

The New Mortgage Regulations

How they may affect your closing date and how to expedite your transaction

The Housing and Economic Recovery Act of 2009 (HERA) is a wide-ranging piece of legislation that strengthens and modernizes the regulation of government-sponsored enterprises Fannie Mae and Freddie Mac, along with the Federal Home Loan Banks.

Part of HERA imposes sweeping changes in the lending industry, placing greater focus on consumer protection. HERA aims to assure borrowers are better informed about the loan process and better protected against deceptive lending practices.

These changes, effective July 30, 2009, will have a direct impact on how Realtors structure their transactions and how lenders keep the consumer informed of loan charges through stricter disclosure requirements.

Four Key Elements

1. If the home buyer is financing the property, the new regulatory and investor guidelines will impact and perhaps even dictate the closing date.

In the past, the parties to the transaction agreed upon a closing date and all service providers, including the lender, worked to meet that date. After July 30, a closing date may still be written into

the contract, but the earliest any home purchase transaction can close is 7 days after the homebuyer receives the initial mortgage disclosures from the lender.

2. With the exception of the credit report fee, the lender cannot collect upfront fees until the initial disclosures have been received. Disclosures that are overnighted are considered “received” the next business day (except Saturdays), allowing fees to be collected the following business day.

Historically, lenders could collect upfront fees immediately at the time of application for both telephone and in-person applications. Now, the buyer must receive initial disclosures before any fees can exchange hands. The single exception is the credit report fee, which can be collected at the time of application.

If a lender takes an application in person and delivers the disclosures at that time, the fee can be accepted at that time as well.

3. The homebuyer must receive a copy of his appraisal a minimum of 3 business days prior to closing.

A homebuyer who believes the required 3-business-day review period is not

necessary may waive that requirement in writing.

4. Any increase of more than .125% in the Annual Percentage Rate (APR) from the initial Truth in Lending Disclosure (TIL) requires that the TIL Disclosure be revised and reissued to the homeowner.

The homebuyer must receive the revised TIL Disclosure at least 3 business days before the closing. If the TIL is mailed, it is considered “received” 3 business days after the mailing.

It is typical for many details to change during the course of the transaction, including the APR, which can delay the closing. The APR can be impacted by many details of the market and the transaction, including an unlocked rate, a change in the loan amount, a change to a different loan product, a rate re-lock because of market improvement, a change in closing date, and changes to fees associated with the transaction. If the closing date is critical, it is imperative that the lender ensure that the estimated fees are as accurate as possible.

Top 10 Ways to Expedite Your Closing

- Make sure your buyers obtain pre-approval before they begin shopping for a new home.
- Have your buyers work with their lender one-on-one, and preferably in person, to obtain and provide all documentation required to expedite the lending process. Even a single, seemingly unimportant document can delay loan approval.

- Write a 30- to 45-day contract.
- Help your buyers understand the relationship between their interest rate and their APR. Increases greater than .125% to the APR will require a new disclosure and additional time to the process.
- Encourage buyers to lock their interest rate and fees as soon as possible and a minimum of 10 days before closing. An exact APR cannot be determined until the interest rate is locked.
- Set realistic expectations up front and communicate throughout the transaction with the listing agent, the seller, the buyer, and the lender regarding potential closing dates.
- Choose a title company that understands the new regulations and has processes in place to help meet them. Land Title works proactively with all lenders to provide preliminary HUDs and/or accurate closing fee sheets to expedite the new mortgage process.
- Provide your Land Title closing team all lender information as early in the process as possible.
- Communicate, communicate, communicate.
- Contact your Land Title Guarantee Company Sales Representative if you are interested in attending an informational class about the new regulations.

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