Know Before You Owe Mortgage Disclosure Rule Proposed Updates

Office of Regulations | November 2016



Disclaimer

- The Know Before You Owe mortgage disclosure final rule took effect on October 3, 2015.
- The Bureau issued amendments to the mortgage disclosure rule in January & July 2015.
- The Bureau proposed additional amendments to the mortgage disclosure rule on July 29, 2016.
- This presentation is current as of November 10, 2016. This presentation does not represent legal interpretation, guidance, or advice of the Bureau. While efforts have been made to ensure accuracy, this presentation is not a substitute for the rule. Only the rule and its Official Interpretations can provide complete and definitive information regarding requirements.



The Bureau's *ex parte* policy

- The ex parte policy applies when the Bureau has issued a proposed rulemaking.
- Under the policy, input Bureau staff receives is considered ex parte because it is outside of or in addition to the formal comment process. The complete ex parte policy is available at www.consumerfinance.gov/about-us/blog/promoting-openness-incfpb-rulemaking/.
- The Bureau strongly encourages the submission of written comments. Comments will be accepted through October 18, 2016 and may be submitted to https://www.regulations.gov/comment?D=CFPB-2016-0038-0001.



"Our proposed updates will clarify parts of our mortgage disclosure rule to make for a smoother implementation process."

Richard Cordray, CFPB Director

Main proposed updates

- 1. Tolerances for total of payments
- 2. Housing assistance lending
- 3. Cooperatives
- 4. Privacy and sharing of information



TOLERANCES FOR THE TOTAL OF PAYMENTS



Tolerances for the total of payments

Loan Calculations Total of Payments. Total you will have paid after you make all payments of principal, interest, mortgage insurance, and loan costs, as scheduled. Finance Charge. The dollar amount the loan will cost you. Amount Financed. The loan amount available after paying your upfront finance charge. Annual Percentage Rate (APR). Your costs over the loan term expressed as a rate. This is not your interest rate. Total Interest Percentage (TIP). The total amount of interest that you will pay over the loan term as a percentage of your loan amount.



Tolerances for the total of payments

Required disclosure: Disclose the total of payments as the sum of principal, interest, mortgage insurance, and loan costs paid by the consumer.

Proposed tolerance: The disclosed total of payments shall be treated as accurate if the amount disclosed as the total of payments:

- 1. Is understated by no more than \$100; or
- 2. Is greater than the amount required to be disclosed.



HOUSING ASSISTANCE LENDING



Housing assistance lending

Current exemption: Exempt from the required provision of the Loan Estimate, Closing Disclosure, special information booklet, *and* the RESPA disclosures, if the transaction satisfies criteria in § 1026.3(h)(1)-(6).

§ 1026.3(h)(5): the total of costs payable by the consumer at consummation is less than 1 percent of the amount of credit extended and includes no charges other than fees for recordation, application, and housing counseling

Proposal:

- Clarify that recording fees and transfer taxes may be charged in connection with the transaction without losing eligibility for the partial exemption.
- Recording fees and transfer taxes are excluded from the exemption's 1 percent threshold on costs; bona fide and reasonable application and housing counseling fees are still subject to the 1 percent threshold on costs.



COOPERATIVES



Cooperatives

Current coverage: The Know Before You Owe mortgage disclosure rule, including the Loan Estimate and Closing Disclosure, generally applies to closed-end consumer credit transactions secured by real property, other than reverse mortgages.

 State law determines whether the collateral securing the transaction is considered real property.

Proposal: Extend coverage to include all cooperative units, regardless of whether State law treats the cooperative unit as real property or personal property.



PRIVACY AND SHARING OF INFORMATION



Privacy and sharing of information

- The creditor or settlement agent is permitted to provide a separate Closing Disclosure to the consumer and the seller or third-party:
 - § 1026.38(t)(5)(v) currently permits certain modifications to separate the information of the consumer and seller
 - § 1026.38(t)(5)(vi) currently permits the deletion of certain information, with respect to the creditor and mortgage broker, and costs paid by the consumer, from the form provided to the seller or third-party



Privacy and sharing of information

Closing Disclosure

Closing Information

Date Issued
Closing Date
Closing Date
Disbursement Date
Settlement Agent
File #
Property

Sale Price

Summaries of Transactions SELLER'S TRANSACTION Due to Seller at Closing 01 Sale Price of Property 02 Sale Price of Any Personal Property Included in Sale 04 05 Adjustments for Items Paid by Seller in Advance 09 City/Town Taxes to 10 County Taxes to 11 Assessments to 12 13 15 16 Due from Seller at Closing 01 Excess Deposit 02 Closing Costs Paid at Closing (J) 03 Existing Loan(s) Assumed or Taken Subject to 04 Payoff of First Mortgage Loan 05 Payoff of Second Mortgage Loan 08 Seller Credit

Contact Information	
REAL ESTATE BROKER (B)
Name	
Address	
License ID	
Contact	
Contact License ID	
Email	
Phone	
REAL ESTATE BROKER (S)
Name	
Address	
License ID	
Contact	
Contact License ID	
Email	
Phone	
SETTLEMENT AGENT	
Name	
Address	



Privacy and sharing of information

Proposed Commentary: The creditor may make modifications to the Closing Disclosure form to accommodate the provision of separate Closing Disclosure forms to the consumer and the seller.

