

“LEARN HOW TO SMOOTH OUT YOUR CLOSINGS”

Cindy Reach, Esq., Phone: 734 994-1400 Nancy M. Burger, Esq., Phone: 734 668 1670

Lending Guideline Changes Fannie Mae/Freddie Mac

Fannie Mae – on or near the closing day and prior to loan funding, lenders:

- Are required to pull a second credit report
- May re-verify employment status or any other loan application information.

Freddie Mac – for settlement dates on or after December 1, 2010, will now require credit reports for the prior 120-day period, rather than a 90-day period. If the credit report shows an inquiry within the 120-day period, lenders must now determine whether additional credit was granted, see

<http://www.freddiemac.com/sell/guide/bulletins/pdf/bll1019.pdf>.

- Additional credit may result in re-underwriting.
- Buyers will need to cooperate to prove no new debt has been incurred.

Why this matters:

- Any newly discovered credit accounts or changes to the loan application will trigger re-underwriting of the loan.
- Potential to delay closing.
- Credit report inquiries will appear whether applying for or obtaining new credit, even if no new debt incurred.
- This underwriting requirement resulted from foreclosure audits showing that many buyers whose properties were foreclosed upon had incurred additional debts after the lender pulled the initial credit report and prior to closing, and then after closing became late on payments.
- Risk of loss of earnest money deposit.

Survey of local title companies and lenders. The lenders are advising the borrowers not to take out new credit prior to closing. The title companies stated that there have been some delays of closing but no cancellations.

What should you do:

- Inform buyers of the new underwriting requirement, instruct them to be honest on the loan application and never apply for credit during the home financing period.
 - o Buyers need to resist the temptation to purchase appliances and furnishings for the new home during this time period.
 - o Example: applying for a Lowe’s credit card and not even using it will trigger the re-underwriting and potential delayed closing. Test driving a vehicle at a dealership may also trigger an inquiry.
 - o Buyers need to cooperate to prove no new debt has been incurred.
- Both buyers and sellers should be notified of the new underwriting requirement prior to contract negotiations, to set reasonable expectations for the contract terms, and in the event of a potential delayed closing.

Suggestions:

1. Financing contingency: may consider removing the contingency, “subject to final approval by lender and/or underwriter which may be on or near the closing date.”
2. Possession: ? Delaying possession for a few days after closing may take the pressure off.