

Federal agency asking public for comment on real estate disclosures

By: Jenna V. Loceff, Business Journal Staff Reporter

SANTA ROSA — When someone purchases a home, there are scores of documents to sign including several disclosures forms.

Two of the disclosures are the Real Estate Settlement Procedures Act form and the Truth in Lending Act.

The Dodd-Frank Wall Street Reform and Consumer Protection Act is calling for these forms to be made into one, and has the Consumer Financial Protection Bureau heading the efforts.

The Real Estate Settlement Procedures Act form, or RESPA, was created in 1974 because various companies associated with the buying and selling of real estate, such as lenders, real estate agents, construction companies and title insurance companies, were sometimes engaging in providing undisclosed kickbacks to each other, inflating the costs of real estate transactions and obscuring price competition.

The Truth in Lending Act, TILA, was enacted in 1968 and is a federal law designed to promote the informed use of consumer credit, by requiring disclosures about its terms and cost to standardize the manner in which costs associated with borrowing are calculated and disclosed.

On May 17, of this year the Consumer Financial Protection Bureau outlined an extensive process for public and industry review that will include multiple comment opportunities.

Called Know Before You Owe, the bureau is taking a social media comment period approach to see what people want.



Linda Bertauche

“I am sure everyone would be ecstatic if there was less paperwork,” said Linda Bertauche, senior vice president and chief operating officer of Summit State Bank. “The point is to get it into one document and the bureau has one year to implement this, which will mean a reworking of various documents.”

She said if the effect is more understanding for consumers, that is a positive, but there will probably be a lot of compliance issues for the streamlined paperwork.

“Until we see more about what will come out of this we won’t really be able to say if this is a good thing or a bad thing,” said Ms. Bertauche. “It will impact those institutions that are heavy into mortgage loans. They have already released the first iteration and are waiting to get feedback.”

This is the first time social media is being used to get feedback from consumers by the bureau. On the site www.consumerfinance.gov, people can view several samples and give their input.



Rachel Dollar

“They are allowing consumers to come up with comments saying what they would like to see in these forms,” said Rachel Dollar, partner at Smith Dollar in Santa Rosa. Smith Dollar deals both in litigation and transactional matters in financial services and mortgage banking among other industries.

“I don’t know if they are getting feedback,” she said. “You are likely to get a lot of people in finance going on the site, it is not random consumers they will likely get.”

She said she thought people who are financially literate and interested in regulatory issues will respond.

After the feedback, the form will have to go through traditional rulemaking.

Ms. Dollar said she is not sure how much putting two forms together will help.

“I think they should scrap everything and start over,” she said. “Usually they add things, but this time they are just combining four pages to two. This is not a sea change. It is going to cost a lot of money for the mortgage industry to implement and it will cause a lot of headaches but is not going to increase the consumer understanding of disclosures.”

In a blog post written by the CFPB web team, it says thousands of comments were received in response to the first phase of the project.

“Not surprisingly,” reads the blog, “the number who came to the page in the first place was much larger than the number who completed that last step. Overall, Know Before You Owe received more than 78,845 visits from 35,168 unique visitors.”

After a closer look, the web team learned that the most visitors came from Washington, D.C., and where, like Ms. Dollar conjectured, “many consumer groups, industry groups, regulators, and journalists are based.”