



# Current Trends in Real Estate

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## I. The New TILA-RESPA Integrated Disclosure Requirements

Farewell, HUD-1, we hardly knew ye. As of October 1, 2015, lenders will provide two integrated forms at specified intervals surrounding the closing date to comply with the provisions of both the Truth in Lending Act (“TILA”) and the Real Estate Settlement Procedures Act of 1974 (“RESPA”). The new forms are the result of provisions from Sections 1098 and 1100A of the Dodd-Frank Act meant to combine and simplify existing documents to make them easier for mortgagors to understand.

TILA (implemented through Regulation Z) and RESPA (implemented through Regulation X) both require specific disclosures to be made at the closing of a mortgage loan. RESPA requires that consumers receive a Good Faith Estimate (“GFE”) within three business days of applying for a mortgage loan. Within one business day before the settlement of the loan, the consumer has the right to request the Settlement Statement (HUD-1), with the document provided at closing. TILA also requires that mortgage lenders provide a disclosure of lending terms within three business days of receiving a mortgage loan application. These requirements have been fulfilled through separate disclosure forms created by two different agencies, thus leading to confusion between lenders and consumers at closing time, as the forms used inconsistent language. The HUD-1 is a settlement statement created by the Department of Housing and Urban Development to satisfy the requirements of RESPA when it was administered by that agency. The Federal Reserve Board enforced TILA.

Dodd-Frank changed these requirements by creating the Consumer Financial Protection Bureau (“CFPB”) and charging it with enforcing the provisions of both TILA and RESPA as well as creating integrated disclosures that effectuate the disclosure provisions of both laws through one set of forms, rather than two. To that end, the CFPB issued the Final Rule for the integrated disclosure requirements on November 20, 2013 and amendments to the Final Rule on February 19, 2015. This new TILA-RESPA Integrated Disclosure rule, otherwise also known as “Know Before You Owe,” created two required documents to replace the TILA and RESPA disclosures – a Loan Estimate that replaces the GFE and TILA disclosures at the time of application, and a Closing Disclosure that supplants the HUD-1 Settlement Statement.

As with the GFE and TILA disclosures, the Loan Estimate must be provided to consumers no later than three business days after they submit an application for a loan. The Loan Estimate form requires the loan amount and terms, projected payments, closing costs, the estimated cash needed to close and other considerations, such as whether the lender intends to transfer the servicing of the loan. The Closing Disclosure includes similar provisions, although it also includes details of the escrow account, a summary of the transaction and the contact information of the lender, the settlement agent, the mortgage broker, and the real estate brokers for both buyer and seller.

Possibly the biggest change for lenders and mortgage brokers is that the Closing Disclosure must be provided to the consumer at least three business days prior to the consummation of the transaction – the point where the consumer becomes contractually obligated to the creditor on the loan. This may be different than the actual closing date. This is a much more stringent requirement than the one-day prior to closing on consumer request requirement of the HUD-1, and can potentially delay closing, as last-minute changes the transaction may trigger a need for a revised Closing Disclosure with a new three-day waiting period. This can happen when there are increases in the APR, any additions of a prepayment penalty or the change of a loan product will trigger the need for a revised closing disclosure

The effective date of the new disclosures was originally set for August 1<sup>st</sup>, but CFPB Director Richard Cordray announced on June 17, 2015 that the agency would be issuing a proposed amendment to delay the date of the new rule until October 1, 2015 to correct an administrative

error. This extra two months should provide at least a little relief to nervous lenders and brokers worried about the effect the new disclosure requirements will have.