- Leave the applicable disclosure blank concerning the seller or consumer on the form provided to the other party;
- Omit the table or label, as applicable, for the disclosure concerning the seller or consumer on the form provided to the other party; or
- Provide to the seller, or assist the settlement agent in providing to the seller, a modified version of the form under § 1026.38(t)(5)(vi).



ADDITIONAL PROPOSALS



Additional proposals

- Calculating cash to close table calculations
- Disclosing principal reductions
- Distinguishing between model and sample forms
- Disclosure of simultaneous second liens
- Others

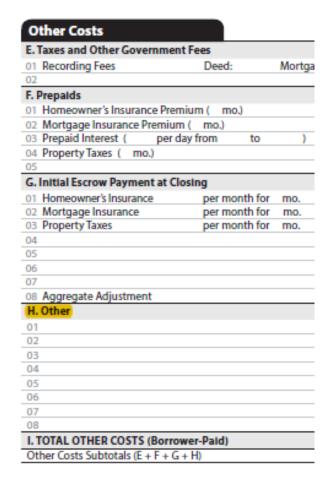


- Cash-back purchase transactions
- Required disclosures under "H. Other"
- Down payment ≠ minimum cash investment
- Double counting
- Closing Costs Financed
- LE column on CD
- Negative/positive numbers

Calculating Cash to Close Total Closing Costs (J) Closing Costs Paid Before Closing Closing Costs Financed (Paid from your Loan Amount) Down Payment/Funds from Borrower Deposit **Funds for Borrower** Seller Credits Adjustments and Other Credits Cash to Close

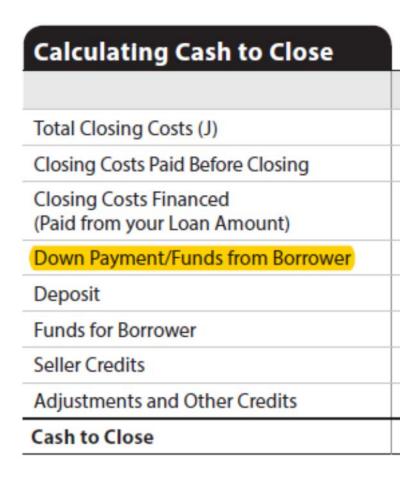


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Calculating Cash to Close
Total Closing Costs (J)
Closing Costs Paid Before Closing
Closing Costs Financed (Paid from your Loan Amount)
Down Payment/Funds from Borrower
Deposit
Funds for Borrower
Seller Credits
Adjustments and Other Credits
Cash to Close



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Calculating Cash to Close		
Total Closing Costs (J)		
Closing Costs Paid Before Closing		
Closing Costs Financed (Paid from your Loan Amount)		
Down Payment/Funds from Borrower		
Deposit		
Funds for Borrower		
Seller Credits		
Adjustments and Other Credits		
Cash to Close		



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Calculating Cash to Close	Use this table to see w		
	Loan Estimate	Final	
Total Closing Costs (J)			
Closing Costs Paid Before Closing			
Closing Costs Financed (Paid from your Loan Amount)			
Down Payment/Funds from Borrower			
Deposit			
Funds for Borrower			
Seller Credits			
Adjustments and Other Credits			
Cash to Close			



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Calculating Cash to Close

Total Closing Costs (J)

Closing Costs Paid Before Closing

Closing Costs Financed (Paid from your Loan Amount)

Down Payment/Funds from Borrower

Deposit

Funds for Borrower

Seller Credits

Adjustments and Other Credits

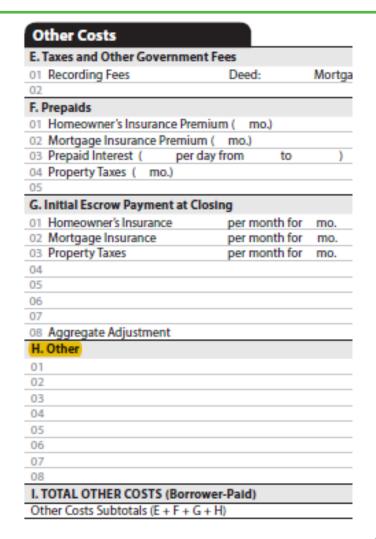
Cash to Close



Additional proposals: Principal reductions

Options for disclosing reductions in principal balance:

