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New Truth in Lending Regulations and How They Affect You

Presenter:

**Richard Kimball
Branch Manager,
Allied Home Mortgage**

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Many Changes Have Hit Us This Year

- All of them impact us as an industry.
- Object is to provide borrowers with better information
- Some will affect your timelines

THE INTERPRETATION OF THESE REGS IS SLIGHTLY DIFFERENT DEPENDING ON WHICH INVESTOR YOU ARE USING. IN ALL CASES, USE THE MORE STRINGENT REQUIREMENT BETWEEN ALLIED AND THE INVESTOR CHOSEN.

HERA – Effective July 30, 2009

- Amends the Truth In Lending Act (TILA) implemented through Reg Z. Has a number of provisions including the Mortgage Disclosure Improvement Act, which changes the TILA requirements surrounding early and final disclosures to homebuyers and addresses the timing of when fees may be charged.

New Regs regulate and dictate closing dates for borrowers

- Buyers and sellers used to agree on closing date
- Service providers, including lenders, strived to meet that date
- Now, the contract can have a date, BUT all parties must take into account that the earliest any home loan can close is **7 business days after** the borrower is issued their initial mortgage disclosures from lender. (Saturdays, with the exception of Federal Holidays (which are New Year's Day, the birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.) do count as a business day for the purpose of disclosure.)

Upfront Fees

- Upfront fees cannot be collected by the mortgage broker/originator (except for a credit report fee (exact amount) until the initial disclosures are received by the borrower. Disclosures are considered “received” 3 full business days after mailing, allowing the fees to be collected on the 4th business day. They are considered “received” at application if it is a “face to face”
- Starting July 30, 2009 upfront fees cannot be collected, including appraisal fee, until 4 business days after disclosures are received.
- Biggest impact, appraisal can't be ordered until the fourth business day unless it is a face-to face application.

Wait periods defined:

- 7 day waiting period from mailing by “creditor” prior to consummation (signing)
- General business day applies to mailing
- Rescission business day applies to waiting period.

Acknowledgment

- Any Form of Receipt Must be Accompanied by an Acknowledgement of Receipt form from recipient.
- A “read” receipt is not sufficient
- An Overnight receipt is not sufficient
- It must acknowledge that the initial disclosures were received.

Face-to-Face Disclosure Timeline

8/3 – Application taken face-to-face

8/3 – Initial disclosures given at time of face to face interview

8/3 – Fees can be collected

8/4 – begin counting 7 day before loan can close period Day 1

8/5 - Day 2

8/6 – Day 3

8/7 – Day 4

8/8 – Day 5 (remember Saturdays count unless Federal holiday

8/9 – Sunday, don't count

8/10 - Day 6

8/ 11 – Day 7

8/12 – Earliest loan would be able to close

If You Mail Disclosures:

8/3 – Application taken by phone or web

8/4 – Initial disclosures mailed regular mail

8/5 – Day 1 of 3

8/6 - Day 2 of 3

8/7 - Day 3 of 3

8/10 – Receipt Date/Fees can be collected

8/11 – Day 7

8/12 – Earliest loan would be able to close.

Copy of Appraisal

- Borrower must receive a copy of the appraisal issued directly to the borrower – and the borrower must receive the appraisal **at least 3 business days** prior to the mortgage closing.
- This means that the borrower may receive his appraisal before or at the same time as the loan originator.
- If the borrower believes the 3 business day review requirement to be unnecessary for whatever reason, he has the right to waive that requirement.

A Change of .125% on APR from Initial TIL requires the TIL disclosure to be revised and reissued to the borrower.

- The borrower must receive a revised TIL at least 3 business days before closing, providing borrower with the time required to determine if the borrower is comfortable with his loan choice. Again, TIL is considered rec'd 3 days after mailing.
- Typical contract date may be 30-45 days.
- Many things can change during processing so it is very important that loan is disclosed as accurately as possible on the front end to ensure that estimated fees are as accurate as possible.

Let's Review...

Wait Requirement Periods

1. Initial disclosure review
2. Upfront fee collection
3. Borrower appraisal review
4. APR change of .125 plus TIL re-issue

Required Wait Time (in business days)

1. 7 days after mailing
2. 4 days after mailing
3. 3 days to mail plus 3 days to review prior to closing
4. 3 days to mail plus 3 days to review prior to closing

Potential Impacts to the APR

- Unlocked rate
- Change in loan amount
- Product change
- Change in closing date
- Changes to fees, inclusive of settlement agent fees.

(Lock loans early!)