**Loan Estimate**

**DATE ISSUED** 2/15/2013  
**APPLICANTS** Michael Jones and Mary Stone  
 123 Anywhere Street  
 Anytown, ST 12345  
**PROPERTY** 456 Somewhere Avenue  
 Anytown, ST 12345  
**SALE PRICE** \$180,000

**LOAN TERM** 30 years  
**PURPOSE** Purchase  
**PRODUCT** Fixed Rate  
**LOAN TYPE**  Conventional  FHA  VA  \_\_\_\_\_  
**LOAN ID #** 123456789  
**RATE LOCK**  NO  YES, until 4/16/2013 at 5:00 p.m. EDT  
*Before closing, your interest rate, points, and lender credits can change unless you lock the interest rate. All other estimated closing costs expire on 3/4/2013 at 5:00 p.m. EDT*

Loan Terms		Can this amount increase after closing?
<b>Loan Amount</b>	\$162,000	<b>NO</b>
<b>Interest Rate</b>	3.875%	<b>NO</b>
<b>Monthly Principal &amp; Interest</b> <i>See Projected Payments below for your Estimated Total Monthly Payment</i>	\$761.78	<b>NO</b>
<b>Does the loan have these features?</b>		
<b>Prepayment Penalty</b>	<b>YES</b>	• As high as \$3,240 if you pay off the loan during the first 2 years
<b>Balloon Payment</b>		<b>NO</b>

Projected Payments		
Payment Calculation	Years 1-7	Years 8-30
Principal & Interest	\$761.78	\$761.78
Mortgage Insurance	+ 82	+ —
Estimated Escrow <i>Amount can increase over time</i>	+ 206	+ 206
<b>Estimated Total Monthly Payment</b>	<b>\$1,050</b>	<b>\$968</b>
<b>Estimated Taxes, Insurance &amp; Assessments</b> <i>Amount can increase over time</i>	\$206 a month	<b>This estimate includes</b> <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input type="checkbox"/> Other: <i>See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.</i>
		<b>In escrow?</b> <b>YES</b> <b>YES</b>

Costs at Closing	
<b>Estimated Closing Costs</b>	\$8,054 Includes \$5,672 in Loan Costs + \$2,382 in Other Costs – \$0 in Lender Credits. See page 2 for details.
<b>Estimated Cash to Close</b>	\$16,054 Includes Closing Costs. See Calculating Cash to Close on page 2 for details.

Visit [www.consumerfinance.gov/mortgage-estimate](http://www.consumerfinance.gov/mortgage-estimate) for general information and tools.

## Closing Cost Details

### Loan Costs

<b>A. Origination Charges</b>	<b>\$1,802</b>
.25 % of Loan Amount (Points)	\$405
Application Fee	\$300
Underwriting Fee	\$1,097

<b>B. Services You Cannot Shop For</b>	<b>\$672</b>
Appraisal Fee	\$405
Credit Report Fee	\$30
Flood Determination Fee	\$20
Flood Monitoring Fee	\$32
Tax Monitoring Fee	\$75
Tax Status Research Fee	\$110

<b>C. Services You Can Shop For</b>	<b>\$3,198</b>
Pest Inspection Fee	\$135
Survey Fee	\$65
Title – Insurance Binder	\$700
Title – Lender’s Title Policy	\$535
Title – Settlement Agent Fee	\$502
Title – Title Search	\$1,261

<b>D. TOTAL LOAN COSTS (A + B + C)</b>	<b>\$5,672</b>
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### Other Costs

<b>E. Taxes and Other Government Fees</b>	<b>\$85</b>
Recording Fees and Other Taxes	\$85
Transfer Taxes	

<b>F. Prepays</b>	<b>\$867</b>
Homeowner’s Insurance Premium ( 6 months)	\$605
Mortgage Insurance Premium ( months)	
Prepaid Interest ( \$17.44 per day for 15 days @ 3.875%)	\$262
Property Taxes ( months)	

<b>G. Initial Escrow Payment at Closing</b>	<b>\$413</b>
Homeowner’s Insurance \$100.83 per month for 2 mo.	\$202
Mortgage Insurance per month for mo.	
Property Taxes \$105.30 per month for 2 mo.	\$211

<b>H. Other</b>	<b>\$1,017</b>
Title – Owner’s Title Policy (optional)	\$1,017

<b>I. TOTAL OTHER COSTS (E + F + G + H)</b>	<b>\$2,382</b>
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<b>J. TOTAL CLOSING COSTS</b>	<b>\$8,054</b>
D + I	\$8,054
Lender Credits	

