

Avoiding (Costly) Closing-Table Surprises

Applying for a mortgage is easier and cheaper than in years. But some lenders still promise borrowers one set of fees, only to jack up the price later at the closing table.

What can consumers do to fight back? Not much right now, but that may change.

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Borrowers usually can walk away from a deal if they think their lender is taking advantage of them, although they risk losing some fees, including the application fee, and possibly their deposit.

Also, federal law gives borrowers who are refinancing their loans the right to back out of a deal up to three days after it closes.

More Choices

New rules proposed by the Department of Housing and Urban Development, however, may give consumers more options—if they survive intense lobbying in Washington, D.C.

Under the old rules, lenders must give consumers a “good-faith estimate” of what they can expect to pay in closing costs, but lenders aren’t obligated to stick to it.

Under the proposed new rules,

lenders would have tougher choices.

In one scenario, they could offer borrowers a loan whose interest rate and closing fees are guaranteed not to change arbitrarily. For example, if prevailing interest rates change significantly after you get a rate quote from the lender, the lender could be able to raise the rate accordingly, but the lender cannot raise the rate just to make more money.

In another case, the proposed rules could provide a beefed-up “good-faith estimate” of fees that lenders could alter—but only slightly—while not necessarily specifying the interest rate.

Industry experts assume most lenders would select the first option, which consumer advocates prefer, in part because it is structured to provide lenders with immunity from certain regulatory burdens.

Some segments of the mortgage industry oppose the new rules because of technicalities that make a huge difference when it comes to a lender’s or broker’s profitability.

The National Association of Mortgage Brokers, for example, opposes the current rule, which requires lenders to more fully disclose the payments they make to brokers when

brokers originate loans. Under the proposed rules, those fees would be credited to the borrower to help offset closing expenses.

Something else most brokers also don’t like: The rules would give lenders more leeway to negotiate bulk pricing deals with third parties, which could boost lenders’ profits.

Decision Expected

HUD hopes to issue a final set of rules in the spring or soon after. HUD Secretary Mel Martinez says he expects the rule to be revised, but the basic spirit—giving consumers more protection—should survive. Industry lobbying “will not completely water [the rules] down,” he says.

Whatever happens, many lenders support tougher rules because they don’t like it when unscrupulous competitors employing bait-and-switch tactics scare off customers.

“There’s no other product you can buy where all the costs are separated out with no guarantees as to what they will be” until the end of the transaction, says Pat McEnerney, president of Priceline Mortgage, the mortgage arm of priceline.com. “The [HUD rule] is a pretty fair proposal.”

By Patrick Barta