



Title Insurance Calculation Dropped From U.S. Mortgage-Form Rule

By: Carter Dougherty - November 20, 2013

A U.S. rule that would have wrapped title insurance into the total costs listed on a simplified mortgage-disclosure form was dropped by the Consumer Financial Protection Bureau after industry complaints.

The rule first proposed by the consumer bureau in July 2012 would have incorporated these costs into the calculation of the annual percentage rate on a simplified new mortgage disclosure form. The agency backed down after feedback suggested “such a change might have affected the types of loans available to consumers,” it said in an e-mailed statement today.

The American Land Title Association, a Washington-based trade group, strongly opposed the change. It has argued that an “all-in APR,” as it is known, would confuse consumers and reduce credit availability among lower-income borrowers by raising the cost of their loans.

Mark Calabria, director of financial regulation studies at the Cato Institute, a research group that promotes free markets, said the change could have pressured the title industry’s profits.

“If title insurance is part of the calculation, then lenders can negotiate volume discounts and push down the price that title insurers can charge,” Calabria said. “Right now, the rules let the title insurers maintain a cartel.”

Fidelity National Financial Inc. (FNF:US) of Jacksonville, Florida, is the top U.S. title insurer, followed by Santa Ana, California-based First American Financial Corp. (FAF:US) The companies use their records to check that a seller is a property’s true owner and that it’s free from liens.

New Forms

The consumer bureau stepped back from the change as part of a final regulation it issued today that combines federally required mortgage disclosures into two simple forms, one that estimates the cost of a mortgage and another that details costs at closing.

The agency said it would “continue to study” the issue of consumer understanding of APR disclosures in connection with a required five-year review of regulations it writes. It will then “make improvements to those disclosures as necessary.”

Under the 2010 Dodd-Frank Act, the agency was required to propose, though not complete, regulations combining and simplifying a thicket of federal disclosures under the Truth in Lending Act and the Real Estate Settlement Procedures Act.

Consumer bureau Director Richard Cordray said the rule will give consumers “greater control over the mortgage loan process.” Cordray will speak about the new forms at a field hearing in Boston today.

All lenders will be required to use the forms by Aug. 1, 2015. The agency did not exempt smaller lenders from the rules, despite protests that these banks have a close relationship with their customers.