

Electronic Signatures – What’s Real and What’s Hype

The general press would like us to believe that electronic signatures are just around the corner and that the mortgage industry could certainly use such new technology. However, we must understand basic aspects of the industry to really know if electronic signatures are the answer to our prayers.

First, let’s start with the borrower. For the biggest purchase decision of their life, how many are willing to allow the use of electronic signatures for such a large loan. Would not at least a few be concerned that a stolen electronic signature could be used to obtain such a large loan? While I might accept the risk of losing a few hundred dollars because of credit card fraud, it’s a whole different story when we are talking hundreds of thousands of dollars.

Also, wouldn’t the borrower really want someone to sit down with them and go over the 30+ documents in a typical closing file? Just what are all these documents that they’re signing away their life for? Few consumers would want to forgo the hand holding at the closing table. Few customers would want to sign such significant documents at the press of a key.

Next, let’s look at the closing process. Typically, the closing table involves more than just signing documents. Keys need to be exchanged, funds need to be transferred, checks handed over, etc. If these still have to take place, then what’s the advantage of being paperless. For the borrower, it’s almost a ceremony that they talk about with glee. For most, it’s pretty exciting (and scary at the same time). Is everyone really ready to throw out this emotion filled event? What better time is there to cement a relationship between the loan officer and the customer?

Will digital signatures increase the liability for the industry? How many Realtors and Lenders would recommend using digital signatures and take the risk of their client not understanding something? I’ve signed numerous documents where I was forced to re-write by hand a paragraph describing how dangerous an event is (standard for parachuting). Clearly, legal experts look for total consumer understanding of high-risk transactions. Many a court cases were won when the consumer argued they didn’t understand what they were signing. Consumers don’t understand the closing documents they sign today but at least they walked to the closing table. Many states require the borrower to be represented by an attorney because of this. What happens when it’s just a press of a button?

Of course, we have to look at the technology side of all this as well. Did anyone think about the thousands of recorders offices throughout the country. Last time I checked, they still want paper forms. Perhaps one or two might be doing something different but before the industry can move to digital signatures, they all have to change. Any idea of how long it would take to change all those offices? What about that little town in northern Vermont do that use shoeboxes to store these Notes? When can we expect them to change?

Finally, if we can get past all these hurdles we have a lot of system changes to make throughout our industry. This is certainly achievable but not in any short time. It would take years for all the systems to being using imaged documents with attached digital signatures. Sure, the technology is there and perhaps even the government is working to make them legal. However, this industry is notoriously slow to adopt such radical changes. It can be done but not anytime soon.

Once they have become accepted by all the federal and state governments then we have the long slow process of adoption. The first area I believe they will be used is on the up front disclosures. This could actually happen fairly quickly because it's easy to put everything in place with the Internet. I envision having Good Faith Estimates and Reg Z's on a web page that the consumer signs with a digital signature. The up front disclosure package is a great application for digital signatures as it makes the process easier for the consumer. In addition, most of the issues above don't apply to the initial disclosure package. While it's probably at least a year away, it is something we can look forward to on the horizon. One last problem with this is that the consumer is supposed to be handed or mailed a HUD booklet – would HUD allow a web page to suffice?

Call me just an old technologist from the past but I think these are real issues and the reason were still a long way from taking advantage of digital signatures for most aspects of our business.