

Protecting borrowers

How new changes in disclosure requirements will help borrowers

The Consumer Financial Protection Bureau (CFPB) will soon require lenders to comply with new rules aimed at helping borrowers make informed decisions about the loans available to them when buying a home. In the past, many consumers didn't understand the costs and risks associated with their loans, and they had little protection from lenders changing the terms of their loans as they got close to closing. The new rules should address these issues.

The "Know Before You Owe" rule has been a while in the making, says Catherine Marriott, a member of Semanoff Ormsby Greenberg & Torchia, LLC.

"There were a lot of borrowers who were not aware of the terms of, and risks associated with, their loans. The new rules are aimed at making sure a borrower is more informed from the start," she says.

Smart Business spoke with Marriott about the new disclosure requirements and how the changes will also impact other parties to a real estate transaction.

What is the CFPB?

Congress established the CFPB to protect consumers by enforcing federal consumer financial laws. The CFPB seeks to educate consumers so they can take more control over their financial lives, to make more effective rules governing the practices of financial institutions, and to consistently and fairly enforce those rules.

What does the CFPB do in the context of a mortgage loan?

With respect to a mortgage loan, the CFPB wants to make sure that consumers understand their loan options and the costs associated with these options. The end result should be a fully-informed consumer who understands the costs associated with their loan within a few days of the loan

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application. The consumer should not be faced with fundamental changes to their loan terms or costs at the last minute, nor should they face any surprises at closing. It's important to note that the CFPB is protecting consumers, so these new rules apply to loans to individuals, not corporate borrowers.

How will the CFPB achieve these goals?

The CFPB has implemented new rules, effective Oct. 3, 2015, requiring lenders to comply with new disclosure requirements relating to many types of common mortgage loans. Lenders will be required to provide a specific new disclosure form that must be delivered to consumers within three business days of receipt of a completed loan application. The new closing disclosure will include estimates of loan and closing costs. There will be very specific delivery requirements so lenders can be sure that the closing disclosure has, in fact, been received by the consumer. There will also be very limited circumstances when loan terms or closing costs can change, and doing so will require another notice and the passage of additional time. In addition to the new closing disclosure, lenders will be required to deliver a summary of all final borrower closing costs at least three business days prior to closing, which will be called 'consummation'. There can be no changes to these costs after disclosure

or the new costs must be re-disclosed, and consummation must be delayed to comply with the three-business-day disclosure requirement. A new form of settlement statement will also be used at consummation. This form is intended to be easier for consumers to understand.

How will these changes affect other parties to the real estate transaction?

Sellers will probably be asked to schedule the pre-settlement inspection around 10 days prior to consummation so that lenders can finalize and disclose to the borrower all closing costs at least three business days before consummation. Sellers may also need to be flexible about the date of consummation because of the strict disclosure requirements. Sellers will need to fully comply with the terms of the agreement of sale because any changes to buyer costs will require re-disclosure and a delay in consummation. Real estate agents will need to be familiar with the changes and advise buyers and sellers accordingly. They will also need to be familiar with changes to the PA Association of Realtors forms as they are modified to address issues raised by the new disclosure requirements.

Buyers, sellers and real estate agents should consult with a real estate attorney if they have concerns about how the upcoming changes will affect their transactions. ●