Section 13 – Part 6

SLIDE 21 - **Laws Regarding Fair Credit and Lending Procedures (Cover Page)**

SLIDE 22

Equal Credit Opportunity Act – Prohibits discrimination in extending credit based on race, color, religion, national origin, sex, marital status, age, or dependency upon public assistance.

A creditor may not make any statements to discourage an applicant on the basis of such discrimination or ask any questions of an applicant concerning these discriminatory items. A real estate licensee who assists a seller in qualifying a potential buyer may fall within the reach of this prohibition.

A lender must also inform a rejected applicant in writing of reasons for denial within 30 days.

A creditor who fails to comply is liable for punitive and actual damages.

SLIDE 23

The Consumer Credit Protection Act, enacted in 1969 and since amended by the Truth-in-Lending Simplification and Reform Act, is implemented by the Federal Reserve's Regulation Z. Regulation Z applies to all loans secured by a residence. It does not apply to commercial loans or to agricultural loans over $25,000.

Its provisions cover *the disclosure of costs, the right to rescind the credit transaction, advertising credit offers, and penalties for non-compliance with the act.*

SLIDE 24

Truth-in-Lending and Regulation Z

Disclosure of costs – Under Regulation Z, a lender must disclose all finance charges as well as the true Annualized Percentage Rate (APR) in advance of closing. A lender does not have to show the total interest payable over the loan term or include in finance charges such settlement costs as fees for appraisal, title, credit report, survey, or legal work. Disclosure must be distinctly presented in writing.

SLIDE 25

Truth-in-Lending and Regulation Z

Rescission – A borrower has a limited right to cancel the credit transaction, usually within three days of completion of the transaction. The right of rescission does not apply to "residential mortgage transactions," that is, to mortgage loans used to finance the purchase or construction of the borrower's primary residence.

However, state law may require a rescission period and notice on these transactions as well.

SLIDE 26

Advertising – Any type of advertising to offer credit is subject to requirements of full disclosure if it includes:

- A down payment percentage or amount
- An installment payment amount
- A specific amount for a finance charge
- A specific number of payments
- A specific repayment period
- A statement that there is no charge for credit

If any of these items appears in the advertising, the lender must disclose the down payment amount or percentage, repayment terms, the APR, and whether the rate can be increased after consummation of the loan.

SLIDE 27

Noncompliance – Willful violation of Regulation Z is punishable by imprisonment of up to a year and/or a fine of up to $5,000. Other violations may be punished by requiring payment of court costs, attorneys' fees, damages, and a fine of up to $1,000.

SLIDE 28

RESPA is a federal law which aims to *standardize settlement practices and ensure that buyers understand settlement costs*. RESPA applies to purchases of residential real estate (one- to four-family homes) to be financed by "federally related" first mortgage loans. Federally related loans include:

- VA- and FHA-backed loans
- Other government-backed or -assisted loans

Loans that are intended to be sold to FNMA, FHLMC, GNMA, or other government-controlled secondary market institutions

Loans made by lenders who originate more than one million dollars per year in residential loans.

SLIDE 29

In addition to imposing settlement procedures, RESPA provisions prohibit lenders from paying kickbacks and unearned fees to parties who may have helped the lender obtain the borrower's business. This would include, for example, a fee paid to a real estate agent for referring a borrower to the lender.

To assist in informing and educating borrowers, RESPA requires that lenders provide a loan applicant with a Special Information Booklet and a good faith estimate of closing costs. The booklet, produced by HUD, explains RESPA provisions, general settlement costs, and the Uniform Settlement Statement.

The lender must provide the estimate of closing costs within three days following the borrower's application.

SLIDE 30

For more than 30 years, Federal law has required lenders to provide two different disclosure forms to consumers applying for a mortgage. The law also has generally required two different forms at or shortly before closing on the loan. Two different Federal agencies developed these forms separately, under two Federal statutes: the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act of 1974 (RESPA).

The information on these forms is overlapping and the language is inconsistent. Not surprisingly, consumers often find the forms confusing. It is also not surprising that lenders and settlement agents find the forms burdensome to provide and explain.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) directs the Consumer Financial Protection Bureau (the Bureau) to integrate the mortgage loan disclosures under TILA and RESPA sections 4 and 5. Section 1032(f) of the Dodd-Frank Act mandated that the Bureau propose for public comment rules and model disclosures that integrate the TILA and RESPA disclosures by July 21, 2012. The Bureau satisfied this statutory mandate and issued proposed rules and forms on July 9, 2012.

To accomplish this, the Bureau engaged in extensive consumer and industry research, analysis of public comment, and public outreach for more than a year. After issuing the proposal, the Bureau conducted a largescale quantitative study of its integrated disclosures with approximately 850 consumers, which concluded that the Bureau's integrated disclosures had on average statistically significant better performance than the current disclosures under TILA and RESPA. The Bureau has now finalized a rule with new, integrated disclosures (TILA-RESPA rule).

The TILA-RESPA rule also provides a detailed explanation of how the forms should be filled out and used.

SLIDE 31

The first new form (the Loan Estimate) is designed to provide disclosures that will be helpful to consumers in understanding the key features, costs, and risks of the mortgage loan for which they are applying. The Loan Estimate must be provided to consumers no later than three business days after they submit a loan application.

The second form (the Closing Disclosure) is designed to provide disclosures that will be helpful to consumers in understanding all of the costs of the transaction. The Closing Disclosure must be provided to consumers three business days before they close on the loan.

The forms use clear language and design to make it easier for consumers to locate key information, such as interest rate, monthly payments, and costs to close the loan. The forms also provide more information to help consumers decide whether they can afford the loan and to compare the cost of different loan offers, including the cost of the loans over time.

We will examine these new disclosures as well as when they need to be used in further detail.

SLIDE 32

Consumer Financial Protection Bureau (CFPB)

- Combines several forms into two: Loan Estimate and Closing Disclosure
- Simplifies and improves disclosure forms for mortgage transactions
- Easier for lenders and consumers to understand

SLIDE 33

Benefits to be gained by these new forms:

- Reduce paperwork
- Reduce consumer confusion
    - Use of clearer language
    - Better design
    - Aids consumers in understanding complicated transactions

SLIDE 34

Important items highlighted:

- Interest rate, monthly payments, closing costs
- Makes it easier to compare loans and make informed choices

SLIDE 35

Important items highlighted:

- Increased information on:
    - Taxes and insurance
    - How interest rate and payment may change in the future
    - Easier for consumer to decide if the loan is right for them
    - Now, and in the future, consumer warned about keeping away from certain features
- Example: Pre-payment penalties

SLIDE 36

Important items highlighted:

- Required service estimates more reliable for appraisal and pest inspections
- Final loan terms and costs disclosed to customer at least 3 days prior to closing
- Allows for consumer to compare initial and final costs
- Improved monitoring of compliance by loan originators
- New forms retained electronically

SLIDE 37

Mortgages covered by the new disclosure rules are similar but there are changes:

- Mortgages covered:
    - Closed end consumer credit transactions secured by real estate and subject to RESPA
- Now includes:
    - Loans secured by vacant land on which a home will be constructed
    - Must use loan proceeds within two years after settlement
    - Construction-only loans.

SLIDE 38

Mortgages covered by the new disclosure rules are similar but there are changes:

- Mortgages not covered:
- Home Equity Lines of Credit (HELOC)
- Reverse Mortgages
- Mortgages secured by a dwelling not attached to land
- Example: Mobile home
- Loans by creditor with five or fewer mortgages made in one year