- H. Other in the Other Costs table
- Payoffs and payments table on alternative disclosure
- Additional page for customary recitals

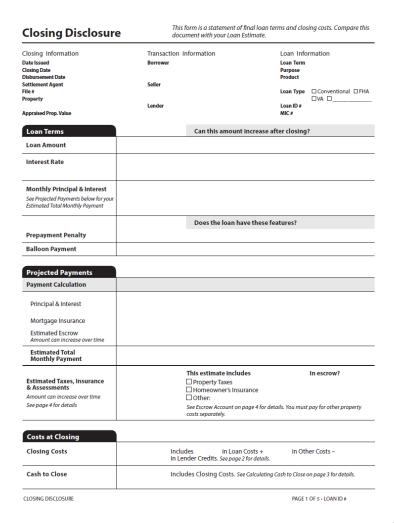




Additional proposals: Model vs. sample forms

Model Forms

- H-24(A) and (G)
- H-25(A) and (H) through (J)
- H-28(A), (F), (I), and (J)





Additional proposals: Model vs. sample forms

Sample Forms

- H-24(B) through (F)
- H-25(B) though (G)
- H-28(B) through (E), (G), and (H)

Closing Disclosure document with your Loan Estimate. Loan Information Closing Information Transaction Information 4/15/2013 Borrower Michael Jones and Mary Stone Loan Term 30 years

This form is a statement of final loan terms and closing costs. Compare this

Date Issued Closing Date 4/15/2013 123 Anywhere Street Purpose Purchase Disbursement Date 4/15/2013 Anytown, ST 12345 Fixed Rate Epsilon Title Co. Steve Cole and Amy Doe 12-3456 321 Somewhere Drive Loan Type ■ Conventional □ FHA 456 Somewhere Ave Anytown, ST 12345 Anytown, ST 12345

Loan Terms		Can this amount increase after closing?
Loan Amount	\$162,000	NO
Interest Rate	3.875%	NO
Monthly Principal & Interest See Projected Payments below for your Estimated Total Monthly Payment	\$761.78	NO
		Does the loan have these features?
Prepayment Penalty		YES • As high as \$3,240 if you pay off the loan during the first 2 years
Ralloon Daymont		NO

Projected Payments)				
Payment Calculation		Years 1-7	Years 8-30		
Principal & Interest	\$761.78		\$761.78		
Mortgage Insurance	+ 82.35		+	_	
Estimated Escrow Amount can increase over time	+ 206.13		+	206.13	
Estimated Total Monthly Payment	\$1,050.26		\$967.91		
Estimated Taxes, Insurance & Assessments Amount can increase over time	\$356.13 a month	This estimate includ X Property Taxes X Homeowner's Insul X Other: Homeowner	rance	In escrow? YES YES NO	
See page 4 for details		See Escrow Account on p	age 4 for details. You m	ust pay for other propert	

Costs at Closing		
Closing Costs	\$9,712.10	Includes \$4,694.05 in Loan Costs + \$5,018.05 in Other Costs – \$0 in Lender Credits. See page 2 for details.
Cash to Close	\$14,147.26	Includes Closing Costs. See Calculating Cash to Close on page 3 for details.



CLOSING DISCLOSURE PAGE 1 OF 5 • LOAN ID # 123456789

Additional proposals: Simultaneous subordinate liens

- Simultaneous loan for subordinate financing
 - Optional alternative disclosures permissible
 - Purpose "purchase"
 - Omit sales price from:
 - Summaries of transactions table
 - Calculating cash to close calculations
- 1st lien transaction
 - Proceeds of subordinate financing disclosed on 1st lien's Closing Disclosure



Additional proposals

- Lender credits
- Per diem interest
- Post-consummation disclosures
- Revised Loan Estimates for informational purposes
- Trusts
- Shopping & written list of providers



Comment period

- Comment period ends on October 18, 2016
 - Email: <u>FederalRegisterComments@cfpb.gov</u>
 - □ Electronic: https://www.regulations.gov/comment?D=CFPB-2016-0038-0001
 - Mail/hand delivery
- Comments will be carefully considered during the development of the final rule



Compliance

- Reminder: This is a <u>proposal</u>.
- Implementation resources for the current rule:
 http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/tila-respadisclosure-rule/



Questions?

