

TitleNews

A. Settlement Statement

U.S. Department of Housing and Urban Development

OMB Approval No. 2502-0265



Good Faith Estimate (GFE)

OMB Approval No. 2502-0265

Name of Originator	Borrower
Originator Address	Property Address
Originator Phone Number	Date of GFE

The New RESPA

What Members Need to Do to Be Ready

Inside This Issue:

The Administration's New "Making Home Affordable" Program

The Title Industry is "Linking In." Will it Soon Be "Tweeting?"

ALTA Federal Conference
A Small Agency's Perspective

2009 ALTA Member Vendor Directory

PSRRT, STD.
U.S. POSTAGE
PAID
ABR
22191

When the U.S. Department of Housing and Urban Development (HUD) issued its final rule modifying the Real Estate Settlement Procedures Act (RESPA) last November, ALTA didn't miss a beat.

Quickly shifting from an advocacy role during the rulemaking process to leading the charge on implementation, ALTA pulled together a team of seasoned industry veterans to conduct a detailed, 'deep in the weeds' analysis of the 341-page rule.

"What became quickly apparent was that there were more questions than answers," said ALTA CEO Kurt Pfothenhauer. "The rule has a number of ambiguities, particularly when you attempt to apply it to different operational and market-specific scenarios."

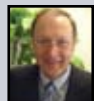
Amidst the confusion, one thing was certain—that clearer definitions and guidance were urgently needed. "Compliance with any rule requires clear definition," said ALTA President Mike Pryor. "The danger of an ill-defined rule with non-uniform applications is chaos and regulatory unenforceability."

In January, ALTA appointed the RESPA Implementation Taskforce and charged it with identifying the key issues, seeking clarity and guidance from HUD, and developing best practice standards for the title industry.

The Taskforce has been meeting several hours a week for the last three months and has engaged HUD for guidance and agreement. The final product of the Taskforce will be developed for ALTA members to use as written guidance on using the new HUD-1 and GFE.

RESPA Implementation Taskforce

Chair:



Dan Wold
General Counsel
Old Republic Title Insurance Company



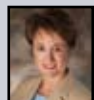
Gene Aalseth
Vice President & Associate
Senior Underwriter
First American Title Insurance Company



Chris Christensen
Attorney
PeirsonPatterson, LLP



Pam Day
Owner
Day Title Services



Alison Gareffa
Vice President
Kasparnet, Inc.



Norwood Gay
Senior Vice President & General Counsel
Attorneys' Title Insurance Fund



Jim Gosdin
Senior VP & Chief Underwriter Counsel
Stewart Title Guaranty



Wes Lasseigne
Vice President & General Counsel
Lenders Title Company



Don Partington
Chief Counsel
Fidelity National Title Group



Mary Schuster
Director of Operations
Ramquest

RESPA Implementation Taskforce

The RESPA Implementation Taskforce is comprised of a cross-section of members representing different disciplines and perspectives, including underwriters, large and small agents, attorneys and software developers. Dan Wold, general counsel for Old Republic Title Insurance Company, serves as chairman.

"We're well beyond philosophical discussions about what should or shouldn't have been in the final rule," said Wold. "What our members need now is a practical, nuts and bolts approach to implementation, and we want them to rest assured that ALTA has things well in hand."

Taskforce member Mary Schuster, director of operations for Ramquest, has served as the lightning rod for members' questions and concerns, making sure that all of their issues are on the table. The Taskforce has undertaken the painstaking process of analyzing and interpreting the corresponding sections of the rule.

"On a broad scale, members want to know how the new responsibilities placed on lenders will equate into new models of work flow," said Schuster. "At the granular level, they're asking how the new page three of the HUD-1 should be handled appropriately in purchase transactions, and how to correctly

ALTA's Business Strategies CONFERENCE

AMERICAN LAND TITLE ASSOCIATION



Thank You

to Our Sponsors & Exhibitors

2009 ALTA Business Strategies Conference Sponsors & Partners



Gold Partner
Badge Holders/Lanyards
Notepad
Map of San Antonio



First American

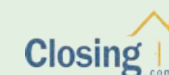
Silver Partner
Tote Bag
Cookie Break



Silver Partner



Silver Partner



Bronze Partner



Bronze Partner
Lunch
Tote Bag Insert

2009 ALTA Business Strategies Conference Exhibitors

ALTA®'s Land Title Institute (LTI)

Accu-Title Software

Data Trace

First American CoreLogic

Fiserv

GreenFolders

hal Systems Corporation

Lender Processing Services Inc

op2

RamQuest Software, Inc.

