



April 16, 2012

The Honorable Richard Cordray  
Director  
Consumer Financial Protection Bureau  
1700 G Street, N.W.  
Washington, D.C. 20552

Re: Know Before You Owe combined mortgage disclosures

Dear Director Cordray:

Thank you for the opportunity to comment on this final iteration of the Consumer Financial Protection Bureau's (Bureau) draft Settlement Disclosure Form. As you know, throughout each round of the Know Before You Owe project, the American Land Title Association (ALTA)<sup>1</sup> has provided comments on the design of the combined mortgage disclosure drafts. We support the Bureau's efforts to reduce the number of disclosures provided at closing and believe that a well designed set of forms and regulations can improve not only consumers understanding of their transactions, but also the operations of ALTA members who provide these disclosures at closing.

ALTA members serve as the independent, third-party settlement agent for real estate transactions, both sale and refinance, throughout the country. This one-on-one interaction with consumers, affords ALTA members' with unique insight into what information helps consumers understand their transaction and what processes best assure a smooth completion of the transaction.

We believe the most important adjustment the Bureau can make to its draft forms to achieve these goals is to re-order the pages and information of the Settlement Disclosure Form. This re-ordering would still result in the consumer receiving a single, integrated disclosure form, however it would allow the appropriate parties (lender and settlement agent) who are currently individually responsible for disclosing particular pieces of information to the consumers to continue to do so without undue cost or expense. Attached is a suggestion for how the Bureau can design the disclosures so that (1) disclosures that contain mostly loan information would be

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<sup>1</sup> Founded in 1907, ALTA is the national trade association and voice of the real estate settlement services, abstract and title insurance industry. With more than 8,000 office locations throughout the country, ALTA members operate in every county in the United States to search, review and insure land titles and conduct closings to protect the rights of home buyers and mortgage lenders who invest in real estate. ALTA members include title insurance companies, title agents, independent abstracters, title searchers and attorneys, ranging from small, one-county operations, to large national title insurers.

completed by the lender, and (2) disclosures that contain mostly transactional and financial information would be completed by the settlement agent. When combined at closing, all of the information and concepts contained in the Butternut and Hemlock forms is present and can be disclosed to the consumer. We believe this re-ordering will provide at least five benefits for consumers and the industry:

### ***Shorter Implementation Time***

First, it will reduce the time necessary to implement the combined mortgage disclosure forms. In ALTA's February 3, 2012, letter we indicated that based upon a review of the Sassafras and Mimosa iterations, the industry's technology providers projected that form and system development time would be between 12-14 months. This timetable did not include necessary training of settlement personnel which could take another 6-12 months.

However, if the Bureau re-ordered the disclosure as we suggest, along with returning the formatting and line numbering of the settlement statement to that of the pre-2008 HUD-1 Settlement Statement, the systems development timeframe could be reduced to six months or less for the portions completed by settlement agents. The pre-2008 form, and the underlying software system coding that produces it, was retained in virtually all settlement software systems. Only minor revisions to the current systems would be required, reducing substantially both implementation time and expense.

### ***Better Protection of Personal Financial Information***

Second, our proposed re-ordering would make the protection of consumers' personal financial information easier. As the Bureau has acknowledged, there are parts of the draft Settlement Disclosure Form that contain confidential borrower information that should not be provided to the seller. Rather than develop a seller specific disclosure, the re-ordering would allow sellers to receive their transactional information while using the same disclosure form.

### ***Conformity to the RESPA and TILA Statutes***

Third, a re-ordering of the Settlement Disclosure would allow the Bureau to reconcile the statutory differences regarding who provides the final TILA disclosure and HUD-1 and the timing requirements for those disclosures. It is important to remember, that TILA is only concerned with one small part (the loan) of the settlement of a broader real estate transaction governed by RESPA.

