

Banks: (All answers grouped into the options below)

(11.4%)Lower more than 20% of the time
(22.9%)Lower between 10-20% of the time
(8.6%)Lower between 1-10% of the time
(11.4%)On target
(14.3%)Higher between 1-10% of the time
(5.7%)Higher between 10-20% of the time
(31.4%)Higher more than 20% of the time

12. When the appraisal is significantly higher or lower than it should be, it is usually due to: (check only one)

S&Ls:

(18.2%)Appraiser over/under evaluation
(72.7%)Contractor over/under evaluation

Banks:
(40.0%)Appraiser over/under evaluation
(22.9%)Contractor over/under evaluation

Builders: (From the builder survey, Hall 1993)
(59.1%)Appraiser over/under evaluation
(4.5%)Contractor over/under evaluation

13. What percentage of the time does an incorrect appraisal play a significant role in project foreclosure? __________%

S&Ls: (All answers grouped into the three options below)
(9.1%)Above 15% of the time
(36.4%)Up to 15% of the time
(18.2%)Never

Banks: (All answers grouped into the three options below)
(22.9%)Above 15% of the time
(8.6%)Up to 15% of the time
(25.7%)Never

14. How often is the appraisal within the following percentage correct margin of the actual market value of the property involved? (circle one for each that applies)

S&Ls and Banks Together: (Only ratings equal to or greater than 4 were counted)

			1=never to 5=always				
(26.1%)	5 %	-------	1	2	3	4	5
(26.1%)	10 %	-------	1	2	3	4	5
(19.6%)	20 %	-------	1	2	3	4	5
(28.3%)	30 %	-------	1	2	3	4	5

15. How much do you rely upon the appraisal for setting loan to value ? (check only one)

S&Ls:
(45.5%)Always
(45.5%)Almost always
(0.0%)Sometimes
(0.0%)Almost never

Banks:
(17.1%)Always
(57.1%)Almost always
(8.6%)Sometimes
(2.9%)Almost never

Builders: (From the builder survey, Hall 1993)
(9.1%)Always
(36.4%)Almost always
(9.1%)Sometimes
(31.8%)Almost never

16. Which of the following attempts to direct/influence the outcome of the appraisal most often? (check only one)

<u>S&Ls and Banks Together:</u>
(8.7%)Lender
(50.0%)Contractor
(10.9%)Comments ____________________
(please specify)

<u>Builders:</u> (From the builder survey, Hall 1993)
(18.2%)Lender
(59.1%)Contractor
(N/A)Comments ____________________
(please specify)

17. What does your company do to prevent appraisal fraud? (circle one for each that applies)

<u>S&Ls:</u> (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(0.0%)Nothing	1	2	3	4	5
(72.7%)Rely on reputation of appraiser	1	2	3	4	5
(27.3%)Independent appraisal consultant	1	2	3	4	5
(36.4%)Multiple appraisals	1	2	3	4	5
(90.9%)In-house review of appraisals	1	2	3	4	5
(9.1%)Other ____________ (please specify)	1	2	3	4	5

<u>Banks:</u> (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(2.9%)Nothing	1	2	3	4	5
(60.0%)Rely on reputation of appraiser	1	2	3	4	5
(20.0%)Independent appraisal consultant	1	2	3	4	5
(2.9%)Multiple appraisals	1	2	3	4	5
(74.3%)In-house review of appraisals	1	2	3	4	5
(8.6%)Other ____________ (please specify)	1	2	3	4	5

18. Do you think the lending industry does enough to prevent appraisal fraud?

<u>S&Ls:</u>
(45.5%)Yes (36.3%)No

<u>Banks:</u>
(28.6%)Yes (51.4%)No

<u>Builders:</u> (From the builder survey, Hall 1993)
(63.6%)Yes (13.6%)No

19. Please state the importance of the following evidence a builder must provide to qualify for a residential construction loan. (circle one for each that applies)

S&Ls: (Only ratings equal to or greater than 3 were counted)

	1=insignificant to 5=highly important				
(81.8%)Cash position/net worth	1	2	3	4	5
(90.9%)The reputation of the builder	1	2	3	4	5
(72.7%)Project equity	1	2	3	4	5
(63.6%)Personal guarantees	1	2	3	4	5
(36.4%)Project pre sales	1	2	3	4	5
(72.7%)Location and project type	1	2	3	4	5
(0.0%)Other ____________ (please specify)	1	2	3	4	5

