

UPCOMING RESPA/TILA CHANGES: WHAT REAL ESTATE AGENTS NEED TO KNOW

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AGENDA

I. BACKGROUND ON CHANGES

II. REQUIRED CHANGES AS OF
8/1/2015


III. CHANGES THAT DIRECTLY
AFFECT REAL ESTATE AGENTS

I. BACKGROUND ON CHANGES

DODD-FRANK ACT

Signed into
law on
7/21/2010

CFPB's goal to
achieve mission
through data
driving analysis
and new
technology.



Created the Consumer
Financial Protection
Bureau

- “Protect consumers by carrying out Federal consumer financial laws . . . And by empowering consumers to take more control over their economic lives.”

STATUTES TRANSFERRED TO CFPB

- Alternative Mortgage Transaction Parity Act
- Consumer Leasing Act of 1976
- Electronic Fund Transfer Act*
- Equal Credit Opportunity Act
- Fair Credit Billing Act*
- Home Owners Protection Act of 1998
- Fair Debt Collection Practices Act
- Federal Deposit Insurance Act*
- Gramm-Leach Bliley Act*
- Home Mortgage Disclosure Act of 1975
- Home Ownership and Equity Protection Act of 1994
- Real Estate Settlement Procedures Act of 1974 (RESPA)
- S.A.F.E. Mortgage Licensing Act of 2008
- Truth in Lending Act
- Truth in Savings Act
- Omnibus Appropriations Act of 2009*
- Interstate Land Sales Full Disclosure Act
- Mortgage Reform and Anti-predatory Lending Act*



* - Indicates that portions of this Act transferred to the CFPB while other portions did not.

KNOW BEFORE YOU OWE PROJECT

(TILA/RESPA Integrated Disclosure Rule)

Create disclosures that are easier for consumers to understand

- May 2011- Feb 2012 Many rounds of form development
- Feb 2012 – July 2012 Rule development with input from small business review panel
- July 9, 2012 CFPB publishes 1,099 pages of proposed rules and forms
- November 20, 2013 Release of final rule and forms

CFPB GOALS

- Improved customer understanding of risk factors
- Short-term and long-term costs
- Monthly payments
- Better comparison shopping
- Comparisons of competing loan offers
- Avoiding costly surprises at the closing table

GREATER UNDERSTANDING MEANS:

Clarity on risk factors

Identification of short term and long term costs

What final monthly payments will be

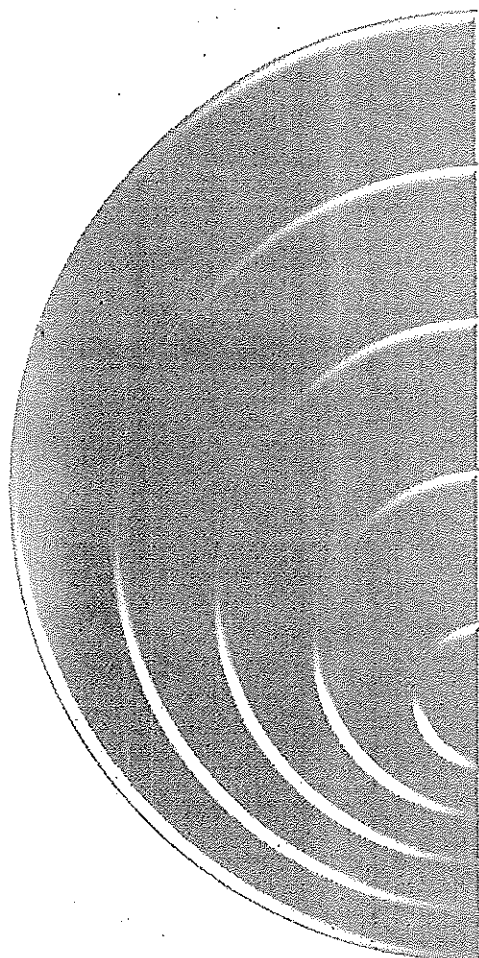
Comparisons between competing loan offers

Shopping for closing costs

Avoiding surprises at the closing table

- Easier comparison of estimated costs and final costs
- More time to make choices
- Limits on closing cost increases

WHAT FINANCIAL TRANSACTIONS ARE NOT COVERED?