### Calculating Cash to Close

Total Closing Costs (J)	\$8,054
Closing Costs Financed (Paid from your Loan Amount)	\$0
Down Payment/Funds from Borrower	\$18,000
Deposit	– \$10,000
Funds for Borrower	\$0
Seller Credits	\$0
Adjustments and Other Credits	\$0
<b>Estimated Cash to Close</b>	<b>\$16,054</b>

## Additional Information About This Loan

**LENDER** Ficus Bank  
**NMLS/\_ LICENSE ID**  
**LOAN OFFICER** Joe Smith  
**NMLS/\_ LICENSE ID** 12345  
**EMAIL** joesmith@ficusbank.com  
**PHONE** 123-456-7890

**MORTGAGE BROKER**  
**NMLS/\_ LICENSE ID**  
**LOAN OFFICER**  
**NMLS/\_ LICENSE ID**  
**EMAIL**  
**PHONE**

### Comparisons

Use these measures to compare this loan with other loans.

<b>In 5 Years</b>	<b>\$56,582</b> Total you will have paid in principal, interest, mortgage insurance, and loan costs. <b>\$15,773</b> Principal you will have paid off.
<b>Annual Percentage Rate (APR)</b>	<b>4.274%</b> Your costs over the loan term expressed as a rate. This is not your interest rate.
<b>Total Interest Percentage (TIP)</b>	<b>69.45%</b> The total amount of interest that you will pay over the loan term as a percentage of your loan amount.

### Other Considerations

<b>Appraisal</b>	We may order an appraisal to determine the property's value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close. You can pay for an additional appraisal for your own use at your own cost.
<b>Assumption</b>	If you sell or transfer this property to another person, we <input type="checkbox"/> will allow, under certain conditions, this person to assume this loan on the original terms. <input checked="" type="checkbox"/> will not allow assumption of this loan on the original terms.
<b>Homeowner's Insurance</b>	This loan requires homeowner's insurance on the property, which you may obtain from a company of your choice that we find acceptable.
<b>Late Payment</b>	If your payment is more than 15 days late, we will charge a late fee of 5% of the monthly principal and interest payment.
<b>Refinance</b>	Refinancing this loan will depend on your future financial situation, the property value, and market conditions. You may not be able to refinance this loan.
<b>Servicing</b>	We intend <input type="checkbox"/> to service your loan. If so, you will make your payments to us. <input checked="" type="checkbox"/> to transfer servicing of your loan.

### Confirm Receipt

By signing, you are only confirming that you have received this form. You do not have to accept this loan because you have signed or received this form.

Applicant Signature

Date

Co-Applicant Signature

Date

# Closing Disclosure

This form is a statement of final loan terms and closing costs. Compare this document with your Loan Estimate.

## Closing Information

**Date Issued** 4/15/2013  
**Closing Date** 4/15/2013  
**Disbursement Date** 4/15/2013  
**Settlement Agent** Epsilon Title Co.  
**File #** 12-3456  
**Property** 456 Somewhere Ave  
 Anytown, ST 12345  
**Sale Price** \$180,000

## Transaction Information

**Borrower** Michael Jones and Mary Stone  
 123 Anywhere Street  
 Anytown, ST 12345  
**Seller** Steve Cole and Amy Doe  
 321 Somewhere Drive  
 Anytown, ST 12345  
**Lender** Ficus Bank

## Loan Information

**Loan Term** 30 years  
**Purpose** Purchase  
**Product** Fixed Rate  
**Loan Type**  Conventional  FHA  
 VA  \_\_\_\_\_  
**Loan ID #** 123456789  
**MIC #** 000654321

Loan Terms	Can this amount increase after closing?	
<b>Loan Amount</b>	\$162,000	<b>NO</b>
<b>Interest Rate</b>	3.875%	<b>NO</b>
<b>Monthly Principal &amp; Interest</b> <i>See Projected Payments below for your Estimated Total Monthly Payment</i>	\$761.78	<b>NO</b>
<b>Prepayment Penalty</b>	<b>Does the loan have these features?</b> <b>YES</b> • As high as \$3,240 if you pay off the loan during the first 2 years	
<b>Balloon Payment</b>	<b>NO</b>	

