Respa Rule Delays Many Mortgages, Torpedoes Others

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By Kate Berry

Confusion. Chaos. Pandemonium.

These are some of the words mortgage experts are using to describe the implementation of the home mortgage disclosure rule that took effect this month.

Loans are expected to take longer to close and many home purchases could be delayed or are falling through because lenders are being held to the good-faith estimate of closing costs they present to applicants.

Certain items such as the first month's interest paid in advance, title insurance premiums and state transfer taxes are posing particular problems. Technology glitches abound. Some lenders are adding quality-control and back-office personnel to review loan applications — particularly those submitted by mortgage brokers — that would automatically have been accepted before the rule took effect Jan. 1.

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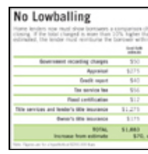

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"It's just mass confusion," said Mary Kladde, the chief executive of Titan Lenders Corp., a Denver back-office fulfillment provider. "There just wasn't enough thought that went into the regulations before they were put into place."

Under the Real Estate Settlement Procedures Act rule, certain fees cannot be more than 10% higher in the settlement statement (known as the HUD-1) presented to the borrower at the closing table than they were in the good-faith estimate; otherwise the lender has to eat the difference.

Lenders and third-party settlement providers acknowledge they are listing the highest fees possible to avoid being penalized.

"Our only choice is to provide the highest costs available," said Don Casey, the president and CEO of Title Resource Group, a unit of Realogy Corp. of Parsippany, N.J. "The bigger national lenders want to be as conservative as possible and that's translating into higher costs. They're overestimating. Everybody is working out the bugs." (Realogy also owns the Century 21 and Coldwell Banker real estate brokerage franchises.)

Jonathan Kunkle, vice president of sales at LenderLive Network Inc., a Glendale, Colo., provider of mortgage outsourcing services, said the new Respa rule is affecting "every facet of lending," because the ultimate investor purchasing a loan must review the application.

"It delays warehouse lines, turn times and overall lending capacity for a correspondent — everything gets put on hold," Kunkle said. "Worse, if the loan wasn't done correctly under Respa, it becomes unsaleable."

The biggest impact is being felt by wholesale lenders, experts said.

Andrew WeissMalik, a vice president at 360 Mortgage Group LLC, an Austin wholesale lender, said many brokers are turning in applications filled out incorrectly.

"When it comes to Respa, they either get it or they don't," he said. "The hard part for uneducated brokers is completing the entire package."

Some brokers will leave third-party service provider lists blank, refuse to fill in dates and put down recording fees for the wrong county, he said.

Technically, a good-faith estimate with such errors would mean "that the deal is dead," but more often than not a broker will issue a new good-faith estimate to the borrower and submit

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another lender.

ker should decline the application or pay for the difference" between estimated and actual fees, WeissMalik said. Instead, "if one lender turns the loan down, ge it and make the deal work somewhere else," in violation of the law.

ef strategy officer at Ellie Mae Inc., an origination software vendor, said closing a loan will take longer than the usual 30 to 45 days.

prepared for a longer process than what they're used to, because people are learning on the job," he said.

director of origination technology at Lender Processing Services Inc. in Jacksonville, Fla., said lenders also are asking vendors like his to create filters so they s from brokers before processing them.

etplace right now is when did they accept the loan: when it hit my technology or after I had a chance to review and accept it?" Covey said.

ow are checking what has been disclosed and are screening files, because they could start losing real money," he said.

ts the new disclosure rule will result in 25% fewer loans being closed, at least in the short term.

are the result of the Department of Housing and Urban Development's attempt to simplify fees for borrowers by lumping them together instead of itemizing

e their own restrictions.

sey does not allow lenders to charge a "processing fee," so lenders typically make up another fee and charge that, Kladde said. On one loan application, a ed an "Urgency of the moment fee." "They just made it up," Kladde said, with a chuckle.

bad for the first three months," she said.

l-party settlement providers said they agreed with the intent of the new disclosure rule, which was to lower costs for borrowers and increase competition for the d with a home purchase. But they questioned whether it will work as well as intended.

ency, but from a cost perspective you worry that some of these higher costs will ultimately stick to the consumer," Casey said.

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