

Doron F. Eghbali Residential Real Estate Law

[Surprise at the Closing for Home Buyers? Maybe Not Anymore](#)

Wednesday, January 13, 2010 by [Doron F. Eghbali](#)

Home buyers at the closing might take a look at the closing costs and tell themselves, we thought our costs were much lower, what are these costs? Well. Effective January 1, 2010, the Department of Housing and Urban Development (the "HUD") took some measures to bring some order and peace of mind to already stressed home buyers. However, there still might be some surprises.

The new rules implemented by the Department of Housing and Development relate to a document called Good Faith Estimate ("GFE"). Lenders are required by the Federal Real Estate Settlement Procedures Act to provide you this document within three days of applying for a loan. The requirement is satisfied if the document is mailed within three days after you applied for the loan.

Before the new rules put into effect by the HUD, there was no uniform way of communicating with home buyers of the fees they should expect at the closing. Before the implementation, for instance, you would see on your GFE your costs to be \$4,000 at closing. But, at closing you saw your actual costs to be \$4,700.

Unfortunately, even with the new rules still some surprises are likely.

NEW RULES

1. HUD GFE Form: Lenders are required-as of January 1, 2010 - to use the same three-page Good Faith Estimate [form](#) issued by the HUD.

2. Some Costs Cannot Change: Some fees and costs cannot change from the original GFE to the final settlement. These costs include:

- The Lender's origination and underwriting charges; and
- The credit or "points" based on the specific interest rate chosen.

CAVEATS

1. Still Some Fees Could Increase up to 10%: Undoubtedly, the new rules do not provide a panacea for home buyers. Still, lenders are allowed to increase the fees from the ones they provided on the GFE by up to 10% at the time of closing. These fees include:

- Services required and recommended by the lender. If the borrower selects a third-party from that list for title services, title insurance and recording charges, the fees cannot increase by more than 10%. But, they could still increase.

2. Still Some Fees Can Increase without any Cap: These fees include:

- Service providers not approved by the lender and selected by the borrower. These include service providers of title insurance, home insurance, pest and flood insurance, if necessary.

3. Still Lenders Are Expected to Indirectly Charge Borrowers for Compliance: It costs lenders to comply with new requirements. They have to purchase new software, print new forms, train staff on the new rules. The way to get compensated is to pass the buck and charge borrowers.

4. Still the Form Is Not Easy To Comprehend for Borrowers: Unfortunately, the new GFE form is still rather complicated.

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