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U.S. makes large home mortgages harder to get

Starting October 1, 2011, large home mortgages on expensive houses are harder to get – because the U.S. government is trying to gradually play less of a role in the mortgage market.

Currently, government-related entities such as Fannie Mae and Freddie Mac guarantee or purchase the majority of home mortgages in the U.S. Lenders are much more willing to provide mortgages if they know the loan can be backed by these entities.

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However, the U.S. doesn't guarantee *all* mortgages – it only backs mortgages that meet certain criteria. In particular, there's a size limit to how large a mortgage it will guarantee. That limit varies based on how expensive the housing market is in a particular area. Early this year, the limit was up to $729,750 in the country's priciest markets.

But the government is eager to play less of a role in the mortgage arena. And one way to do that is to reduce its backing of the most expensive mortgages. So as of October 1, the government is reducing the maximum size of a mortgage that it will guarantee.

This will make it harder for homebuyers to get a large mortgage, because lenders will be less willing to offer mortgages if they aren't backed by the government. Borrowers who want a big mortgage may find themselves facing a number of obstacles, including higher interest rates, more stringent income requirements, demands for a higher credit score or a lower debt-to-income ratio, or having to come up with a larger down payment.

The change could force sellers of high-end homes to lower their prices. It could also mean that buyers who can no longer afford the priciest homes will be more interested in buying less-expensive homes.

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Buyer's right to cancel is valid regardless of his 'real' motive

A New Jersey man agreed to buy a $4.5 million house, and put down a $400,000 deposit. The agreement said that the buyer had a right to conduct a radon test, and to cancel the deal if the results showed radon readings above a certain level.

The radon readings came back above that level. The sellers agreed to lower the price and to install a radon remediation system. However, some readings continued to be above the level in the contract.

The buyer cancelled the deal and demanded his $400,000 back.

The sellers, however, claimed that the buyer was acting in bad faith. They said he had told them that he wasn't concerned about the radon, and that the "real" reason he wanted to cancel was that his wife had changed her mind and wanted to move to Texas.

But a New Jersey appeals court sided with the buyer. The court said that the contract gave the buyer an absolute right to back out of the deal if the radon readings were too high…and even if the radon readings weren't his "real" motive for cancelling the deal, that didn't matter. As long as the contract gave him a right to cancel, his real reason for doing so was irrelevant.

As long as a contract gave a buyer a right to cancel, his real reason for doing so was irrelevant.

Seller could sue after buyer's deposit check had bounced

A man agreed to buy a house on New York's Fire Island for $1.2 million. He wrote a deposit check for $120,000, and signed a contract saying it was a cash deal and wasn't contingent on his being able to arrange financing.

However, the man told the seller that he needed some time to deposit the $120,000 in his account, and asked that the check not be cashed right away.

The seller verbally agreed. After 12 days, though, the seller signed the contract and deposited the check. It bounced.

The buyer then told the seller that he had changed his mind and was walking away from the deal.

The seller sued the buyer for $120,000. A New York appeals court sided with the seller.

According to the court, since the written contract said that the deal was for cash and wasn't contingent on the buyer's obtaining financing, the buyer had waived his right to ask the seller to hold off on depositing the check. If he backed out of the deal, he owed the seller the deposit money, regardless of what he had verbally asked for and what the seller had verbally agreed to do.

Must landlords allow tenants to use medical marijuana?

As more and more states allow medical marijuana use, landlords face the question of whether to allow tenants to smoke pot for medical reasons.

On the one hand, even if medical marijuana is legal under state law, it's still technically illegal under federal law – even if the federal government is doing little or nothing to block the drug's medical use.

On the other hand, landlords are generally required to make reasonable accommodations for disabled tenants, such as allowing grab bars in showers or service animals in an otherwise "no pets" building. Some tenants are arguing that allowing medical marijuana use is a type of reasonable accommodation.

However, this argument suffered a blow recently when the U.S. Department of Housing and Urban Development issued a memo stating that medical pot is *not* a reasonable accommodation of a disabled person.

The memo applies to landlords who accept "Section 8" subsidized housing. It says that these landlords cannot treat medical marijuana as a reasonable accommodation. However, it stopped short of saying that landlords have to evict such tenants – it left that decision to the individual landlords.

As more states move to decriminalize the drug, this question will likely only become more complicated.