Things your borrower needs to know:

- Try for pre-approval before you shop
- Review timeline with their Realtor
- Plan for at least 30 days to close
- New regs are to help borrower understand and have time to consider
- APR cannot be determined until loan is locked.
- Change in product will affect APR and will affect closing date
- Changes in 3rd party fees can also impact closing

Things your Realtor needs to know:

- Be realistic about closing date, 30 days is feasible on most
- Settlement agents, insurance companies need to be aware of new regs to avoid delays
- Any change that affects APR by .125% requires redisclosure which would require additional 3-7 days before closing
- Provide settlement agent info to LO asap
- Inform borrowers that interest rate affects APR and that until rate is locked the TIL will not be accurate so another TIL will be needed when it is locked.

What LO needs to know:

- Plan for 30 day close and make sure everyone knows that changes will delay closing
- Help borrowers understand options early on
- Issue DocMagic upfront disclosures asap
- Collect fees and order appraisal early on - 4 days after initial disclosures
- Make sure loan is locked well before closing
- Remember any change to fees that impacts the APR will require redisclosure
- Redisclosure requires an additional 3 business days to close

What Settlement Agent needs to know:

- Make sure any 3rd party fees that impact APR are accurate
- If any of the fees affect APR by more than .125% it will require redisclosure and an additional 3-7 days before closing.
- Work with LO to provide accurate fees to eliminate need for redisclosure.

Q&A

- **Do the new TIL requirements apply to investment properties?**
- No, just to primary and secondary homes
- **The final TIL must be received 3 business days before closing, is that 3 full days?**
- Yes, remember you must have 3 business days for review period AFTER the docs are rec'd, Closing can occur on the 3rd business day of the review period
- **What if borrower ads a home equity loan or line of credit after application?**
- Home equity Loan: Initial disclosure period starts over and all disclosures must be issued for the home equity loan.
- Home equity line of credit: There is no impact.
- **How does it affect escrow states?**
- LOs doing business in escrow states will need to adapt to new regs by providing an initial HUD1 before closing docs are released. If any fees change that affect APR you must disclose again.

Q&A

- **Can last minute changes be accommodated?**
- No
- **Can the credit report fee be collected at time of pre-approval?**
- Yes, that is the only fee that can be collected at pre-approval
- **How do I know if APR has to be redisclosed?**
- Any change to fees that results in a change of .125% to APR will require redisclosure and new closing date. If the change is less than or equal to .125% no redisclosure is required
- **What is considered a business day?**
- All weekdays and Saturdays are business days unless they are a Federal holiday.
- **Fees may not be collected until 4 business days after initial disclosures are issued. Can broker paid fees be collected before that time?**
- No, they cannot.

Q&A

- Can TIL re-disclosure be sent within the 7 business day period from when the initial disclosures are issued?
- Yes, the required redisclosure of the TIL can be sent within the first 7 business day period
- Can the loan be locked at the time of application if fees have not yet been collected?
- Yes
- Do these requirements affect both purchase and refinances?
- Yes
- Is the 3 business day right of rescission still in effect?
- Yes, it is still in effect for refinance transactions. The loan can close 7 business days after any TIL redisclosure is issued, then the right of rescission period begins. The loan can fund after the rescission period expires.

Q&A

- If you must redisclose for APR variance, must you wait 3 days until closing even if they sign in your office?
- Yes
- Do we have to do seller credits line by line on GFE?
- Yes, APR is incorrect unless they are done line by line
- Closing agents sometimes classify fees differently than we do, will this will throw out the tolerance?
- Yes, it will be imperative to make sure your closing agent follows the fee descriptions and amounts.
- What is an example of over disclosure that would not be due to a PFC?
- Number of years and rate.

Important:

1. If borrower is financing property, these regs will impact or dictate the closing date.

Contracts can be written with a specific closing date but all parties have to know that the earliest closing will be 7 days after borrower has rec'd initial disclosures.

2. Upfront fees cannot be collected by LO (except credit report) until the initial disclosures are received by the borrower. Fees can be collected on 4th day after receipt.

Cannot be collected until the 4th day after borrower receives initial disclosure. This means the appraisal cannot be ordered until the 4th day.

Important:

3. Borrower must be provided copy of appraisal a minimum of 3 business days prior to closing.

This means that many times the borrower may have a copy before the LO. There is the possibility of a waiver, but it will be hard to get.

4. An increase of more than .125% in APR from initial TIL requires redisclosure. The borrower must receive revised TIL 3 days before closing.

It is critical on the front end to ensure that estimated fees are as accurate as possible.

Things that may change APR

- Unlocked rate
- Change in loan amount
- Product change
- Change in closing date
- Changes to fees, inclusive of settlement agent fees.