Re-sign Nation Document Services, LLC

Rynoh Solutions

SoftPro

Stewart

TIAC

TIPAC

TitleSoft, Inc.

TSS Software Corporation

Windward Consulting/Software - ResWare

The Wise Agent

Please View more ALTA Member companies that can help your title operation succeed in this issue's Tech Corner

Overview of Key Changes in the New RESPA Rule

New GFE and HUD-1/1A Forms

- The GFE has been shortened from four pages to three.
- The HUD-1 now has references on each line to the corresponding area of the GFE.
- The HUD-1 has a new third page that includes a chart comparing the amounts listed for particular settlement costs on the GFE. Lenders are required to provide all information needed to complete the comparison chart.
- Everyone must use the new GFE and HUD-1 forms by January 1, 2010, however, some lenders may be early adopters. If the new GFE is used, the new HUD-1 must be used.

Average Pricing

Settlement service providers can utilize average costs for services such as credit reports and courier fees. There is a three-year recordkeeping requirement, and the total average costs over the utilized time period must not exceed the total paid for those services. Excluded from average cost pricing are services based on the value of a property or loan, including any type of insurance.

Ineligible Fees

- Fees based on loan amount or property values
- Transfer Tax
- Interest
- Escrow Reserves
- Insurance premiums (including title)
- Provider's own internal charges

Eligible Fees

- All other fees including third-party fees

Calculations based on specific class of transactions

- During a specific time period (not less than 30 days, not more than six months)
- For a specific geographical area
- Charge may not exceed average calculation
- Charge may not exceed the total price paid to third-party provider
- Originator must retain all documentation determining accuracy of pricing method for at least three years

There are three categories of tolerances from the GFE to the HUD-1:

Zero Tolerance

(fees that cannot change)

- Origination fee
- Points (or credited YSP to offset origination fee)
- Adjusted origination charges
- Transfer taxes

10% Tolerance

(fees that cannot change more than 10% aggregate)

- Required services (if lender recommended providers are chosen)
- Title services and lender's title insurance (if lender recommended providers are chosen)
- Owner's title insurance (if lender recommended providers are chosen)
- Government recording fees

No Tolerance Limit

(fees that can change with no tolerance limit)

- Required services (if selected by the borrower)
- Title services and lender's title insurance (if selected by the borrower)
- Owner's title insurance (if selected by the borrower)
- Initial escrow deposit
- Daily interest charges
- Homeowners's insurance

Required Use

The intent of Required Use is to allow bona fide discounts and disallow any discounts predicated on preferred service providers. It declares as illegal any economic incentives or disincentives used to improperly influence a consumer's choices. In other words, a discount of fees or services shouldn't be predicated on the selection of a specific provider.

However, there is an exemption to the Required Use provision for AfBAs if:

- The combination of services is optional AND
- The lower price is not made up elsewhere in the transaction

(Homebuilders and their affiliates are excluded from the AfBA exemption pending the outcome of a lawsuit filed in January 2009. HUD has delayed the effective date of Required Use until July 16, 2009 and reopened public comment on this issue.)

group fees for title and settlement services in the 1100s section.”

Schuster says the Taskforce will also seek HUD's guidance on potential conflicts between the new guidelines and the laws in certain states. In Kansas, for example, state law prohibits the borrower from receiving funds post closing. However, the 30-day Right-to-Cure provision in the new RESPA rule requires lenders to provide a refund to borrowers for charges exceeding the tolerance limits of the GFE.

Common Member Questions

Following are examples of common member questions:

Example 1: Average charge

What is permissible practice when a settlement service provider utilizes an average charge for a group of qualifying transactions?

Example 2: Average charge

In conjunction with Example 1, what is acceptable practice when language in the final rule appears to condition its use?

Example 3: Disclosure of attorney's fees on the HUD-1

What are the proper lines and manner (outside or inside a column) for disclosure of attorney's fees arising at or around the closing of a real estate or mortgage transaction? (Specifically as they apply to attorney's fees related to title services rendered, services required by the lender, and those incurred by a party seeking to have separate legal representation at the settlement.)

Example 4: Questions surrounding the 1100 series of the HUD-1

What is the proper way to disclose different common factual situations

encountered in the settlement of mortgage and real estate transactions in the 1100 series of the HUD-1? (This includes, but is not limited to, discussions relating to what items should be separately disclosed, those that should be included in 1101, and the handling and disclosure of shared charges.)

■ “At the end of the day, we all want to arrive at the same destination—where there is more transparency in the real estate transaction process and greater certainty for consumers.”

An Ongoing Process

The Taskforce held the first of a series of meetings with senior HUD representatives last month, which Wold says was very productive.