Banks: (Only ratings equal to or greater than 3 were counted)

	1=insignificant to 5=highly important				
(68.6%)Cash position/net worth	1	2	3	4	5
(77.1%)The reputation of the builder	1	2	3	4	5
(65.7%)Project equity	1	2	3	4	5
(65.7%)Personal guarantees	1	2	3	4	5
(37.1%)Project pre sales	1	2	3	4	5
(60.0%)Location and project type	1	2	3	4	5
(0.0%)Other ____________ (please specify)	1	2	3	4	5

20. Generally speaking what risk category is assigned to the loan categories below ?
(circle one for each that applies) 1=low risk to 5=high risk

Residential construction loans	1	2	3	4	5
Commercial construction loans	1	2	3	4	5
Industrial construction loans	1	2	3	4	5

S&Ls: (Used information from question #20 to rate the risk for residential construction in the following manner)
(63.6%)Residential is low risk--rating of 1 or 2
(27.3%)Residential is moderate risk--rating of 3
(0.0%)Residential is high risk--rating of 4 or 5

Banks: (Used information from question #20 to rate the risk for residential construction in the following manner)
(54.3%)Residential is low risk--rating of 1 or 2
(20.0%)Residential is moderate risk--rating of 3
(11.4%)Residential is high risk--rating of 4 or 5

21. Do your underwriting procedures reflect this difference in risk?

S&Ls and Banks TOGETHER:
(80.4%)Yes (4.4%)No

22. For speculative development do you require any type of feasibility document?
(circle one for each that applies)

S&Ls: (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(54.6%)Return on investment analysis	1	2	3	4	5
(54.6%)Market Demand Investigation	1	2	3	4	5
(54.6%)Site analysis	1	2	3	4	5
(0.0%)Other ____________ (please specify)	1	2	3	4	5

Banks: (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(37.1%)Return on investment analysis	1	2	3	4	5
(54.3%)Market Demand Investigation	1	2	3	4	5
(54.3%)Site analysis	1	2	3	4	5
(2.9%)Other__________ (please specify)	1	2	3	4	5

23. Does your Institution actually research the demand relative the supply of the type of residential project before the loan is approved ?

S&Ls:
(45.5%)Yes (36.4%)No

Banks:
(54.3%)Yes (20.0%)No

24. Do you administer residential construction loans with a department or division separate from other commercial real estate loans ?

S&Ls:
(36.4%)Yes (54.6%)No

Banks:
(25.7%)Yes (57.1%)No

Builders: (From the builder survey, Hall 1993)
(77.3%)Yes (13.6%)No

25. If yes to the above question, does your residential construction loan group include staff experienced in the residential construction industry ?

S&Ls:
(100.0%)Yes (0.0%)No

Banks:
(77.8%)Yes (22.2%)No

Builders: (From the builder survey, Hall 1993)
(64.7%)Yes (23.5%)No

26. Do you make Construction loans even when you are not interested in the permanent financing of the project ?

S&Ls:
(36.4%)Yes (54.5%)No

Banks:
(54.3%)Yes (28.6%)No

27. If yes to the above question, what requirements do you have for there to be permanent financing in place before the construction loan is made ?

S&Ls: (All answers grouped into the two options below)
(100.0%)Permanent loan commitment
(0.0%)Other

Banks: (All answers grouped into the two options below)
(94.7%)Permanent loan commitment
(5.3%)Other

28. Do you feel that when a developer/builder makes an application for a residential AD&C loan, they typically represent: (check one)

S&Ls:
(45.5%)Their true financial position ?
(27.3%)A slightly exaggerated financial position ?
(27.3%)A highly exaggerated financial position ?

Banks:
(22.9%)Their true financial position ?
(48.6%)A slightly exaggerated financial position ?
(8.6%)A highly exaggerated financial position ?

Builders: (From the builder survey, Hall 1993)
(40.9%)Their true financial position ?
(40.9%)A slightly exaggerated financial position ?
(13.6%)A highly exaggerated financial position ?