Projected Payments	Years 1-7	Years 8-30
<b>Payment Calculation</b>		
Principal & Interest	\$761.78	\$761.78
Mortgage Insurance	+ 82.35	+ —
Estimated Escrow <i>Amount can increase over time</i>	+ 206.13	+ 206.13
<b>Estimated Total Monthly Payment</b>	<b>\$1,050.26</b>	<b>\$967.91</b>
<b>Estimated Taxes, Insurance &amp; Assessments</b> <i>Amount can increase over time See page 4 for details</i>	<b>\$356.13</b> a month	<b>In escrow?</b> <b>YES</b> <b>YES</b> <b>NO</b>
	<b>This estimate includes</b> <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input checked="" type="checkbox"/> Other: Homeowner's Association Dues <i>See Escrow Account on page 4 for details. You must pay for other property costs separately.</i>	

Costs at Closing	
<b>Closing Costs</b>	<b>\$9,712.10</b> Includes \$4,694.05 in Loan Costs + \$5,018.05 in Other Costs – \$0 in Lender Credits. <i>See page 2 for details.</i>
<b>Cash to Close</b>	<b>\$14,147.26</b> Includes Closing Costs. <i>See Calculating Cash to Close on page 3 for details.</i>

## Closing Cost Details

Loan Costs	Borrower-Paid		Seller-Paid		Paid by Others
	At Closing	Before Closing	At Closing	Before Closing	
<b>A. Origination Charges</b>	<b>\$1,802.00</b>				
01 0.25 % of Loan Amount (Points)	\$405.00				
02 Application Fee	\$300.00				
03 Underwriting Fee	\$1,097.00				
04					
05					
06					
07					
08					
<b>B. Services Borrower Did Not Shop For</b>	<b>\$236.55</b>				
01 Appraisal Fee to John Smith Appraisers Inc.					\$405.00
02 Credit Report Fee to Information Inc.		\$29.80			
03 Flood Determination Fee to Info Co.	\$20.00				
04 Flood Monitoring Fee to Info Co.	\$31.75				
05 Tax Monitoring Fee to Info Co.	\$75.00				
06 Tax Status Research Fee to Info Co.	\$80.00				
07					
08					
09					
10					
<b>C. Services Borrower Did Shop For</b>	<b>\$2,655.50</b>				
01 Pest Inspection Fee to Pests Co.	\$120.50				
02 Survey Fee to Surveys Co.	\$85.00				
03 Title – Insurance Binder to Epsilon Title Co.	\$650.00				
04 Title – Lender’s Title Insurance to Epsilon Title Co.	\$500.00				
05 Title – Settlement Agent Fee to Epsilon Title Co.	\$500.00				
06 Title – Title Search to Epsilon Title Co.	\$800.00				
07					
08					
<b>D. TOTAL LOAN COSTS (Borrower-Paid)</b>	<b>\$4,694.05</b>				
Loan Costs Subtotals (A + B + C)	\$4,664.25	\$29.80			
<b>Other Costs</b>					
<b>E. Taxes and Other Government Fees</b>	<b>\$85.00</b>				
01 Recording Fees Deed: \$40.00 Mortgage: \$45.00	\$85.00				
02 Transfer Tax to Any State			\$950.00		
<b>F. Prepays</b>	<b>\$2,120.80</b>				
01 Homeowner’s Insurance Premium ( 12 mo.) to Insurance Co.	\$1,209.96				
02 Mortgage Insurance Premium ( mo.)					
03 Prepaid Interest ( \$17.44 per day from 4/15/13 to 5/1/13 )	\$279.04				
04 Property Taxes ( 6 mo.) to Any County USA	\$631.80				
05					
<b>G. Initial Escrow Payment at Closing</b>	<b>\$412.25</b>				
01 Homeowner’s Insurance \$100.83 per month for 2 mo.	\$201.66				
02 Mortgage Insurance per month for mo.					
03 Property Taxes \$105.30 per month for 2 mo.	\$210.60				
04					
05					
06					
07					
08 Aggregate Adjustment	- 0.01				
<b>H. Other</b>	<b>\$2,400.00</b>				
01 HOA Capital Contribution to HOA Acre Inc.	\$500.00				
02 HOA Processing Fee to HOA Acre Inc.	\$150.00				
03 Home Inspection Fee to Engineers Inc.	\$750.00			\$750.00	
04 Home Warranty Fee to XYZ Warranty Inc.			\$450.00		
05 Real Estate Commission to Alpha Real Estate Broker			\$5,700.00		
06 Real Estate Commission to Omega Real Estate Broker			\$5,700.00		
07 Title – Owner’s Title Insurance (optional) to Epsilon Title Co.	\$1,000.00				
08					
<b>I. TOTAL OTHER COSTS (Borrower-Paid)</b>	<b>\$5,018.05</b>				
Other Costs Subtotals (E + F + G + H)	\$5,018.05				
<b>J. TOTAL CLOSING COSTS (Borrower-Paid)</b>	<b>\$9,712.10</b>				
Closing Costs Subtotals (D + I)	\$9,682.30	\$29.80	\$12,800.00	\$750.00	\$405.00
Lender Credits					



