



TIB 2016
Annual Mortgage Conference
Common TRID Errors

Common TRID Errors

I. Construction Lending – Loan Estimate

Save this Loan Estimate to compare with your Closing Disclosure.

Loan Estimate

DATE ISSUED
APPLICANTS

PROPERTY

EST. PROP. VALUE
SALE PRICE

LOAN TERM

PURPOSE

PRODUCT

LOAN TYPE Conventional FHA VA _____

LOAN ID #

RATE LOCK NO YES, until

Before closing, your interest rate, points, and lender credits can change unless you lock the interest rate. All other estimated closing costs expire on

A. Est. Prop. Value or Sale Price

- I. The use of loan proceeds to finance construction costs does not by itself impact whether the creditor discloses the sale price or estimated property value on the Loan Estimate. In transactions where there is a seller, the creditor is required to disclose the contract sale price of the property, if known, under Section 1026.37(a)(7)(i).

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Common TRID Errors

I. Construction Lending – Loan Estimate

A. Est. Prop. Value or Sale Price

- II. If the sale price is not yet known, the creditor may disclose the estimated value of the property that is used as the basis for the disclosures in the Loan Estimate as stated in comment 37(a)(7)-1.
- III. In transactions without a seller, Section 1026.37(a)(7)(ii) requires the creditor to disclose the estimated value of the property at the time the disclosure is issued to the consumer. Absent its own estimate, the creditor may use the estimate provided by the consumer at application.

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RATE LOCK NO YES, until

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B. Purpose.

- I. If a consumer uses the loan proceeds to finance both the purchase of real property and construction cost, the creditor must disclose the purpose as purchase. The use of loan proceeds to finance construction costs does not by itself impact the disclosure of the loan's purpose on the Loan Estimate.

Common TRID Errors

I. Construction Lending – Loan Estimate

B. Purpose.

- II. A creditor must disclose the purpose as refinance if the consumer intends to use the credit to construct a dwelling on real property that the consumer already owns and to satisfy an existing loan secured by that real property.
- III. If the credit will be used to finance the initial construction of a dwelling on the property and will not be used for any purchase or refinance purpose, the creditor must disclose the purpose as construction.
- IV. When determining which purpose to disclose, a creditor must look at the waterfall of four possible purposes in the order that they appear in Section 1026.37(a)(9) and select the first one that applies to the loan.

Common TRID Errors

I. Construction Lending – Loan Estimate

C. Estimated Taxes, Insurance & Assessments.

<p>Estimated Taxes, Insurance & Assessments <i>Amount can increase over time</i></p>	<p>This estimate includes</p> <ul style="list-style-type: none"> <input type="checkbox"/> Property Taxes <input type="checkbox"/> Homeowner's Insurance <input type="checkbox"/> Other: <p><i>See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.</i></p>	<p>In escrow?</p>
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- I. Under section 1026.37(c)(5)(i), the amount of the estimated property taxes to be disclosed for all closed end consumer credit transactions secured by real estate, including construction loans, must reflect the taxable assessed value of the real property securing the transaction after consummation. This includes the value of any improvements on the property or to be constructed on the property, if known, irrespective of whether the construction will be financed from the proceeds of the loan.

Common TRID Errors

I. Construction Lending – Loan Estimate

C. Estimated Taxes, Insurance & Assessments.

- II. Under Section 1026.37(c)(5)(ii), the disclosed estimated homeowners insurance must reflect the replacement cost of the property during the initial year after the transaction. Under Section 1026.37(c)(4)(ii), the estimated taxes -- taxes and homeowners insurance must be disclosed as a monthly amount even if no escrow account is established.

Common TRID Errors

II. Mortgage Lending – Loan Estimate

Save this Loan Estimate to compare with your Closing Disclosure.

Loan Estimate

DATE ISSUED
APPLICANTS

PROPERTY
EST. PROP. VALUE

LOAN TERM

PURPOSE

PRODUCT

LOAN TYPE Conventional FHA VA _____

LOAN ID #

RATE LOCK NO YES, until

Before closing, your interest rate, points, and lender credits can change unless you lock the interest rate. All other estimated closing costs expire on

A. Rate Lock

- I. For purposes of § 1026.37(a)(13), the interest rate is locked for a specific period of time if the creditor has agreed to extend credit to the consumer at a given rate, subject to contingencies that are described in any rate lock agreement between the creditor and consumer.

Common TRID Errors

II. Mortgage Lending – Loan Estimate

A. Rate Lock

- II. Where a creditor has a policy to honor the quoted rate, but does not lock the rate pursuant to a written agreement with the consumer, the creditor would disclose “no” pursuant to § 1026.37(a)(13)(i). The Bureau believes this disclosure is appropriate to aid the consumer’s understanding of the transaction, because the creditor would not be bound by an agreement to provide the interest rate to the consumer at consummation.

Common TRID Errors

II. Mortgage Lending – Loan Estimate

B. Intent to Proceed

- I. Fee restriction. Except as provided in paragraph (e)(2)(i)(B) of this section, neither a creditor nor any other person may impose a fee on a consumer in connection with the consumer's application for a mortgage transaction subject to paragraph (e)(1)(i) of this section before the consumer has received the disclosures required under paragraph (e)(1)(i) of this section and indicated to the creditor an intent to proceed with the transaction described by those disclosures. A consumer may indicate an intent to proceed with a transaction in any manner the consumer chooses, unless a particular manner of communication is required by the creditor. The creditor must document this communication to satisfy the requirements of § 1026.25.