The initial TILA disclosure and the Good Faith Estimate disclosure under RESPA are both provided by the lender and have similar timing requirements, presenting few problems. However, this is not the case with the Settlement Disclosure form, which combines the later TILA form and the HUD-1 Settlement Statement.

The TILA disclosure is currently provided by the lender from information and computations contained in the lender's data systems, while the HUD-1 Settlement Statement is currently provided by the closing agent from information contained in its systems regarding

receipts, disbursements and other financial information involved in each specific real estate transaction. In addition, the timing of the delivery of TILA and RESPA settlement disclosures also vary significantly. TILA requires disclosure to occur, if applicable, three days prior to settlement, while RESPA requires that the settlement statement be available to the borrower one day prior to settlement.

Forcing one of these statutory schemes to give way to the other will severely dislocate current business practices. Without our suggested re-ordering, the Bureau will have to determine who is to provide the disclosure to the consumer (lender or settlement agent). This decision will result in severe dislocations in current business processes, requiring methods to transfer large amounts of data from one system to the other for preparation of the combined disclosure.

### ***Greater Flexibility To Integrate the Disclosures with Other Statutes and Regulations***

Fourth, there are a number of new and existing loan centric regulations and statutes that potentially impacted by the disclosures including HOEPA, QM, QRM, and Reg. B. Our suggested re-ordering of the Settlement Disclosure would provide the Bureau with greater flexibility to integrate these other loan related regulations and statutes into the disclosure without impacting the separate real estate transaction disclosures under RESPA.

### ***Less Impact on Small Businesses***

Finally, during the Bureau's recent Small Business Regulatory Enforcement Fairness Act (SBREFA) panel, a number of the Small Entity Representatives (SER's) indicated that smaller settlement agents will be at a competitive disadvantage if the single, integrated disclosure is provided by the lender because of the manual transfer of information between the lender and settlement agent required. Appropriately ordering the information contained in a disclosure and its delivery from systems already containing this data will significantly reduce or eliminate these potentially devastating problems for small business settlement agents.

ALTA looks forward to continuing to work with the Bureau, and we thank you for your consideration of these important recommendations. If you have any questions about the recommendations in this letter, please do not hesitate to contact ALTA Vice President of Government Affairs Justin Ailes at 202.261.2937.

Sincerely,



Michelle L. Korsmo  
Chief Executive Officer

Attachments

# Settlement Disclosure – Part A

Part A is a statement by the Lender of final loan terms and closing costs. Compare this document to your Loan Estimate

## SETTLEMENT INFORMATION

DATE 1/24/2012  
 AGENT ABC Settlement  
 FILE # 01234  
 PROPERTY 456 Avenue A  
 Anytown, PA 12345  
 SALE PRICE

## TRANSACTION INFORMATION

BORROWER James White and Jane Johnson  
 123 Anywhere Street Apt 678  
 Anytown, PA 12345  
 SELLER John Wilson  
 123 Somewhere Dr.  
 Anytown, PA 12345  
 LENDER Butternut Bank

## LOAN INFORMATION

LOAN TERM 30 years  
 PURPOSE Purchase  
 LOAN TYPE  Conventional  FHA  
 VA  \_\_\_\_\_  
 MIC# 56789  
 LOAN ID# 1330172608

Loan Terms	Can this amount increase after closing?	
Loan Amount	\$109,805.63	No
Interest Rate	4.375%	No
Monthly Principal & Interest	\$548.25	No
<i>See Projected Payments Below for Your Total Monthly Payment</i>		
Does the loan have these features?		
Prepayment Penalty	No	
Balloon Payment	No	

Projected Payments	Years 1-7		Years 8-30	
Payment Calculation				
Principal & Interest		\$548.25		\$548.25
Mortgage Insurance	+	55.82	+	–
Estimated Escrow <i>Amount Can Increase Over Time</i>	+	422.94	+	422.94
<b>Estimated Total Monthly Payment</b>	\$1,027.01		\$971.19	
<b>Estimated Taxes, Insurance &amp; Assessments</b> <i>Amount Can Increase Over Time See Details on Page __</i>	\$551.25 a month	<input type="checkbox"/> <b>Escrow.</b> Your escrow payment covers your taxes, insurance & assessments on the property. <input checked="" type="checkbox"/> <b>Partial Escrow.</b> Your escrow payment only covers the property costs in Section F on page 3. Some of your costs are not in escrow. <input type="checkbox"/> <b>No Escrow.</b> You must pay all of your taxes, insurance & assessments separately from your loan payments.		