**Calculating Cash to Close**

Use this table to see what has changed from your Loan Estimate.

	Loan Estimate	Final	Did this change?
Total Closing Costs (J)	\$8,054.00	\$9,712.10	<b>YES</b> • See <b>Total Loan Costs (D)</b> and <b>Total Other Costs (I)</b>
Closing Costs Paid Before Closing	\$0	– \$29.80	<b>YES</b> • You paid these Closing Costs <b>before closing</b>
Closing Costs Financed (Paid from your Loan Amount)	\$0	\$0	<b>NO</b>
Down Payment/Funds from Borrower	\$18,000.00	\$18,000.00	<b>NO</b>
Deposit	– \$10,000.00	– \$10,000.00	<b>NO</b>
Funds for Borrower	\$0	\$0	<b>NO</b>
Seller Credits	\$0	– \$2,500.00	<b>YES</b> • See Seller Credits in <b>Section L</b>
Adjustments and Other Credits	\$0	– \$1,035.04	<b>YES</b> • See details in <b>Sections K and L</b>
<b>Cash to Close</b>	\$16,054.00	\$14,147.26	

**Summaries of Transactions**

Use this table to see a summary of your transaction.

**BORROWER'S TRANSACTION****K. Due from Borrower at Closing \$189,762.30**

01	Sale Price of Property	\$180,000.00
02	Sale Price of Any Personal Property Included in Sale	
03	Closing Costs Paid at Closing (J)	\$9,682.30
04		

**Adjustments**

05		
06		
07		

**Adjustments for Items Paid by Seller in Advance**

08	City/Town Taxes	to	
09	County Taxes	to	
10	Assessments	to	
11	HOA Dues	4/15/13 to 4/30/13	\$80.00
12			
13			
14			
15			

**L. Paid Already by or on Behalf of Borrower at Closing \$175,615.04**

01	Deposit	\$10,000.00
02	Loan Amount	\$162,000.00
03	Existing Loan(s) Assumed or Taken Subject to	
04		

05	Seller Credit	\$2,500.00
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**Other Credits**

06	Rebate from Epsilon Title Co.	\$750.00
07		

**Adjustments**

08		
09		
10		
11		

**Adjustments for Items Unpaid by Seller**

12	City/Town Taxes	1/1/13 to 4/14/13	\$365.04
13	County Taxes	to	
14	Assessments	to	
15			
16			
17			

**CALCULATION**

Total Due from Borrower at Closing (K)	\$189,762.30
Total Paid Already by or on Behalf of Borrower at Closing (L)	– \$175,615.04

**Cash to Close**  **From**  **To Borrower** **\$14,147.26****SELLER'S TRANSACTION****M. Due to Seller at Closing \$180,080.00**