Home equity lines of credit
Reverse mortgages
Mortgages securing mobile homes or dwellings not affixed to the land
No-interest second mortgages for down payment assistance, energy efficiency or foreclosure avoidance
Lenders who make 5 or fewer loans a year

TAKE AWAYS OF CHANGES

Fundamental
change in way
government
views the
closing
transaction

Regulation
focused solely
on borrower-
lender
relationship

Seller almost
irrelevant

Increased
punitive
liability for
lenders

II. REQUIRED CHANGES AS OF August 1, 2015

CHANGES IN TERMINOLOGY

BEFORE AUGUST 1 ST	AFTER AUGUST 1 ST
Closing	Consummation <ul style="list-style-type: none"> • When debtor signs the note
Borrower	Debtor
Lender	Creditor
1 st TIL & GFE	Loan Estimate (LE)
Final TIL & HUD	Closing Disclosure (CD)
Tolerances	Variances
New fee descriptions listed in alphabetical order	

THE NEW FORMS

TILA LIABILITY

Loan Estimate

- Three pages long
 - Combines early two-page TIL and three-page GFE
- Who provides?
 - Two options – lender or mortgage broker
- When?
 - Within three days of application
- Still subject to variances

Closing Disclosure

- Five pages long
 - Combines three-page HUD and final two-page TIL
- Who provides?
 - Two options – lender or combination of lender and settlement agent
- When
 - Three days before closing
 - Exceptions

LOAN ESTIMATE

The new forms must be used with respect to any applications received for a covered transaction on or after August 1, 2015

You cannot use new forms before effective date

No changes for the following:

- Cannot impose fees (except for credit report) before consumer receives loan estimate and indicates intent to proceed
- Cannot require submission of verification documents

LOAN ESTIMATE

Timing - Quick

Must be provided within 3 business days (open for substantially all business) of receiving an application

- Delivered
- Placed in mail

Delivery date (or date placed in mail) must also be no later than 7 business days before consummation

Trigger date is date when "application" received

- By creditor, or
- By mortgage broker

WHAT CONSTITUTES APPLICATION?

Name

Income

Social Security Number

Property Address

Estimate of the Value of the Property

Mortgage Loan Amount Sought

LOAN ESTIMATE

All six pieces must be “submitted”

- Existing records are not considered to be “submitted”

No change

- You can ask consumer for other information beyond six items
- Other than verification documents

You can stage information collection to avoid or delay triggering event

- Asking for other items before you ask for the sixth

But as soon as you receive sixth item, you have an “application”

LOAN ESTIMATE

Consumer Shopping

A creditor permits a borrower to shop for third party settlement services when they:

- Inform borrowers on Loan Estimate
- Provide them with a written list of settlement service providers

The creditor may still impose reasonable qualifications for providers

- Example: Provider must be licensed – Impact on closed list

LOAN ESTIMATE

10% Variance Bucket

Includes:

- Recording fees
- Charges for service providers selected by consumer
 - Where provider is on the written list
 - Not paid to creditor or affiliate

Provided for all charges in bucket

- Individual charges may increase by more than 10%
- But aggregate cannot

If charge in bucket is not actually performed, item must be removed for comparison purposes

LOAN ESTIMATE

Zero Variance Bucket

Includes:

- Fees paid to creditor and mortgage broker
- Fees paid to an affiliate of the creditor (New)
- Fees paid if borrower not permitted to shop for the service (New) – appraisal, credit report, etc.
- Transfer taxes

Zero tolerance may be:

- Overcome in changed circumstances or
- In circumstances where revisions are permitted

CLOSING DISCLOSURE FORM (CD)

New CD resembles the LE

Now 5 pages

More detail provided than HUD

CLOSING DISCLOSURE FORM

Preparation & Delivery

- Loan details
- Loan terms
- Projected payments
- Cash to close

Page 1

- Loan costs
- Other costs
- Total costs

Page 2

- Calculated cash-to-close
- Transaction summaries

Page 3

- Loan disclosures
- Escrow account

Page 4

- Loan calculations
- Other disclosures
- Questions
- Contact information
- Confirmation of receipt

Page 5



CLOSING DISCLOSURE FORM

Preparation & Delivery - Continued

New information –

RE Agent/Broker Name
on Closing Statement

Tracking by license
number

Person who shows the
property and writes
the contract, not
necessarily the broker