Closing Costs		
Cash to Close	\$27,625.00	Closing Costs include \$5,519.53 in Settlement Fees. See details on page 2.

### 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 unless you create a new account. 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, we may

- add the amount to your loan balance
- add an escrow account to your loan, or
- require you to pay for property insurance that we buy on your behalf, which likely would be more expensive and provide fewer benefits than what you could buy on your own.

CALCULATING CASH TO CLOSE			
	Estimate	Final	Did this Change?
700. Real Estate Broker/Agent Fees	\$200.00	\$200.00	NO
800. Origination Charges	\$2,769.00	\$2,810.90	YES See Settlement Disclosure Part B, Page 2
850. Services Required for your Loan	\$915.00	\$1,055.00	YES See Settlement Disclosure Part B, Page 2
900. Prepays	\$464.00	\$1,935.38	YES See Settlement Disclosure Part B, Page 2
1000. Initial Escrow Payment at Closing	\$902.00	\$846.82	YES See Settlement Disclosure Part B, Page 2
1100. Title and Settlement Fees	\$1,486.00	\$1,803.63	YES See Settlement Disclosure Part B, Page 2
1200. Taxes & Other Government Fees	\$2,840.00	\$2,840.00	NO
1300. Other Costs	\$0	\$2,121.31	YES See Settlement Disclosure Part B, Page 2
Down Payment/Funds from Borrower	\$18,525.00	\$18,525.00	NO
Deposit	-\$3,000.00	-\$3,000.00	NO
Cash to Borrower	\$0	\$0	NO
Seller Credits	\$0	\$0	NO
Other Credits and Adjustments (406-419)	\$0	\$3,317.59	YES See Settlement Disclosure Part B, Page 1
Closing Cost to be Financed	\$0	-\$4,830.63	YES Your loan amount increased when you included these closing costs.
<b>Cash to Close</b>	<b>\$25,101.37</b>	<b>\$27,625.00</b>	

### Loan Disclosures

**Assumption**  
 If you sell or transfer this property to another person  
 We will allow, under certain conditions, this person to assume this loan on the original terms  
 We will not allow assumption of this loan

**Demand Feature**  
 Your loan has a demand feature, which permits the lender to demand early repayment of this loan. If this loan has a demand feature, you should review your note for details.  
 Your loan does not have a demand feature

**Late Payment**  
 If your payment is more than 15 days late, we 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, as a result, 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  
 have the option of making 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.  
 You do not have a negative amortization feature.

**Partial Payment Policy**  
 We will accept payments that are less than the full amount due (partial payments). We will apply partial payments:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 We will not accept partial payments

**Security Interest**  
 You are granting us a security interest in 456 Avenue A, Anytown, PA 12345. You may lose this property if you do not make your payments or satisfy other obligations for this loan

**Escrow Account Information**  
**For now**, your loan  
 will have an escrow account (also called an “impound” or “trust” account) to pay the property costs listed in Part B, Section 1000 for you. If we fail to make a payment, we may be liable for penalties and interest. Without an escrow account, you would pay these costs directly, possibly in one or two large payments a year.