“At the end of the day, we all want to arrive at the same destination—where there is more transparency in the real estate transaction process with greater certainty for consumers,” said Wold. “Our goal is to reach consensus on the best way to get there. By partnering with HUD to eliminate ambiguities in the rule and better define its application under various real-world scenarios, we can provide our members with the tools and information they need to comply with not just the letter of the rule, but the spirit as well.”

The Taskforce is also working with other industry groups, such as the Mortgage Bankers Association, on common issues and goals to ensure a

smooth transition. Although adoption of the new GFE and HUD-1 forms is not required until January 1, 2010, some lenders may be early adopters, which will necessitate the need for title and settlement agents to follow suit in those transactions.

“The title industry will continue to play a vital role in the real estate

transaction process,” said Wold. “Our affiliation with one another, as well as our partner industries and HUD, affords us the opportunity to change thoughtfully and intentionally, and to take a proactive and educated approach to reform.”

ALTA members are encouraged to contact the Taskforce with questions, issues or concerns at respacomments@alta.org. We will continue to provide up-to-date information to our members through Title News, News You Can Use, and the RESPA section of the web site at www.alta.org.



Michelle Sweet is Editor-in-Chief of Title News.

The following represents specific guidance sought from HUD.

NEW HUD-1

Showing seller fees appropriately.

Generally, are roll up lines intended only on the borrower's side for GFE comparison purposes or do roll up lines also apply to seller charges?

More specifically, regarding charges that are customarily or contractually the responsibility of the seller (not costs that the seller is paying on behalf of the buyer), should the seller's portion of a shared expense appear on the individual line item inside the seller's column or roll up into the seller's total column? (Pertains to charges for sellers in sections 1100, 1200 & 1300.)

Business Case: The buyer customarily pays for recording of the deed and mortgage. The seller pays for the release recording fee. The buyer pays for the County Deed Tax Stamp and the Seller Pays for the State Deed Tax Stamp. Should the seller's charges be shown:

- A) on lines 1202 and 1205, or
- B) as a roll up and shown in the seller's column in lines 1201 and 1203?

Example A

1200. Government Recording and Transfer Charges				
1201. Government recording charges			(from GFE #7)	50.00
1202. Deed \$ 25	Mortgage \$25	Releases \$ 15		15.00
1203. Transfer taxes			(from GFE #8)	684.00
1204. City/County tax/stamps	Deed \$ 684	Mortgage \$		
1205. State tax/stamps	Deed \$ 684	Mortgage \$		684.00
1206.				

Example B

1200. Government Recording and Transfer Charges				
1201. Government recording charges			(from GFE #7)	50.00
1202. Deed \$ 25	Mortgage \$25	Releases \$ 15		15.00
1203. Transfer taxes			(from GFE #8)	684.00
1204. City/County tax/stamps	Deed \$ 684	Mortgage \$		684.00
1205. State tax/stamps	Deed \$ 684	Mortgage \$		
1206.				

1100 Section

In this example from HUD, was the total amount to the borrower for all title and closing fees \$1,650 or \$925?

1100. Title Charges				
1101. Title services and lender's title insurance			(from GFE #4)	\$925.00
1102. Settlement or closing fee	\$			
1103. Owner's title insurance			(from GFE #5)	\$725.00
1104. Lender's title insurance	\$175.00			
1105. Lender's title policy limit \$ 300,000				
1106. Owner's title policy limit \$ 300,000				
1107. Agent's portion of the total title insurance premium	\$720.00			
1108. Underwriter's portion of the total title insurance premium	\$180.00			

Line 1102

Does the previous example assume there is no closing fee or is it included in the \$925 amount on line 1101? The instructions for completing the HUD-1 indicate that the settlement fee is to be recorded on line 1102. We know that it should be placed outside the column if a 3rd party provider is involved. If the provider is the same as the title agent, should the amount of the closing fee:

- A) appear inside the column of 1102,
- B) appear outside the column on line 1102 with the amount rolled up into 1101, or
- C) not shown on line 1102 at all, and only be included in the 1101 amount?