Day of consummation

What CAN be done at
the closing table

What CANNOT be
done at the closing
table

3-DAY REVIEW PERIOD OF CD

Most lenders will prepare and deliver CD

Hand delivery

- Immediate

US Mail

- Assumed receipt 3 days after placed in mail

Email

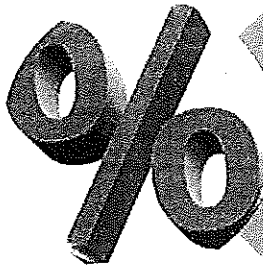
- With consumer confirmed receipt, after consumer approval to use email method of delivery
- Without consumer confirmed receipt, assume 3 days to open email

Overnight delivery

- With consumer confirmed receipt

RE-DISCLOSURE REQUIREMENT

§1026.19(f)(2)(ii)

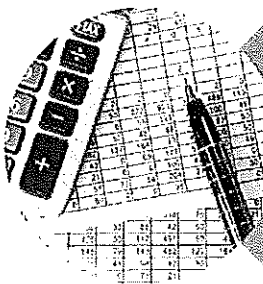


Inaccurate APR



FannieM

Change in loan product



Prepayment penalty added

III. CHANGES THAT WILL AFFECT YOU

REQUIRED CHANGES TO LOAN ESTIMATE

(May Include:)

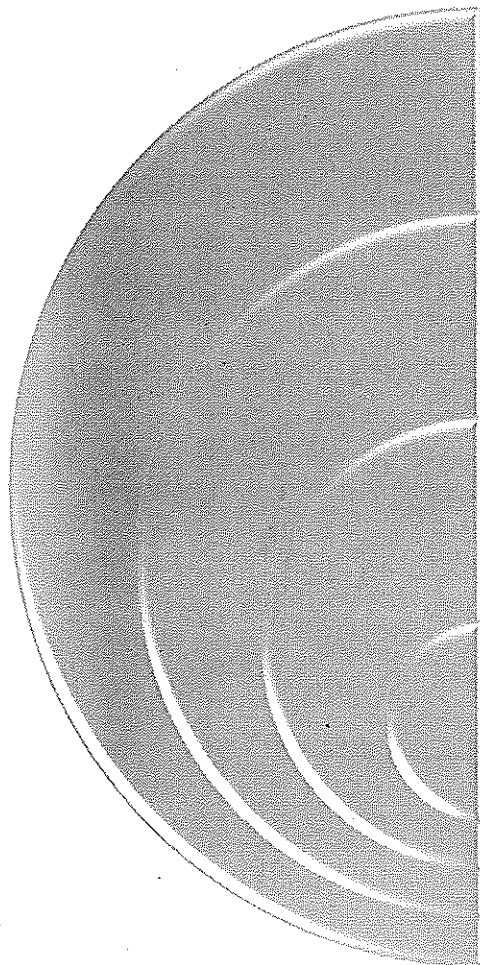
Changes to rate
lock

Changes to
lender fees

Certain
mistakes/errors
contained on LE

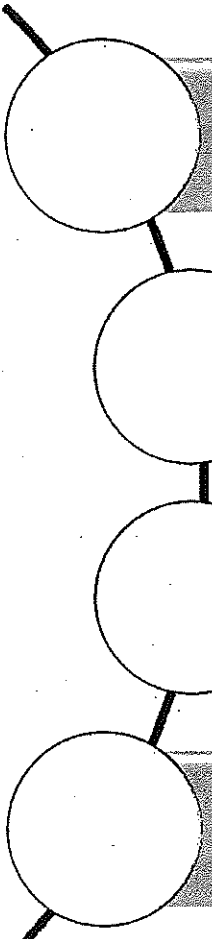
New LE must be
received at least
4 business days
prior to closing

CLOSING STATEMENTS



Revisions need to incorporate changes on LE
May need two settlement statements (one for buyer)
Agent license information required on CD
Most lenders will prepare CD

PRACTICAL CONSIDERATIONS



Offer and P&S may need to include revised language

3 day disclosure period affects ability to complete Sell/Buy on same or next day

Last minute adjustments will be problematic

Timing of walk-through

Questions?