Year 1 Property Costs

Estimated Property Costs Escrowed	\$5,075.28	The total costs over year 1 of items listed in Part B, Section 1000
Initial Escrow Payment	\$846.82	The payment in Part B, Section 1000 is a cushion for the escrow account
Monthly Escrow Payment	\$422.94	The amount included in your monthly payment
Estimated Property Costs Not Escrowed	\$1,539.72	Property costs that are not escrowed: HOA dues You may have other property costs not listed here.

will not have an escrow because \_\_\_ you declined and account \_\_\_ we did not offer escrow accounts. You must directly pay your property costs, such as property taxes and homeowner’s insurance.

Estimated Costs

Year 1, Estimated Property Costs		Without an escrow account, you would pay these costs directly, possibly in one or two large payments a year
Fee for No Escrow Account		

Contact us to ask whether your loan can have an escrow account

Loan Calculations	
<b>Total of Payments.</b> The amount you have paid after you have made all 360 payments as scheduled	\$354,038.18
<b>Finance Charge.</b> The dollar amount the loan will cost you.	\$94,978.46
<b>Amount Financed.</b> The amount of credit provided to you or on your behalf.	\$106,801.32
<b>Annual Percentage Rate (APR).</b> This is not your interest rate. The rate expresses your costs over the loan term.	4.92%
<b>Total Interest Percentage (TIP).</b> This rate is the total amount of interest that you will pay over the loan term as a percentage of your loan amount.	79.75%
<b>Average Cost of Funds (ACF).</b> This represents the average cost of borrowing funds to make mortgage loans for financial institutions that report to the Federal Home Loan Bank of San Francisco	1.20%

Other Disclosures
<p><b>Appraisal Copy</b> If you paid for a written appraisal or valuation of the property, we are required to give you a copy at no additional cost at least 3 days before closing. If you have not received it, please contact John Smith at Butternut Bank at 111-222-3333.</p>
<p><b>Contract Details</b> See your note and security instrument for information about</p> <ul style="list-style-type: none"> <li>- what happens if you fail to make your payments</li> <li>- other ways you can default on your loan</li> <li>- situations in which we can require early repayment of the loan, and</li> <li>- the rules for making payments before they are due.</li> </ul>
<p><b>Liability after Foreclosure</b> If your lender forecloses on this property and the foreclosure does not cover the amount of the unpaid balance on this loan</p> <ul style="list-style-type: none"> <li>■ state law may protect you for the unpaid balance. If you refinance or take on any additional debt on this property, you may lose this protection and be liable for the debt remaining after the foreclosure. You may want to consult a lawyer for more information.</li> <li>□ state law does not protect you from liability for the unpaid balance</li> </ul>
<p><b>Refinance</b> Refinancing this loan will depend on you future financial situation and market conditions. We cannot guarantee that you will be able to refinance this loan.</p>
<p><b>Tax Deductions</b> If you borrow more than this property is worth, the interest on the loan above this property's fair market value is not deductible from your federal income taxes. You should consult a tax advisor for more information.</p>



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

Lender Contact Information	
<b>Name</b>	Butternut Bank
<b>Address</b>	4321 Liberty Blvd. Somecity, PA 54231
<b>NMLS ID</b>	111111
<b>Contact</b>	John Smith
<b>Loan Officer NMLS ID</b>	487493
<b>Email</b>	<a href="mailto:jsmith@butternutbank.com">jsmith@butternutbank.com</a>
<b>Phone</b>	111-222-3333

Confirm Receipt			
By signing, you are only confirming that you have received this form. You do not have to complete this transaction, even if you have signed or received this form.			
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Applicant Signature	Date	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Applicant Signature	Date

# Settlement Disclosure – Part B

Part B is a statement by the Settlement Agent of the final accounting of this transaction. Compare this document to your Loan Estimate

SETTLEMENT INFORMATION		TRANSACTION INFORMATION		LOAN INFORMATION	
DATE	1/24/2012	BORROWER	James White and Jane Johnson	LOAN TERM	30 years
AGENT	ABC Settlement		123 Anywhere Street Apt 678	PURPOSE	Purchase
FILE #	01234		Anytown, PA 12345	LOAN TYPE	<input checked="" type="checkbox"/> Conventional <input type="checkbox"/> FHA
PROPERTY	456 Avenue A Anytown, PA 12345	SELLER	John Wilson 123 Somewhere Dr. Anytown, PA 12345	MIC#	<input type="checkbox"/> VA <input type="checkbox"/> _____ 56789
SALE PRICE				LOAN ID#	1330172608
				LENDER	Butternut Bank