Q&A

- **We fax our disclosures, can we use the receipt date on fax?**
- No, the receipt date is the date you faxed it but not documentation the consumer rec'd it. You need a documented acknowledgment of receipt executed by the consumer or you can use the presumed receipt date of 3 business days.
- **YSP is not considered a finance charge so can you be penalized if you overestimate by 1/8th point?**
- You should never intentionally overstate the APR.
- **What about when the broker does not disclose the TIL, what date applies?**
- The application date will be based on the date that the loan is sent to the Lender.
- **The verbiage "You are not required to complete this agreement merely because you have received these disclosures or signed a loan application." has to be on the initial disclosures?**
- Yes

Q&A

- If APR goes down do I have to redisclose?
- Yes
- If APR changes, can I just give them a new TIL via email fax, or in person and have them sign and date that day and avoid 3 day waiting period?
- No you are subject to 3 day waiting period.
- Can I collect payment/credit card info and just not order until after 3 day period?
- No, you cannot collect until after proper time period
- Can we password protect and send by email along with an acknowledgement of the documents rec'd and have consumer fax or email it back to us?
- Yes

Q&A

- What if consumer picks up disclosures but does not sign them in the office?
- If they sign an acknowledgement they rec'd them, you can start counting.
- What if one borrower comes by and signs but co-borrower doesn't, does this start the 3 day requirement?
- All borrower signatures are not required to start counting. HOWEVER, if the transaction is rescindable all consumers occupying or obligated must sign

FINANCE CHARGES

Administrative Fee	Per Diem Interest
Application Fee	Photo Copies
Assignment Fee	Pick up Fee
Assumption Fee	PMI
Attorney Fee	Post Closing Fee
Audit and Review Fee	Processing Fee
Bundle Fee	Rate Lock Fee
Buydown Fee	Recording Service Fee
Buydown Funds (if borrower paid)	Redraw Fee
Closing Agent Fee	Registration Fee
Closing Protection Letter	Release Fee
Closing Service Fee	Rural Development Fee
Commitment Fee	Rush Fee
Construction/Perm	Satisfaction Fee
Copy Fee	Settlement Agent Fee
Courier Fee	Shipping Fee
Delivery Service	Sub-Escrow Fee
Deposit Verification Fee	Subordination Agreement Fee
Discharge Tracking fee	Table Funding Fee
Discount Points	Tax Service Fee
Document Review Fee	Tax Stamp Fee
Draw Fee	Tax Verification Fee
E-Doc Fee	Title Agent fee
Escrow Fee	Transaction Fee
Escrow Waiver Fee	Underwriting Fee
Express Mail Fee	VA Funding Fee
Extended Lock Fee	Verification Fee
Fax Fee	VHDA Reservation Fee
Fed Express Fee	Warehousing Service Fee
FHA Counseling Fee	Wire Fee
FHA MIP	
File Review Fee	
Flood-Life of Loan	
Flood Fee	
Funding Fee	
Handing Charge	
HUD Line 1101 & 1107	
Inspection Fee (for staged construction loans only)	
Insured Closing Letter Fee	
Judgment Fee	
Loan Closing Fee	
Loan Tie-in Fee	
Lock in Fee	
MERS Fee	
MIP	
Modification Fee	
Mortgage Broker Fee (if borrower paid)	
Mortgage Insurance Premiums	
Origination Fee	
Overnight Mail Fee	
Payoff Fee	

NOT FINANCE CHARGES

Aggregate Adjustment
Annual Assessment Fees
Credit Report Fee
Document Prep Fee
Endorsements
FHA 203 (k) Consultant Fee
Flood Insurance Premiums
State Loan Fee
Hazard Insurance Premiums
Inspection fee
Intangible Taxes
License Fee
Mortgage Broker Fee (If paid by lender)
Name Search fee
Notary Fee
Per diem interest credit (negative # on HUD line 901)
Per diem interest credit (billed portion only)
Pest Inspection Fee
Reconveyance Fee
Recordation Fee and Filing Fee
Seller's Points and Seller Paid Fee
Stamp Fee
Survey Fee
Taxes (property, city, county taxes, etc.)
Title Exam Fee, Abstract of Title Fee (unless VA)
Title Binder Fee, Title Search Fee (unless VA)
Title Binder Update Fee
Title Insurance Premiums

Warning

- If you email the initial disclosures you **MUST** password protect them and use **ONLY** your Allied email account.
- All emails pertaining to anything with your consumers and your business **MUST ALWAYS** use the Allied email.

End of PPT

Notes

- Again, if the corrected disclosures are mailed to the consumer or delivered to the consumer by means other than delivery in person, the consumer is deemed to have received the corrected disclosures three business days after they are mailed or delivered. However, the creditor may also rely upon proof of actual receipt.

Upcoming revisions:

- TILA
- – July 30, 2009 and October 1, 2009
- • HOEPA
- – October 1, 2009
- • RESPA
- – January 1, 2010

This example assumes docs are mailed. If overnighted and signed for or if emailed and has read receipt, shorter time frames are possible.

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Remember: If you are emailing any documents they **MUST BE PASSWORD PROTECTED**

