

Foreclosure, loan modification, debt relief, forbearance and reinstatement are unfortunately words heard more frequently in the Columbia Gorge. These words, combined with truth and lending changes, are a sign of today's times. For a clearer understanding of these terms, as a homeowner or tenant, the next few pages have helpful information.

TRUTH and LENDING CHANGES

by Denise McCravey, CDPE, EcoBroker, CRS

The most confusing part of purchasing a home is one of the most critical elements—the home loan. Some buyers focus on rates and others on fees. But pre-payment penalties, negative amortization and interest rate changes are terms often shoved aside in the excitement of finding the perfect house or planning for a home remodel. Few ask what will happen to their mortgage if the interest rate changes or they cannot make their payments.

"Consumers need the proper tools to determine whether a particular mortgage loan is appropriate for their circumstances," Federal Reserve Chairman Ben S. Bernanke said. "It is often said that a home is a family's most important asset, and it is the Federal Reserve's responsibility to see that borrowers receive the information they need to protect that asset."

A new Federal Reserve rule takes effect October 1, 2009 amending Regulation Z. It prohibits unfair, abusive or deceptive home mortgage lending practices and restricts other mortgage practices. Regulation Z is known as Truth and Lending.

The goal of the new rule is to broaden consumer protection by increasing consumer understanding and also to level the playing field for all lenders. Prior to this rule, lenders' advertising already had to disclose rates, monthly payments, and other loan features. With this new rule, lenders must give consumers this information earlier in the transaction.

The new regulation requires that for all loans secured by an owner's principal dwelling:

- o Creditors and mortgage brokers are prohibited from coercing a real estate appraiser to misstate a home's value.
- o Companies that service mortgage loans are prohibited from engaging in certain practices, such as pyramiding late fees and are required to credit consumers' loan payments as of the date of receipt and provide a payoff statement within a reasonable time of request.

- o Creditors must provide a good faith estimate of the loan costs, including a schedule of payments, within three days after a consumer applies for any mortgage loan secured by a consumer's principal dwelling, such as a home improvement loan or a loan to refinance an existing loan. Consumers cannot be charged any fee until after they receive the early disclosures, except a reasonable fee for obtaining the consumer's credit history.

In addition, the new rule puts in place additional provisions to protect consumers obtaining higher-priced loans. A loan is higher-priced if it is a first-lien mortgage and has an annual percentage rate that is 1.5 percentage points or more above the "average prime offer rate" (based on Freddie Mac's most current survey, or 3.5 percentage points if it is in subordinate-lien mortgage).

For higher-priced mortgage loans that are secured by the owner's principal dwelling, the rule includes four key protections. They:

- o Prohibit a lender from making a loan without regard to borrowers' ability to repay the loan from income and assets other than the home's value. A lender complies, in part, by assessing repayment ability based on the highest scheduled payment in the first seven years of the loan.
- o Require creditors to verify the income and assets they rely upon to determine repayment ability.
- o Ban any prepayment penalty if the payment can change in the initial four years.
- o Require creditors to establish escrow accounts for property taxes and homeowner's insurance for all first-lien mortgage loans.

For the entire rule see: <http://edocket.access.gpo.gov/2008/pdf/E8-16500.pdf>

Debt Relief in Foreclosure

by Janet Mahoney-Hubert

The Mortgage Forgiveness Debt Relief Act of 2007 generally allows taxpayers to exclude income from the discharge of debt on their principal residence. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualify for this relief.

This provision applies to debt forgiven in calendar years 2007 through 2012. Up to \$2 million of forgiven debt is eligible for this exclusion (\$1 million if married filing separately). The exclusion must be directly related to a decline in the home's value or the taxpayer's financial condition.

The amount excluded reduces the taxpayer's cost basis in the home. Your accountant can provide more information.