29. What available means do you use to verify a developer's true financial position ? (circle one for each that applies)

S&Ls: (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(63.6%)Certified financial statement	1	2	3	4	5
(72.7%)In-depth investigation of financial statement	1	2	3	4	5
(45.5%)Interview people doing business with developer	1	2	3	4	5
(45.5%)Dun & Bradstreet	1	2	3	4	5
(18.2%)Other ______________ (please specify)	1	2	3	4	5

Banks: (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(54.3%)Certified financial statement	1	2	3	4	5
(82.9%)In-depth investigation of financial statement	1	2	3	4	5
(82.9%)Interview people doing business with developer	1	2	3	4	5
(31.4%)Dun & Bradstreet	1	2	3	4	5
(22.9%)Other ______________ (please specify)	1	2	3	4	5

30. Do you find developers willing to admit concerns that they may have about other projects they own that might cause them financial setbacks ?

S&Ls:
(0.0%)Yes (90.9%)No

<u>Banks:</u>
([illegible]4.3%)Yes   (60.0%)No

31. What steps do you take to assure that the developer/contractor is reputable to construct the project ?
(circle one for each that applies)

<u>S&Ls:</u> (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(36.4%)Investigate through the Construction Industry Licensing Board	1	2	3	4	5
(54.5%)Submittal of a developer/contractor qualification statement	1	2	3	4	5
(27.3%)Interviews with architects and engineers	1	2	3	4	5
(54.6%)Interviews with other developers and contractors	1	2	3	4	5
(18.2%)Other ______ (please specify)	1	2	3	4	5

<u>Banks:</u> (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(20.0%)Investigate through the Construction Industry Licensing Board	1	2	3	4	5
(37.1%)Submittal of a developer/contractor qualification statement	1	2	3	4	5
(60.0%)Interviews with architects and engineers	1	2	3	4	5
(40.0%)Interviews with other developers and contractors	1	2	3	4	5
(28.6%)Other ______ (please specify)	1	2	3	4	5

32. What is the most reliable method to monitor the monthly construction draw to insure that the project is not overdrawn ? (please check one)

<u>S&Ls:</u>
(9.1%)Outside construction consultant
(9.1%)Architect of record
(72.7%)In-house bank official
(0.0%)Other ______
(please specify)

<u>Banks:</u>
(40.0%)Outside construction consultant
(20.0%)Architect of record
(45.7%)In-house bank official
(5.7%)Other ______
(please specify)

33. Under what circumstances would you lend to a developer/contractor who has a previous record of cost over runs and/or difficulty in repaying loans? (circle one for each that applies)

S&Ls: (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(81.8%) Never	1	2	3	4	5
(36.4%) Greater up-front equity	1	2	3	4	5
(18.2%) With co-signature of financial partnership	1	2	3	4	5
(0.0%) Other ____________ (please specify)	1	2	3	4	5

Banks: (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(71.4%) Never	1	2	3	4	5
(18.2%) Greater up-front equity	1	2	3	4	5
(14.3%) With co-signature of financial partnership	1	2	3	4	5
(5.7%) Other ____________ (please specify)	1	2	3	4	5

34. What precautions do you take to insure that a developer does not commingle funds of different projects or take dollars drawn for hard costs to pay for other projects or to pay soft costs ? (circle one for each that applies)

S&Ls: (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(9.1%) None	1	2	3	4	5
(63.7%) Developer certification on disbursements	1	2	3	4	5
(9.1%) Audit of developer records	1	2	3	4	5
(9.1%) Review of developer banking records	1	2	3	4	5
(27.3%) Other ____________ (please specify)	1	2	3	4	5

Banks: (Only ratings equal to or greater than 3 were counted)

	1=never to 5=always				
(8.6%) None	1	2	3	4	5
(65.7%) Developer certification on disbursements	1	2	3	4	5
(2.9%) Audit of developer records	1	2	3	4	5
(5.7%) Review of developer banking records	1	2	3	4	5
(8.6%) Other ____________ (please specify)	1	2	3	4	5

Builders: (From the builder survey, Hall 1993)

(45.5%) None
(40.9%) Developer certification on disbursements
(0.0%) Audit of developer records
(4.5%) Review of developer banking records
(4.5%) Other ____________
(please specify)

35. Do you believe that the lending industry should become more responsible for insuring that all parties for whom moneys are drawn are in fact paid with those funds ?