Settlement Date  
Funding Date

Summaries of Transactions			
<b>BORROWER'S TRANSACTION</b>		<b>SELLER'S TRANSACTION</b>	
100. Gross Amount due from Borrower		400. Due to Seller at Closing	
101. Sale Price of Property	\$123,500.00	401. Sale Price of Property	\$123,500.00
102. Personal Property		402. Sale Price of any Personal Property Included	
103. Closing Costs from Borrower	\$13,613.04	403.	
104.		404.	
105.		405.	
Items Prepaid by Seller that are due from Borrower		Items Prepaid by Seller that are due from Borrower	
106. City/Town Taxes 1/24/12 to 12/31/12	\$3,030.09	406. City/Town Taxes 1/24/12 to 12/31/12	\$3,030.09
107. County Taxes to		407. County Taxes to	
108. Assessments to		408. Assessments to	
109. HOA dues 1/24/12 to 3/31/12 (quarterly)	\$287.50	409. HOA dues 1/24/12 to 3/31/12 (quarterly)	\$287.50
110.		410.	
111.		411.	
Other Credits & Adjustments		Other Credits & Adjustments	
112.		412.	
<b>120. Due From Borrower at Closing</b>	<b>\$140,430.63</b>	<b>420. Due to Seller at Closing</b>	<b>\$126,817.59</b>
200. Gross Amount Due From Borrower		500. Excess Deposit	
201. Deposit	\$3,000.00	501. Closing Costs from Seller	\$8,645.00
202. Principal amount of Borrower's new loan	\$109,805.63	502. Existing loans (s) assumed or taken subject to	
203. Existing loans (s) assumed or taken subject to		503. Payoff of first mortgage loan	\$79,162.87
204.		504. Payoff of second mortgage loan	
205.		Adjustments for Items Unpaid by Buyer	
Adjustments for Items Unpaid by Seller		510. City/Town Taxes to	
210. City/Town Taxes to		511. County Taxes to	
211. County Taxes to		512. Assessments to	
212. Assessments to		513.	
213.		514.	
Other Credits and Adjustments		Other Credits and Adjustments	
215.		515. HOA dues 1/24/12 to 3/31/12 (quarterly)	
216.		516.	
<b>220. Paid Already or on Behalf of Borrower at Closing</b>	<b>\$112,805.63</b>	<b>520. Due from Seller at Closing</b>	<b>\$87,807.87</b>
<b>301. Due From Borrower at Closing</b>	<b>\$140,430.63</b>	601. Due to Seller at Closing	\$126,817.59
302. Paid Already or on Behalf of Borrower at Closing	\$112,805.63	602. Due From Seller at Closing	\$87,807.87
303. Cash to Close <input checked="" type="checkbox"/> From <input type="checkbox"/> To Borrower	\$27,625.00	603. Cash to Close <input checked="" type="checkbox"/> From <input type="checkbox"/> To Seller	\$39,009.72