1100 Section Continued

In the 1100 section, based on an assumption that the standard Board of Realtors purchase contract provides for the following with respect to closing and title fees:

- Buyer and Seller each pay 50% of Closing Fees
- Buyer and Seller each pay 50% of Owner's Title Premium & Services
- Buyer pays 100% of Lenders Title Premium

In this example, the title and settlement provider is the same. Fees in dollar amounts are:

- A total closing fee of \$200
- Owner's Policy Premium of \$840
- Lender's Policy Premium of \$75
- Title Services Totaling \$44

Should that be shown on the HUD-1 as:

Example A

1100. Title Charges				
1101. Title services and lender's title insurance			(from GFE #4)	197
1102. Settlement or closing fee	\$ 200			100
1103. Owner's title insurance			(from GFE #5)	420
1104. Lender's title insurance	\$ 75			420

Example B

1100. Title Charges				
1101. Title services and lender's title insurance			(from GFE #4)	197
1102. Settlement or closing fee	\$ 200			122
1103. Owner's title insurance			(from GFE #5)	420
1104. Lender's title insurance	\$ 75			420

Line 1301 and GFE#6 Line Item Fee Placement

The instructions for completing the HUD-1 state that amounts in the 1300s "must be listed in either the borrower's or seller's column." It does not describe line 1301 as a total showing inside the column or allow for the itemizations of those amounts outside the columns.

The HUD-1 form itself (as well as HUD's PowerPoint) indicates that it is a roll up line and should balance to GFE Line 6.

- Is line 1301 a roll up line of Required Services that the borrower can shop for?
- Should individual line item itemizations of the fees totaled in 1301 be shown outside the columns?

1300. Additional Settlement Charges		
1301. Required services that you can shop for	(from GFE #6)	\$270.00
1302. Survey to Measure-It	\$ 225.00	
1303. Pest Inspection to Rid-A-Bug	\$ 45.00	
1304.		
1305.		

Borrower Loan Term Confidentiality

Page three of the new HUD-1 contains sensitive information regarding the buyer's loan terms. HUD guidance is sought for lenders and settlement agents on how to appropriately handle and present page three in a purchase transaction.

Buyer-Only and Seller-Only HUD-1s

In some markets, it is customary to produce a Seller's Side Only HUD-1 and a Buyer's Side Only HUD-1 (redacting the amounts in the column of the other party). Given the way some fees are now itemized outside the columns on page two, and given that some of the fees outside the column pertain to both buyer and seller, how should these fees be fully disclosed to the appropriate party without over-disclosing the fees of the other party?

Payees

Regarding page two of the HUD-1, the instructions do not indicate which lines should disclose a payee and which should not.

Buyer Fees Paid by Other Party Designation

How should parties paying fees on behalf of the buyer (other than the seller) be identified on page one?

The final rule states that if a loan originator (other than for no-cost loans), real estate agent, other settlement service provider or other person pays for a charge that was included on the GFE, the charge should be listed in the borrower's column on page two of the HUD-1, with an offsetting credit reported on page one "identifying the party paying the charge."

- What is the proper way to identify the party?
- Is there an appropriate uniform short hand? (e.g. Pd By L, Pd By R, Pd By Other)

Lines 204 - 209

Instructions for completing the HUD-1 state that if the borrower is using a second mortgage or note to finance part of the purchase price, the settlement services agent should insert the principal amount of the second loan with a brief explanation on lines 204-209. At the ALTA Federal Conference, when asked about second loan fees, the HUD panel stated that second mortgage loans should have their own HUD-1 or HUD-1A.

HUD clarification is needed in this instance: On the first mortgage HUD-1, the amount that should be shown in line 204 should be the net proceeds amount of the second loan. (If the gross loan proceeds of the second loan were reflected on the first loan's HUD-1, it would over-credit the borrower).

Competitive Marketplace Question

Appendix C to Part 3500 - Instructions for Completing Good Faith Estimate (GFE) Form

68254 under "Your Charges for All Other Settlement Services" at the end of the first paragraph in this section:

"Where a loan originator permits a borrower to shop for third party settlement services, the loan originator must provide the borrower with a written list of settlement services providers at the time of the GFE, on a separate sheet of paper."

If a borrower is never prohibited from comparison shopping for title and settlement providers, should lenders provide a written list of title and settlement providers with each GFE?

My vision...

To understand the changes brought on by the new RESPA regulation and get ahead of the curve so that I can service my customers and our business will not miss a beat.

How I made it a reality...

When the new RESPA regulation passed my first thought was "so what do we do now?" That quickly turned into an industry-wide scramble to find information and develop an understanding of this legislation. All of this left me confused and concerned. When I began to look for answers, I naturally turned to RamQuest.

I breathed a huge sigh of relief to discover RamQuest's proactive approach to RESPA. Focused on education and user involvement as they address this change, RamQuest's RESPA solution covers all aspects of our business, from the capability to produce a new HUD-1 today to a fully compliant solution well before January 2010. With RamQuest as our RESPA partner, we'll be positioned to maximize every opportunity that this change presents.

For more information about RamQuest's solutions, call 1.800.542.5503 or visit www.ramquest.com

Have your voice heard.

Join the only Community dedicated to RESPA at RESPAready.com

