

BE PREPARED-NEW RESPA/TILA REGULATIONS COMING OCT. 3

For consumers applying for mortgages on or after Oct. 3, 2015, traditional lending disclosures that consumers receive in connection with applying for and closing on a mortgage including the Good Faith Estimate, the Truth-in-Lending Statement and the HUD-1 Settlement Statement will be abolished and replaced by the “Loan Estimate” and “Closing Disclosure” forms. Under the Dodd-Frank Act, the Consumer Financial Protection Bureau (CFPB) will be instituting new rules regarding disclosures under the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) that will affect all mortgage applications and real estate settlements.

These changes are sweeping and will impact home builders, particularly those with a real estate lending arm. One major change is that the Closing Disclosure must be provided to the consumer a full three days prior to the closing, and if there are changes during that 72-hour period, the closing could be delayed. Also of concern are the CFPB’s required remedies for addressing inaccurate disclosures that will cause home sale and mortgage refinance transactions to be delayed as lenders and other mortgage service providers negotiate the new process. The CFPB has placed strict limits on the changes and tolerances that may occur during the new disclosure and closing process and industry stakeholders are concerned of the unintended consequences that may develop as these new rules and processes go live.

During the rulemaking process, NAHB was actively involved submitting comment letters, both individually and with coalition partners, urging the CFPB to ensure that any changes that would make it easier for consumers to understand and comply with the settlement process would not place any undue burdens on builders, lenders and other housing professionals.

New Rule Merges Four Documents into Two

Loan Estimate or “LE”

- The Good Faith Estimate and Initial Truth in Lending disclosure will be eliminated and combined into a new single “Loan Estimate” form, or “LE.”
- The creditor must provide the consumer a copy of the Loan Estimate no later than three business days after application.
- An application consists of the submission of the following six pieces of information:
 - Consumer’s name
 - Consumer’s income
 - Consumer’s Social Security number to obtain a credit report
 - Property address
 - Estimate of the value of the property
 - Mortgage loan amount sought
- Some estimates of charges are subject to a 10% cumulative tolerance including Recording Fees and charges for third-party services not paid to the creditor or creditor’s affiliate. (A 10% cumulative tolerance means the creditor may charge the consumer up to 10% above the total sum of the charges on the Loan Estimate.)
- Most estimates of charges are subject to zero tolerance unless there is a “changed circumstance.” Generally if the charges paid by or imposed on the consumer exceeds the amount originally disclosed on the Loan Estimate, it is **not in good faith**.

Closing Disclosure or “CD”

- The Final Truth in Lending Disclosure and HUD-1 Settlement Statement are being replaced by the “Closing Disclosure,” or “CD.”
- Currently, the HUD-1 Settlement Statement can be presented to the buyer on the day of closing and any changes to the statement can take place during the loan closing.
- The biggest change is that the Closing Disclosure must be provided to the consumer a full three days prior to the closing, and if there are changes during that 72-hour period, the closing could be delayed.
- A new three-business-day waiting period is required when:
 - Disclosed APR increases by more than 1/8 of a percent for a fixed-rate loan (1/4 of a percent for a variable-rate loan)
 - Loan product changes
 - Prepayment penalty is added
- A new three-business-day waiting period is not required for other permitted changes.
- If the amount paid by a consumer at closing exceeds the amount disclosed on the Loan Estimate beyond the applicable tolerance, the creditor must refund the difference no later than 60 days after consummation.

What Proactive Steps Can a Builder Take?

- These new rules are intended to streamline the loan application process and make it easier for consumers to understand by clearly spelling out the most relevant details all on one page – the interest rate of the mortgage loan, the amount of the monthly payments and a listing of all the closing costs.
- To prevent any unwanted closing delays, a good rule of thumb is to have all the paperwork in order at least a week before the scheduled closing date. So if you want to close on November 10, make sure everything is ready on November 3.
- Communicate early and often about the process with your home buyer, Realtor, creditor and settlement agents. Early communication among all parties to the transaction will help to avoid unnecessary surprises and potential delays.
- In February, the CFPB made some official interpretations to the rule, allowing the creditor to “clearly state” in the initial Loan Estimate that a revised Loan Estimate may be provided for a loan for a newly constructed house when the creditor expects the closing to occur more than 60 days after the initial loan estimate. Make sure your lender is aware of this interpretation.
- Review NAHB’s webinar, [Be Prepared – What the New Mortgage Disclosures Mean for Builders](#). The webinar was developed to educate and prepare NAHB members for the impending changes and show how builders can work proactively with lenders and settlement stakeholders to avoid unnecessary delays to closings. The webinar also outlines strategies to minimize potential issues by communicating with customers and business partners.

Links to Additional Information

[View more details on the upcoming new lending rules.](#)

[Read the final rule.](#)

[Access CFPB resources to help you comply.](#)

[View the NAHB webinar replay, "Be Prepared – What the New Mortgage Disclosures Mean for Builders."](#)

For more information, email [Steve Linville](#) at NAHB or call him at 800-368-5242 x8597.