<b>Closing Costs Detail</b>	<b>Borrower Category Total</b>	<b>Borrower Paid</b>	<b>Seller Paid</b>
<b>700. Total Sales/Broker's Commission</b>	<b>\$200.00</b>		
701. \$3,087.50 to Reliable Realty			
702. \$3,087.50 to Realty Pros LLC			
703. Commission Paid at Settlement			\$6,175.00
702. Real Estate Broker Administration Fee		200.00	
<b>800. Loan Origination Charges to Butternut Bank</b>	<b>\$2,810.90</b>		
801. Points @ .875%		\$960.90	
802. Loan Origination Fees		\$800.00	
803. Processing Fee		\$300.00	
804. Verification Fee		\$75.00	
805. Rate Lock Fee		\$525.00	
806. Desk Review Fee		\$150.00	
807.			
<b>850. Services Required for Your Loan</b>	<b>\$1,055.00</b>		
851. Appraisal Fee to Local Appraisal Co.		\$335.00	
852. Credit Report Fee to Credit Co.		\$30.00	
853. Flood Determination Fee to Collateral Research Inc.		\$35.00	
854. Tax Status Research Fee to Collateral Research Inc.		\$25.00	
855. Flood Monitoring Fee to Monitoring Services Inc.		\$10.00	
856. Tax Monitoring Fee to Monitoring Services Inc.		\$15.00	
857. Lender's Attorney Fee to BF Law Group		\$325.00	
858. Appraisal Mgmt. Fee to AMC Co.		\$100.00	
859. Document Preparation Fee to Collateral Research Inc.		\$55.00	
860. Pest Inspection to Home Pest Co.		\$125.00	
<b>900. Prepays</b>	<b>\$1,935.38</b>		
901. Prepaid Interest \$13.34/day from 1/24/12 to 1/31/12		\$93.38	
902. Mortgage Insurance Premium ( _ mo.) to			
903. Homeowner's Insurance Premium (12 mo.) to XYZ Ins. Co.		\$682.00	
904. Flood Insurance Premium (12 mo) to Flood Safe Co.		\$1,160.00	
<b>1000. Initial Escrow Payment at Closing</b>	<b>\$846.82</b>		
1001. Homeowner's Insurance \$56.83 per month for 3 mo.		\$170.49	
1002. Mortgage Insurance per month for mo.			
1003. Property Taxes \$269.44 per month for 3 mo.		\$808.32	
1004. Flood Insurance \$96.67 per month for 3 mo.		\$290.01	
1005.			
1006.			
1007. Aggregate Adjustment		-\$422.00	
<b>1100. Title and Settlement Fees</b>	<b>\$1,803.63</b>		
1101. Settlement or Closing Fee to Regional Title Co		\$310.00	
1102. Title Search Fee to			
1103 Title Insurance Premiums		\$1,076.63	
1104. Owner's Title Insurance – Policy Limit \$ 123,500.00 to Regional Title Co.			
1105. Lender's Title Insurance – Policy Limit \$ 109,805.63 to Regional Title Co.			
1106. Closing Protection Letter Fee to Regional Title Co.		\$75.00	
1107. Courier Fee to Quick Delivery Co		\$32.00	
1108. Survey Fee to ABC Surveys Co.		\$160.00	
1109. Mobile Signing Agent to Quick Signing Company		\$150.00	
<b>1200. Taxes and Other Government Fees</b>	<b>\$2,840.00</b>		
1201. Recording Fees Deed \$ 200.00 Mortgage \$170.00		\$370.00	
1202. City/County Transfer Tax to City of Philadelphia Transfer Tax		\$1,852.50	\$1,852.50
1203. State Transfer tax to Commonwealth of PA Transfer Tax		\$617.50	\$617.50
1204.			
<b>1300. Other Costs</b>	<b>\$2,121.31</b>		
1301. Structural Inspection Fee to Home Engineering Corp.		\$325.00	
1302. Inspection Fee to Inspector Home Co.		\$245.00	
1303. HOA Processing Fee to 456 HOA		\$500.00	
1304. Home Warranty to Warrant Row Co.		\$211.31	
1305. Borrower's Attorney to Law Phil LLP		\$840.00	
<b>1400. Total Settlement Charges</b>		\$13,613.04	\$8,645.00

I (We) have carefully reviewed this Settlement Statement and to the best of my (our) knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my (our) account or by me (us) in this transaction. I further certify I (we) have received a copy of this form.

Borrower(s) Signature(s) Date	Seller(s) Signature(s) Date