01	Sale Price of Property	\$180,000.00
02	Sale Price of Any Personal Property Included in Sale	
03		
04		

05		
06		
07		
08		

**Adjustments for Items Paid by Seller in Advance**

09	City/Town Taxes	to	
10	County Taxes	to	
11	Assessments	to	
12	HOA Dues	4/15/13 to 4/30/13	\$80.00
13			
14			
15			
16			

**N. Due from Seller at Closing \$115,665.04**

01	Excess Deposit	
02	Closing Costs Paid at Closing (J)	\$12,800.00
03	Existing Loan(s) Assumed or Taken Subject to	
04	Payoff of First Mortgage Loan	\$100,000.00
05	Payoff of Second Mortgage Loan	
06		

07		
08	Seller Credit	\$2,500.00
09		
10		
11		
12		
13		

**Adjustments for Items Unpaid by Seller**

14	City/Town Taxes	1/1/13 to 4/14/13	\$365.04
15	County Taxes	to	
16	Assessments	to	
17			
18			
19			

**CALCULATION**

Total Due to Seller at Closing (M)	\$180,080.00
Total Due from Seller at Closing (N)	– \$115,665.04

**Cash**  **From**  **To Seller** **\$64,414.96**

## Additional Information About This Loan

### Loan Disclosures

#### Assumption

If you sell or transfer this property to another person, your lender

- will allow, under certain conditions, this person to assume this loan on the original terms.
- will not allow assumption of this loan on the original terms.

#### Demand Feature

Your loan

- has a demand feature, which permits your lender to require early repayment of the loan. You should review your note for details.
- does not have a demand feature.

#### Late Payment

If your payment is more than 15 days late, your lender will charge a late fee of 5% of the monthly principal and interest payment.

#### Negative Amortization (Increase in Loan Amount)

Under your loan terms, you

- are scheduled to make monthly payments that do not pay all of the interest due that month. As a result, your loan amount will increase (negatively amortize), and your loan amount will likely become larger than your original loan amount. Increases in your loan amount lower the equity you have in this property.
- may have monthly payments that do not pay all of the interest due that month. If you do, your loan amount will increase (negatively amortize), and, as a result, your loan amount may become larger than your original loan amount. Increases in your loan amount lower the equity you have in this property.
- do not have a negative amortization feature.

#### Partial Payments

Your lender

- may accept payments that are less than the full amount due (partial payments) and apply them to your loan.
- may hold them in a separate account until you pay the rest of the payment, and then apply the full payment to your loan.
- does not accept any partial payments.

If this loan is sold, your new lender may have a different policy.

#### Security Interest

You are granting a security interest in  
456 Somewhere Ave., Anytown, ST 12345

You may lose this property if you do not make your payments or satisfy other obligations for this loan.

#### Escrow Account

**For now,** your loan

- will have an escrow account (also called an "impound" or "trust" account) to pay the property costs listed below. Without an escrow account, you would pay them directly, possibly in one or two large payments a year. Your lender may be liable for penalties and interest for failing to make a payment.

Escrow		
Escrowed Property Costs over Year 1	\$2,473.56	Estimated total amount over year 1 for your escrowed property costs: <i>Homeowner's Insurance</i> <i>Property Taxes</i>
Non-Escrowed Property Costs over Year 1	\$1,800.00	Estimated total amount over year 1 for your non-escrowed property costs: <i>Homeowner's Association Dues</i>  You may have other property costs.
Initial Escrow Payment	\$412.25	A cushion for the escrow account you pay at closing. See Section G on page 2.
Monthly Escrow Payment	\$206.13	The amount included in your total monthly payment.

- will not have an escrow account because  you declined it  your lender does not offer one. You must directly pay your property costs, such as taxes and homeowner's insurance. Contact your lender to ask if your loan can have an escrow account.

