

# FLORIDA HOMETOWN

## TITLE & ESCROW



### WHEN WILL WE CLOSE?: Managing Expectations from Contract to Closing

TRID's new rules require delivery of the Closing Disclosure three days prior to closing, not counting some holidays and Sundays. The current standard FAR/BAR contract addresses delays and complications with these closing disclosure delivery requirements by extending the closing date by 10 days. In order to manage client expectations, walk them through our closing disclosure calculator, with Sundays and 12 legal holidays pre-calculated into the system for you. You are just clicks away from organization and improved client communication in the closing process!

### Closing Date Calculator

Click the link or the image to see and use our closing date calculator.

[Closing Date Calculator](#)

#### Closing Date Calculator

Please enter your proposed closing date in the \* "CLOSING DATE BOX" in the following format (ex. 9/2/2015). The calculator will take into consideration Sundays, legal holidays, etc, and will show your estimated disclosure date.

\*This calculator is for estimates only. Closing and Disclosure dates are subject to change. Please refer to your contract and/or lender requirements for specific terms regarding your real estate transaction.

- Closing Date:  \*
- Disclosure Date:
- Mail Date:

**CALCULATE**



**LEGAL UPDATE - PUT IT IN WRITING:**  
**Rescinding a Mortgage Loan under TILA**

rescission or accurate material disclosures, an extended right of rescission is triggered, and doesn't expire for three years after the transaction date or upon the sale of the property, whichever comes first.

Under the Supreme Court's decision, if a borrower properly delivers written notice of intent to rescind, it is effective solely upon delivery. The Supreme Court also noted that TILA rejects the common law rule that a rescinding party must return what he/she received before rescission can

This month marks one year since the Supreme Court unanimously ruled in *Jesinoski v. Countrywide Home Loans, Inc.* that only written notice from the borrower to the bank is required to rescind a mortgage for a TILA violation—no lawsuit required.

TILA's rescission language in 15 U.S.C. § 1635, provides borrowers with the right to rescind certain non-purchase money mortgage loan transactions unconditionally within three days of the date the borrower receives: (a) a notice detailing the right of rescission; and (b) certain "material" TILA disclosures. If a lender fails to provide the borrower with either the notice of

be effective—which in the case of a mortgage loan is the money lent.

A primary concern for lenders will be compliance in the post-closing process to ensure adherence TILA's disclosure requirements. It may take several years for the full effects of this decision to be clear, but one thing is for sure, between *Jesinoski* and the CFPB TRID changes of October 2015, the lenders will be sure to adequately notice and disclose.

For questions relating to this article or other legal matters, contact attorney [Jacqueline Peregrin](#).

### TAX UPDATE - Foreign Investments in Real Property: Changes Coming 2/16/16

Last month, President Obama signed into law H.R. 2029 amending the Foreign Investment in Real Property Tax Act ("FIRPTA"), effective February 16, 2016. Here's the new breakdown:

- 0% withholding on the transfer of property to an individual transferee where the transferee or certain members of their family intend to use the property as a residence for at least ½ the time the property will be used by anyone during the first two 12-month periods following closing AND the amount realized is \$300,000 or less.
- 10% withholding for transactions where the real property will be used as a residence AND the amount realized exceeds \$300,000 but does not exceed \$1,000,000.
- 15% withholding is required on all other transfers by a foreign person.

The current FAR/BAR contract specifically refers to a 10% withholding. **An amendment to the contract for closings scheduled on or after February 16, 2016 should be added to change the potential rate of withholding to 15%.** Any questions by any party regarding FIRPTA, the amendments, or any other tax matter should be directed to that party's tax professional.

For questions regarding settlement services for tax withholdings for property in the Cape Coral area, contact [Gina Noonan](#).

[Click here to read the full version of HR 2029.](#)

## A Note from FHTE

Thank you for allowing us to serve your title search, escrow, and settlement needs. We are proud to serve Southwest Florida in English or Spanish with offices in Cape Coral and LaBelle. Drop by or call us any time - we love to hear from you!



## Upcoming Dates:

Feb 7: Super Bowl Sunday

Feb 14: Valentine's Day

Feb 15: Presidents' Day—Post Offices and Banks Closed

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