

OREF: Be Aware of Disclosure Requirement That May Cause Closing Delays

Our friends over at Oregon Real Estate Forms (OREF) have issued the following update about the disclosure of Annual Percentage Rate:

OREF's legal counsel, Phil Querin, advises all brokers in the state of Oregon to be aware of federal disclosure requirement that may cause a delay in closing.

Under new rules enacted by the Federal Reserve Board Truth in Lending Act, effective July 30, 2009 it is required that if the final Annual Percentage Rate (APR) changes by .125% or more as disclosed in the Good Faith Estimate there is a mandatory additional three business day waiting period before the transaction can close.

It is suggested that brokers get their buyers and sellers to agree in advance to a written extension as a contingency if the final APR causes the 3-day extension beyond the scheduled Closing Deadline such as:

"In the event that Buyer's final Annual Percentage Rate ("APR") differs from the APR initially disclosed to the Buyer in the Good Faith Estimate by .125% or more, the Closing Deadline defined in the Real Estate Sale Agreement shall automatically be extended for three (3) additional business days in accordance with Regulation Z of the Truth in Lending Act, as amended on July 30, 2008."

If brokers encounter such a situation for a transaction already in process, they can extend the Closing Deadline by using an addendum form (OREF-002).

Caveat: *This is not legal advice. All brokers should confer with their principal brokers and also recommend that their clients consult their own legal counsel if they have any questions.*