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Guaranteed Good Faith Estimates the Remedy to Settlement Sheet Shocks?

When you apply for a mortgage to buy a house, do you want to believe the "good faith estimates" of closing costs your mortgage broker or loan officer sends you three days later?

Of course you do. But thousands of consumers complain every year to HUD in Washington, saying the estimates they received were shockingly lower than what they were actually charged at closing.

For example, say your lender's good faith estimate of title insurance costs came to \$1,400. But on the final HUD-1 settlement sheet they are over \$1,800. Or the good faith estimate listed your total loan origination, title, settlement and other fees at \$2,100, but the bottom line on the final HUD-1 said \$3,200.

Who typically picks up the difference? Not the lender that made the estimates at application. Not the title company. **It is you.** That's because under current federal regulations, all lenders have to do is to provide you the estimates within three business days. But they don't have to warrant that the estimates are correct.

That could begin to change, however, thanks to a new movement underway among key mortgage lending trade groups in Washington. Several of them recently have endorsed the concept of either guaranteeing or "hardening" all home buyers' closing cost estimates. The groups include the National Association of Mortgage Brokers, the principal lobby for the country's 60,000-plus brokers; the Consumer Mortgage Coalition, which represents many of the nation's largest banks; and the National Association of Independent Mortgage Bankers. The Mortgage Bankers Association of America also is considering its own version of the plan.

The brokers association proposes a 10 percent maximum wiggle room -- or "tolerance" -- between good faith estimates and final closing costs. If a lender discovers that there will be any increases whatsoever beyond the original estimates, the lender would be required to "re-disclose" -- that is, inform the home buyer in writing before the closing date so there are no last minute surprises. If the increases are not re-disclosed, the home buyer would have the right to sue for damages.

The National Association of Independent Mortgage Bankers favors absolute guarantees of all fees that are directly controlled by the lender or broker. For example, if a lender estimates the appraisal charge to be \$300 and the bill comes in at \$450, the lender would have to eat the \$150 difference. Or if loan processing and underwriting are estimated at \$300, the lender would be prohibited from charging \$400 or \$500 at closing, as is now permitted under federal rules.

The same group proposes that once an interest rate is locked on a loan, no origination fees -- including points -- can exceed the good faith estimates. It also wants no changes to be permitted in title charges to occur, once the title company confirms its fees to the lender or broker.

The mortgage lending groups' move toward tightening the good faith estimates comes as HUD continues its work on a new RESPA settlement cost reform proposal, expected sometime in 2006. HUD's reform plan of 2002 went down in flames last year amid severe criticism by some of the same groups now recommending changes in the good faith estimates. The earlier HUD plan floated a "guaranteed mortgage package" concept that would have provided consumers rate-locked loans and settlement fee packages up front, as they shopped from lender to lender.

Real estate, title insurance and mortgage groups opposed HUD's proposals because they might have put small businesses at a disadvantage against larger competitors who could assemble fixed-fee packages for less through volume-pricing discounts.

If the lender trade groups unite behind guaranteed or "hardened" good faith estimates, that could give HUD the political cover to build its forthcoming RESPA proposals around that concept, effectively abandoning federal incentives for guaranteed packages. The net effect for home buyers would still be a big plus: They'd get closing cost estimates they could actually believe in and count on, rather than 11th hour shocks at settlement. Meanwhile, lenders who already offer popular fixed-fee programs -- GMAC Mortgage, Ditech.com, Abn-Amro Mortgage and Suntrust Bank among others -- would be free to continue doing so.

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