No Escrow		
Estimated Property Costs over Year 1		Estimated total amount over year 1. You must pay these costs directly, possibly in one or two large payments a year.
Escrow Waiver Fee		

#### In the future,

Your property costs may change and, as a result, your escrow payment may change. You may be able to cancel your escrow account, but if you do, you must pay your property costs directly. If you fail to pay your property taxes, your state or local government may (1) impose fines and penalties or (2) place a tax lien on this property. If you fail to pay any of your property costs, your lender may (1) add the amounts to your loan balance, (2) add an escrow account to your loan, or (3) require you to pay for property insurance that the lender buys on your behalf, which likely would cost more and provide fewer benefits than what you could buy on your own.

### Loan Calculations

<b>Total of Payments.</b> Total you will have paid after you make all payments of principal, interest, mortgage insurance, and loan costs, as scheduled.	\$285,803.36
<b>Finance Charge.</b> The dollar amount the loan will cost you.	\$118,830.27
<b>Amount Financed.</b> The loan amount available after paying your upfront finance charge.	\$162,000.00
<b>Annual Percentage Rate (APR).</b> Your costs over the loan term expressed as a rate. This is not your interest rate.	4.174%
<b>Total Interest Percentage (TIP).</b> The total amount of interest that you will pay over the loan term as a percentage of your loan amount.	69.46%



**Questions?** If you have questions about the loan terms or costs on this form, use the contact information below. To get more information or make a complaint, contact the Consumer Financial Protection Bureau at [www.consumerfinance.gov/mortgage-closing](http://www.consumerfinance.gov/mortgage-closing)

### Other Disclosures

#### Appraisal

If the property was appraised for your loan, your lender is required to give you a copy at no additional cost at least 3 days before closing. If you have not yet received it, please contact your lender at the information listed below.

#### Contract Details

See your note and security instrument for information about

- what happens if you fail to make your payments,
- what is a default on the loan,
- situations in which your lender can require early repayment of the loan, and
- the rules for making payments before they are due.

#### Liability after Foreclosure

If your lender forecloses on this property and the foreclosure does not cover the amount of unpaid balance on this loan,

- state law may protect you from liability for the unpaid balance. If you refinance or take on any additional debt on this property, you may lose this protection and have to pay any debt remaining even after foreclosure. You may want to consult a lawyer for more information.
- state law does not protect you from liability for the unpaid balance.

#### Refinance

Refinancing this loan will depend on your future financial situation, the property value, and market conditions. You may not be able to refinance this loan.

#### Tax Deductions

If you borrow more than this property is worth, the interest on the loan amount above this property's fair market value is not deductible from your federal income taxes. You should consult a tax advisor for more information.

### Contact Information

	Lender	Mortgage Broker	Real Estate Broker (B)	Real Estate Broker (S)	Settlement Agent
<b>Name</b>	Ficus Bank		Omega Real Estate Broker Inc.	Alpha Real Estate Broker Co.	Epsilon Title Co.
<b>Address</b>	4321 Random Blvd. Somecity, ST 12340		789 Local Lane Sometown, ST 12345	987 Suburb Ct. Someplace, ST 12340	123 Commerce Pl. Somecity, ST 12344
<b>NMLS ID</b>					
<b>ST License ID</b>			Z765416	Z61456	Z61616
<b>Contact</b>	Joe Smith		Samuel Green	Joseph Cain	Sarah Arnold
<b>Contact NMLS ID</b>	12345				
<b>Contact ST License ID</b>			P16415	P51461	PT1234
<b>Email</b>	joesmith@ ficusbank.com		sam@omegare.biz	joe@alphare.biz	sarah@ epsilontitle.com
<b>Phone</b>	123-456-7890		123-555-1717	321-555-7171	987-555-4321

### Confirm Receipt

By signing, you are only confirming that you have received this form. You do not have to accept this loan because you have signed or received this form.

Applicant Signature

Date

Co-Applicant Signature

Date

## II. The Dangerous Path of Property through Intestacy: The Need for Estate Planning with Respect to Real Estate

Winding up an estate is a difficult task, one that can take a toll on a group of the decedent's family and loved ones. This process, however, is exponentially more challenging when a person dies intestate. Real property is particularly difficult to distribute without a definitive statement of intent on the part of the deceased. The various methods of descent in intestacy create tangled estates as families grow in complexity, and so many conflicts might be resolved otherwise through the careful act of creating an estate plan.

