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Local Title And Settlement Agencies Begin Offering Guaranteed Mortgage Packages

by Kenneth R. Harney

The Bush administration's controversial final rules on mortgage-fee "packaging" may not be out yet, but some title agencies and mortgage lenders are launching their own versions ahead of time, including hefty settlement-sheet title premium credits back to home buyers.

The programs are potentially significant to Realtors because they sidestep what is frequently a key element in title insurance premium splits at settlement. Rather than dividing the title premium with a realty broker through an "affiliated business" joint venture, the title agencies say they are instead giving the broker's piece of the premium back to the home buyer. Brokers get nothing.

The metropolitan Washington DC (Maryland, Virginia, and DC) realty market already has three competing title-credit packaging programs underway. The largest and most prominent is a packaging venture called "the Edge," which offers guaranteed-fee mortgage packages from Vienna, Va.-based First Savings Mortgage Co. and discount title sub-packages from McLean, Va.-based Monarch Title Co.

Credits paid to home buyers can range from $500 to $5,000, but have averaged "over $1,000" per case during the past two months, according to Jerry Boutcher, president of Monarch Title. The rebate or credit is money that normally would go to a realty broker affiliate, but Monarch refuses to participate in such arrangements, said Boutcher.

Affiliated business joint ventures are commonplace across the country. Properly structured to comply with RESPA requirements, they are legal. Typical partners are realty brokerage firms and title and escrow agencies. Whenever a sales associate of the realty brokerage brings in a home buyer for title and closing services, the work is performed by a joint venture controlled by the broker and the title company. The joint venture partners generally split a large portion of the home buyer's title premiums between themselves, according to their ownership share in the joint venture.

In a hypothetical home settlement involving a $2,000 title premium in the Washington suburbs, according to Boutcher, just 15 to 20 percent of the premium might go to the title underwriter issuing the policy. The 80 to 85 percent balance would go to the joint venture corporation co-owned by the realty broker and the title agency, and be split according to their percentage stakes in the joint venture.

Monarch's title premium credit concept essentially cuts the realty broker out of the transaction, brings in a mortgage lender partner, and credits money back directly to the consumer.Sales associates of major realty firms say they like the idea because they can offer their clients a money-back deal they wouldn't get elsewhere -- including from their own brokers' affiliated title and settlement partners.

(Sales associates normally receive no compensation from title premiums. Monarch's Boutcher says he does not -- and legally cannot -- compensate sales agents for referring business to his firm. Agents bring their closing and title business to his company, he says, because "we offer something different" -- a large credit back to their clients -- "and because they know and trust (the lender) and they know and trust us to provide high levels of service.")

A second title premium-credit and packaging program is underway in the Washington DC metropolitan market, sponsored by Federal Title & Escrow Co. Federal Title's president, Todd Ewing, says his "1Roof Credit" program pays home buyers anywhere from $525 to $1,525 back at settlement on a $300,000 home sale and $1,650 to $2,650 on a $1.2 million sale.

The money "is available because we are not paying anyone else," such as a realty brokerage affiliated business partner, said Ewing. The 1Roof Credit program does not require use of Federal Title's lender partner, but the credits are larger when the home buyer does.

Still a third discount-fee program reportedly is underway in the DC market. Dubbed "Home Run," it carries the joint sponsorship of Virginia-based RGS Title LLC and Prosperity Mortgage Co., a home loan subsidiary of Long and Foster Cos., a large independent realty firm. However, RGS, Prosperity and Long and Foster declined to discuss the program, despite repeated requests.

Guaranteed, discount-fee title and mortgage packages could spread quickly to other major markets, according to mortgage industry analysts, once consumers understand that they are an option. All that is required, they say, is for a mortgage lender to "bundle" loan origination fees -- appraisal charges, credit fees, discount fees, flood certification and processing costs -- into a guaranteed fee package. The lender can then join with one or more independent title agencies that are willing to credit back a part of their fees in exchange for a higher volume of business.

Ironically, the title industry and settlement attorneys have been among the harshest critics of the Bush administration's proposed fixed-fee packaging plans. Yet now at least a handful of title agencies themselves appear to be introducing packaging concepts that do much of what the government's forthcoming rules purport to do: provide clarity and certainty to consumers about closing costs up front, and to lower those costs.