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New system of documenting real estate sales begins August 1

July 09, 2015 - Appraisal & Consulting

Most bankers, appraisers and Realtors are aware that a new system of documenting a real estate sale will be upon us on August 1. This is a case of the administrative processes catching up with many laws and regulations that were implemented years ago. Regardless of how we feel about Dodd-Frank and the Consumer Financial Protection Bureau (CFPB), these laws are just that - the law! Anyone who wants to lend or borrow money in the arena of a federally insured institution should plan on obeying those laws. Trouble is those laws intersect with other laws long on the books. They also intersect with regulations, policies, procedures, paperwork and customs - most of which have been in place for some time.

The closing statements that we will be seeing soon are very much like those we have seen in the past. But, most folks will only see half of what has been seen in the past. Consumer privacy and financial information confidentiality has been law since the Gramm-Leach-Bliley laws passed way back in the Reagan era. Trouble is, the RESPA form was never updated to assure that the seller of real estate could not see the specifics of the mortgage that the buyer was offered. That will be fixed under the new procedures.

By law, a copy of the real estate appraisal has been available to the borrower for over 20 years now. It was available from the bank at the closing if the borrower requested it. Now it must be provided - whether requested or not - three days before the scheduled closing. Well, for that matter, all of the documents need to be delivered to the borrower three days before the closing. Anything of a financial matter must be delivered - not just sent! So how will the final water meter reading be handled? Will it be actual or estimated? How about the remaining oil in the tank? Actual or estimated? Will arguments ensue over the amount of oil in the tank when the seller leaves the doors open while moving their furniture out? And if the seller makes a point of washing everything down and watering the lawn? Will the buyer say "thanks for leaving things so clean and green?" Or will they say "why did you use so much water after the final meter reading?"

Under these new regulations, forms and procedures, will closings be delayed? If so, what about the other sales that are stacked up behind each sale? Can a fight over one person's water bill or oil tank reading delay four or five closings?

And back to the appraisal. What happens when the appraiser concludes a sufficient value to allow the mortgage, but finds factual data that conflict with the information in the listing sheet? If the seller believes the Gross Living Area (GLA) to be 2,500 s/f, but the appraiser accurately documents 2,160 s/f, what then? Will that delay the closing?

I expect that real estate agents will be under greater pressure to accurately list the facts in a manner with what appraisers are likely to report. Appraisers will be under greater pressure to clearly communicate any discrepancies that they find - and quickly.

Lenders will need to do a lot more communicating about all the details of the lending process. And attorneys are going to need to see all the facts from all the data sources before that put any numbers on the settlement sheet(s)!

It should be interesting.

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