S&Ls:
(36.4%)Yes (54.6%)No

Banks:
(34.3%)Yes (45.7%)No

Builders: (From the builder survey, Hall 1993)
(45.5%)Yes (54.4%)No

36. Do you believe that lenders should be required to set aside the portion of the Loan for construction costs and that there should be restrictions on the owner and lender to use those funds for other purposes ?

S&Ls:
(45.5%)Yes (45.5%)No

Banks:
(42.9%)Yes (31.4%)No

Builders: (From the builder survey, Hall 1993)
(40.9%)Yes (50.0%)No

37. Do you believe that the lender should be required to give notice to the subcontractors in the event of a default by the developer ?

S&Ls:
(36.4%)Yes (54.6%)No

Banks:
(22.9%)Yes (57.1%)No

Builders: (From the builder survey, Hall 1993)
(72.7%)Yes (13.6%)No

38. Should the lender be required to pay for all improvements made prior to the date of the default by the developer/contractor ?

S&Ls:
(18.2%)Yes (72.7%)No

Banks:
(5.7%)Yes (68.6%)No

39. Do you require verification of the contractor/developer's draw request ?

S&Ls:
(72.7%)Yes (18.2%)No

Banks:
(77.1%)Yes (2.9%)No

Builders: (From the builder survey, Hall 1993)
(77.3%)Yes (13.6%)No

40. If yes to the above question, which of the following is used as verification ? (check all that apply)

S&Ls:
(27.3%)Receipts
(72.7%)As per a lender - specified draw schedule
(54.6%)Progress inspection based on a builders estimation
(0.0%)Other___________________________
(please specify)

Banks:
(45.7%)Receipts
(68.6%)As per a lender - specified draw schedule
(54.3%)Progress inspection based on a builders estimation
(5.7%)Other___________________________
(please specify)

Builders: (From the builder survey, Hall 1993)
(0.0%)Receipts
(70.6%)As per a lender-specified draw schedule
(58.8%)Progress inspection based on a builders estimation
(0.0%)Other___________________________
(please specify)

41. In the past 2 years have you changed your loan to value ratio significantly ?

S&Ls:
(36.4%)Yes (54.6%)No

Banks:
(11.4%)Yes (71.4%)No

Builders: (From the builder survey, Hall 1993)
(27.3%)Yes (59.1%)No

42. If yes, which of the following would be most accurate ?

S&Ls:
(25.0%)Reduced by 10%
(0.0%)Reduced by 20%
(50.0%)Increased by 10%
(25.0%)Increased by 20%

Banks:
(0.0%)Reduced by 10%
(0.0%)Reduced by 20%
(100.0%)Increased by 10%
(0.0%)Increased by 20%

Builders: (From the builder survey, Hall 1993)
(16.7%)Reduced by 10%
(50.0%)Reduced by 20%
(16.7%)Increased by 10%
(0.0%)Increased by 20%

Optional Questions

1. Please name and rank the factors that determines risk in residential development projects:
   1. ______________________________
   2. ______________________________
   3. ______________________________
   4. ______________________________

2. In what ways are financial institutions able to take a more participative role to reduce the risk of industry participants in residential construction ?

   ____
   ____
   ____
   ____
   ____

3. What do you expect in terms of annual volume of the following loans for the next 5 years?

ACQUISITION	DEVELOPMENT	CONSTRUCTION
( )Increase	( )Increase	( )Increase
( )About same	( )About same	( )About same
( )Decrease	( )Decrease	( )Decrease
By ________%	By ________%	By ________%

4. From question #5, to what do you attribute these changes?

   ____
   ____
   ____
   ____

5. Other comments that would make the results of this survey more meaningful:

   ____
   ____
   ____
   ____

The investigators of this study would like to know if you would be willing to participate in a 15 minute follow up interview. A researcher will contact you by phone to ask for additional comments regarding this topic. However, all participants will remain anonymous. If you are interested please fill out the bottom portion.

NAME________________________ BUS. PHONE(____)__________
INSTITUTION NAME______________________________________
ADDRESS____
____