Source: 1026.19(e)(2)(i)(A)

Common TRID Errors

II. Mortgage Lending – Loan Estimate

C. Written List of Providers - Availability

- I. Identification of available providers. Section 1026.19(e)(1)(vi)(C) provides that the creditor must identify settlement service providers that are available to the consumer. A creditor does not comply with the identification requirement in § 1026.19(e)(1)(vi)(C) unless it provides sufficient information to allow the consumer to contact the provider, such as the name under which the provider does business and the provider's address and telephone number. Similarly, a creditor does not comply with the availability requirement in § 1026.19(e)(1)(vi)(C) if it provides a written list consisting of only settlement service providers that are no longer in business or that do not provide services where the consumer or property is located.

Source: Commentary: 1026.19(e)(1)(vi), Comment 4

Common TRID Errors

II. Mortgage Lending – Loan Estimate

D. Written List of Providers - Proposal

- I. Current: If the creditor permits the consumer to shop consistent with § 1026.19(e)(1)(vi)(A) but fails to provide the list required by § 1026.19(e)(1)(vi)(C), good faith is determined pursuant to § 1026.19(e)(3)(ii) instead of § 1026.19(e)(3)(iii) regardless of the provider selected by the consumer, unless the provider is an affiliate of the creditor in which case good faith is determined pursuant to § 1026.19(e)(3)(i).

- II. Proposal: If the creditor permits the consumer to shop consistent with § 1026.19(e)(1)(vi)(A) but fails to provide the list required by § 1026.19(e)(1)(vi)(C) or the list does not comply with the requirements of § 1026.19(e)(1)(vi)(B) and (C), good faith is determined under § 1026.19(e)(3)(i) instead of § 1026.19(e)(3)(iii) regardless of the provider selected by the consumer.

Common TRID Errors

II. Mortgage Lending – Loan Estimate

D. Written List of Providers – Link to LE

- I. Written list of providers. If the creditor permits the consumer to shop for a settlement service, § 1026.19(e)(1)(vi)(C) requires the creditor to provide the consumer with a written list identifying at least one available provider of that service and stating that the consumer may choose a different provider for that service. The settlement service providers identified on the written list required by § 1026.19(e)(vi)(C) must correspond to the settlement services for which the consumer may shop, disclosed pursuant to § 1026.37(f)(3).

Common TRID Errors

III. Mortgage Lending – Closing Disclosure

A. Seller's Closing Disclosure

- I. Creditor's copy. When the consumer's and seller's disclosures under this paragraph (f) are provided on separate documents, as permitted under § 1026.38(t)(5), the settlement agent shall provide to the creditor (if the creditor is not the settlement agent) a copy of the disclosures provided to the seller under paragraph (f)(4)(i) of this section.

Source: 1026.19(f)(4)(iv)

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III. Mortgage Lending – Closing Disclosure

B. Separation of consumer and seller information

- I. The information required to be disclosed by paragraphs (j) and (k) of this section may be disclosed on separate pages to the consumer and the seller, respectively, with the information required by the other paragraph left blank. The information disclosed to the consumer pursuant to paragraph (j) of this section must be disclosed on the same page as the information required by paragraph (i) of this section. *(Page 3)*

- II. The information required to be disclosed by paragraphs (f) and (g) of this section with respect to costs paid by the consumer may be left blank on the disclosure provided to the seller. *(Page 2)*

Note: There is no provision to leave the costs paid by the seller blank on Page 2 of the consumer's disclosure.

Common TRID Errors

III. Mortgage Lending – Closing Disclosure

C. Other Costs

- I. Real estate commissions. The amount of real estate commissions pursuant to § 1026.38(g)(4) must be the total amount paid to any real estate brokerage as a commission, regardless of the identity of the party holding any earnest money deposit. Additional charges made by real estate brokerages or agents to the seller or consumer are itemized separately as additional items for services rendered, with a description of the service and an identification of the person ultimately receiving the payment.

Common TRID Errors

III. Mortgage Lending – Closing Disclosure

D. Contact Information

- I. License number or unique identifier. Section 1026.38(r)(3) and (5) requires the disclosure of a license number or unique identifier for each person (including natural persons) identified in the table who does not have a NMLSR ID if the applicable State, locality, or other regulatory body with responsibility for licensing and/or registering such person's business activities has issued a license number or other unique identifier to such person under § 1026.38(r)(3) and (5).

Sources: Real Estate Agents: <http://www.trec.texas.gov/index.asp>

Title Agents and Licensed Escrow Officers:

<https://apps.tdi.state.tx.us/sfsdatalookup/StartAction.do>

Common TRID Errors

III. TRID – General Requirements

A. Record Retention

- I. Closing disclosures. (A) A creditor shall retain each completed disclosure required under § 1026.19(f)(1)(i) or (f)(4)(i), and all documents related to such disclosures, for five years after consummation, notwithstanding paragraph (ii)(B) of this section.

Examples:

- i. Amortization Schedules (Loan Terms, Projected Payments, Loan Calculations)*
- ii. Calculation of Taxes, Insurance & Assessments*
- iii. All invoices, payment and funding records (Closing Costs and Cash to Close)*