In Kentucky, undevise property passes through a system of intestacy that is at least facially regarded as trying to distribute the property in a manner the deceased would have intended. First of all, a surviving spouse takes a  $\frac{1}{2}$  share of the estate.<sup>1</sup> KRS 391.010 then sets out the line of descent, where property passes first to the children of the decedent and their descendants, then to the parents if there are no children, then to siblings if there are no parents, then to the surviving spouse, if there are no children, parents or siblings. The line continues from there to an ever-expanding array of kindred. This descent seems straightforward, but in practice, the results can be tricky. Take, for instance, a woman with four children from a prior marriage who purchases a house with a man as tenants in common. They later marry, then she dies intestate. As tenants in common, each spouse is entitled to an equal share of the property, so the husband retains his share. The other share, however, passes through intestate succession. The husband receives then a right to half of the remaining half of the property as a surviving spouse, and the decedent's children receive the other half. Suddenly, the husband owns a  $\frac{3}{4}$  interest in the house, with the decedent's children splitting a  $\frac{1}{4}$  interest between them. If one of the children died before the decedent leaving three children, those children then split their parent's  $\frac{1}{16}$ <sup>th</sup> interest, each taking a  $\frac{1}{48}$ <sup>th</sup> interest in the property. Is this really the result the decedent would have wanted?

One of the greatest gifts an owner of any kind of property can give her or his loved ones is a well-drafted estate plan. As demonstrated above, intestacy is a complex, messy and ultimately undesirable path that can put an already grieving family through another unpleasant experience.

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<sup>1</sup> KRS 392.020

### III. The Truth in Lending Act and Rescission: Lessons Learned by Lenders from *Jesinoski v. Countrywide*

The Supreme Court just made mortgage rescission a little bit easier for borrowers and scarier for lenders in *Jesinoski v. Countrywide Home Loans*. Under the Truth in Lending Act, 15 U.S.C. §1601-1677 (“TILA”), mortgage lenders are required to disclose the rights of obligors and other material disclosures to borrowers. Borrowers have a right of rescission for three days from the transaction or until the disclosures are made, up to three years after the transaction. The borrower must give notice to the lender of his or her exercise of the right to rescind within those time periods.

In *Jesinoski*, Countrywide failed to make the necessary disclosures to the Jesinoskis as lenders. Three years to the day after the completion of the mortgage transaction, the Jesinoskis sent written notice of their intent to rescind the mortgage to Countrywide. A year and a day later, they filed suit. The question before the Supreme Court then became whether written notice was sufficient under the Truth in Lending Act as the Third and Fourth Circuits held (and the Consumer Financial Protection Bureau agreed), or whether the borrower must also file suit, as the Eighth, Ninth and Tenth Circuits held. The Court decided that the language of the statute makes clear that written notice alone is sufficient to fulfill the terms of the statute. The Court rejected Countrywide’s argument that there was a legitimate dispute over the adequacy of the disclosures that required the borrower to file suit to settle.

This case should give all lenders pause when making disclosures – all material disclosures should be (a) as thorough as necessary under TILA, and (b) timely enough to keep the rescission window to three days. The borrower’s right to rescind will expire at the three day mark if the mortgage lender makes all necessary disclosures at the closing table, but make sure the disclosures are complete and meet all TILA requirements. Inadequate disclosure could leave the borrower up to three years to rescind the loan, a lesson lenders just learned from the Supreme Court.



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Ms. Haggin has served in numerous public service roles, including pro bono representation of various non-profit entities as well as serving as a board member to the Lexington Hearing & Speech Center. She also works with Reach, Inc. in Lexington, KY to help low-to moderate-income families and individuals become first-time homeowners by hosting monthly seminars on the buying process.

#### **Areas of Practice**

- Real Estate Law

#### **Bar Admissions**

- Kentucky, 1991

#### **Education**

- **University of Kentucky College of Law, Lexington, Kentucky**
  - J.D. - 1991
  - Honors: Phi Delta Phi (Magister, Breckinridge Inn, 1990-1991)
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