Property Records Industry Association

PARTNERSHIP • KNOWLEDGE • RESULTS

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TRID* Informational Paper

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*TILA-RESPA Integrated Disclosures

www.pria.us

In early October 2015, the world of your mortgage lenders and settlement agents changed and recorders WILL be affected.

Why Should Recorders Care?

While the recorder may not be an active, visible party, the recorder has an effect on every residential closing. If the lender is not able to accurately calculate the correct recording fees and transfer taxes, additional consumer notification paperwork will be required before the loan can be closed. Lenders are concerned about how these situations could affect their reputation and their pocketbook. For more information on TILA-RESPA Integrated Disclosure (TRID) rules and the Consumer Financial Protection Bureau (CFPB), please see the appendix at the end of this paper.

- The majority of our business partners have to follow new, very detailed federal mortgage lending requirements. The TRID rules are designed to protect homebuyers. As recorders, we want to help our business partners during this transition.
- Our constituents/citizens/neighbors could be affected if their closing is delayed or mortgage interest rates increase during a delay. Let's look for ways to work with lenders and settlement agents to find solutions that will benefit their customers and our constituents.
- As partners with the lending and settlement industries in our community, we can help them avoid the expenses that might come from efforts to clarify or reissue paperwork associated with residential loans.
- The many-layered changes of the federal legislation and regulations could result in significant fines to mortgage lenders. As recorders, we must help find straightforward solutions to the confusion that may be caused by our various recording fees across the nation.

What Is the Impact of These Changes?

The lending industry will be keeping score on its local settlement agents. Lenders need timely recordings and they are required to obtain accurate recording fees in advance. If local agents score poorly, they may not be utilized in the future by the lenders. Lenders may choose not to loan money to citizens in your jurisdiction. Local banks and credit unions may stop home mortgage lending.

Now is the time for the recording industry to find solutions to avoid these issues. **We are facing the greatest catalyst for change the recording industry has ever experienced.**

The CFPB is charged with protecting consumers from predatory lenders. The lending industry is naturally very concerned because the CFPB has outlined very stiff fines for not complying with the new rules. If lenders are fined by the CFPB, they may be compelled to look for changes in the recording industry, such as statewide recording systems and standardized recording fees. Legislators will be under pressure to change laws, with or without our input. In fact, several study groups have already been formed (see appendix below).

What Are the Major Issues?

The lender is required to include accurate recording fees and transfer taxes when creating the Loan Estimate (LE). The Closing Disclosure (CD) fees must match actual fees charged by the Recorder. Recording fee pricing models based on page count and add-on fees that vary from jurisdiction to jurisdiction are problematic to the industry. It is often the case that two recording offices in a state interpret statutory fees differently. Any variances on fees must be corrected by the lenders within 30 days of document signing, not within 30 days of recording.

Let's review an example:

1. Lender is required to provide an LE within three business days of when a consumer provides six pieces of data:

   a. Consumer's name,
   b. Consumer's income,
   c. Consumer's Social Security number to obtain a credit report,
   d. Address of the property,
   e. Estimate of the value of the property, and
   f. The mortgage loan amount sought.

   It may be difficult for a lender to accurately predict recording fees solely based on this limited required information.

2. As the transaction progresses, if recording fees and transfer taxes change (for example, adding or deleting pages and/or names), it may trigger the need for a new LE, which can impact the ultimate CD and the timing for the actual loan completion.

3. Once a CD is prepared, 7-10 days before signing, all figures must be accurate and complete. Errors may result in violations subject to fines.

4. The CFPB can issue fines per day of up to $5,000 for non-intentional violations, $25,000 for reckless disregard and $1,000,000 for knowingly violating a law.

What Can Recorders Do?

1. Recognize that recording is an integral part of the broader real estate industry.
2. Talk to your local title/settlement agents/attorneys regarding their concerns and issues.
3. Talk with your local Property Records Education Partners (PREP) chapter about the importance of calculating the proper recording fees.
4. Work to avoid potential delays in the recording process through greater collaboration within your jurisdiction's various offices, such as tax collectors, assessors and GIS mappers, as appropriate.
5. Provide recording fee information on your website.
6. Work to change legislation in your state to provide a uniform, or predictable, recording fee for each document type. Several states have implemented some variation of document-specific recording fees; it can be done. Review the appendix for the laws in Arizona, District of Columbia, Massachusetts, Minnesota, New Mexico, North Carolina, South Dakota, and Wisconsin.
7. Enable eRecording to help submitters comply with the time constraints in the CFPB regulations.
8. Provide online access to recorded documents so they can be quickly and easily viewed. This access is crucial for timely updates and reducing problems with the recording gap.

Be part of the solution.

Appendix

Background Summary

The Truth in Lending Act (TILA) was passed in 1968 and, until 2010, had been monitored by the Federal Reserve. The real estate industry crisis occurred between 2006 and 2010. Consequently, Dodd-Frank Wall Street Reform Legislation, which passed in 2010, created the Consumer Financial Protection Bureau (CFPB). The CFPB was assigned responsibility for both TILA and RESPA, including the well-known HUD 1 settlement form. The Dodd-Frank legislation also directed the CFPB to consider improvements to the federal disclosure forms consumers are provided during the home loan process, which resulted in two new Integrated Disclosure forms. There is a new LE and a new CD. The new regulation and implementation efforts are referred to as "TRID" (TILA-RESPA Integrated Disclosures).

Lender Oversight of Service Providers and Third-Party Vendors

The CFPB issued a 2012 Bulletin announcing that lenders will be held liable for all service providers used in the transaction; the Office of the Comptroller of the Currency (OCC) echoed this expectation in a 2013 Bulletin. These regulatory announcements placed renewed emphasis on risk management by lenders.

American Land Title Association

The American Land Title Association (ALTA) created a Title and Settlement Company Best Practices Program (ALTA Best Practices) to help title agents establish and present their readiness to lenders as lenders strive to comply with CFPB and OCC requirements.

Uniform Law Commission

The Uniform Law Commission (ULC) has already initiated two study committees, one to focus on data retrieval systems for land records and the second on home foreclosures, each of which addresses components of the CFPB requirements that affect the recorder's office.

States with Uniform or Flat Recording Fees

Arizona

District of Columbia

Massachusetts

https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleVI/Chapter262/Section38 = Registers of deeds' enumeration of fees

https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter44B/Section8 = Community preservation surcharges

https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter9/Section31 = Surcharge on fees of registers of deeds to fund improvements at registries

Minnesota

New Mexico – Part A

New Mexico – Part B

North Carolina

South Dakota

Wisconsin