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Be careful if you're asked to sign a 'letter of intent'

If you're involved in the sale or lease of commercial real estate, very often you'll be asked to sign a "letter of intent." A letter of intent isn't a formal lease or purchase agreement; rather, it's a signed statement that the parties plan to negotiate a deal later that involves certain elements.

Because a letter of intent doesn't seem like a contract – it seems more like a simple handshake acknowledgement that the parties hope to hammer out a formal agreement later – some people sign them without giving them a great deal of care.


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This can be a mistake. Letters of intent are contracts in themselves, and can have serious consequences.

A letter of intent is typically used by a buyer or renter to show that he or she is serious about the deal, and to tie up the property and keep it from "getting away" for a period of time while the two sides negotiate in good faith.

A standard letter of intent might state the basics of the agreement – such as the price or rent, and the closing date or lease term – but will leave for later more detailed and technical parts of the deal, such as representations, warranties, insurance requirements, apportionment of closing costs, etc.

That's fine – but the letter has to be worded very carefully to make sure that it really is non-binding and that the parties can still get out of a deal if they can't work out the details afterward.

If the letter isn't drafted well, then you could intend nothing more than a good-faith negotiation, but end up being on the hook to go through with a deal that doesn't meet your needs.

Another tricky aspect of letters of intent is that they typically *are* meant to be binding in several respects. For instance, they typically say that during a certain period of time, the property owner is not allowed to market the property to anyone else, sell or lease the property to anyone else, or disclose the details of the negotiations to anyone else.

If you sign such an agreement, you should be aware that it will be binding even if another buyer or renter comes along with a better offer.

For instance, in a recent case in Oregon, the owner of a shopping mall signed a letter of intent saying that it wouldn't market or sell the property to anyone else for 60 days. However, the owner sold the mall to someone else during that time. As a result of not being able to complete the deal, the jilted would-be purchaser suffered more than $900,000 in tax losses.

The purchaser sued the mall seller, and the Oregon Court of Appeals said the seller had to pay the amount of the purchaser's tax losses as damages.

If a letter of intent isn't drafted well, then you could end up being on the hook to go through with a deal that doesn't meet your needs.

U.S. makes large home mortgages more difficult to obtain

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As for Fannie and Freddie, the maximum mortgage amount that can be guaranteed is reduced as of October 1 in some 250 counties in the U.S. These counties account for 27% of the nation's homes.

The maximum loan that can be guaranteed will fall from $729,750 to $625,500 in high-priced markets such as New York, San Francisco, Los Angeles and Washington, D.C.

The limit will drop to $546,250 in San Diego, to $506,000 in Seattle, and to $465,750 in Boston.

Elsewhere, the limit will drop to as little as $417,000.

An even more dramatic change will affect FHA loans. The maximum FHA loan will be reduced in about 600 counties that together contain 59% of the country's homes.

FHA loans in some areas will be limited to no more than $271,050.

According to the Federal Housing Finance Agency, the changes could affect 50,000 mortgages each year.

To see a chart that shows the new Fannie, Freddie and FHA limits in all counties in the U.S., go to: http://goo.gl/RHEvd.

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Protect yourself if you're buying a house with an unmarried partner

Back in the old days, the typical homebuyer was a married couple. But today, there's a huge increase in the number of unmarried couples who are buying a home together.

It might not sound very romantic, but it's a good idea for such couples to think about what their financial obligations will be regarding the home, and what would happen if they were to split up at some point in the future.

For instance, you might want to consider signing a "cohabitation" or "domestic partner" agreement. This is a legally binding document that says who will pay what portion of the mortgage, property taxes, insurance, maintenance and other house-related expenses. It can also say what will happen to the property if you and your partner decide to go your separate ways.

Another way to protect yourself is to understand the different forms of property ownership. For instance, if you own real estate as "joint tenants," then you each own 50% of the property. You can't leave the property to someone in your will; if you die, your share of the property automatically goes to your partner.

On the other hand, if you own the property as "tenants in common," then you can have whatever percentage interest you want. One person can own 61% of the house and the other can own 39%, if that's what you want. In theory, the 39% owner could sell his or her 39% share to someone else (although it's hard to imagine someone wanting to buy 39% of a house). You can also leave your 39% share to someone other than your partner in your will. If the house is sold, your heir would be entitled to 39% of the proceeds.

You might want to sign a "tenancy in common agreement," which is similar to a cohabitation agreement. Such a document sets out who owns what percentage, clarifies the couple's financial obligations, and spells out each person's buying and selling restrictions and duties in the event of a split-up.

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