

ALTA Talking Points On HUD RESPA Reform Proposal

ALTA agrees with HUD's objective to ensure that consumers are provided understandable and reliable information on the costs of mortgage loans and settlement services as early in the real estate/mortgage lending transaction as possible so that they can effectively shop for loans and services, while simplifying the disclosures currently required by RESPA, and eliminating surprises at closing. Those objectives are consistent with the 2002 policy statement on RESPA reform adopted by the Board of Governors of the Association:

ALTA supports settlement services legislation or regulations that promote consumer choice and empowerment and require meaningful disclosure. ALTA recognizes that the consumer has a separate benefit or interest in the selection of the product or service of each component in the package.

However, we are concerned that despite the stated objectives, the actual proposals would make the process more complicated, less transparent, and would not promote consumer choice.

1. **Confusing and Unclear** – Although the rule attempts to clarify the costs involved in the closing process, in reality it creates a complicated and confusing set of forms that may further baffle consumers.
 - (a) The proposed rule would turn the present one-page GFE into a four-page document that includes much more information than an estimate of settlement charges. The proposed GFE would provide loan term information and comparison data for other loans in a format which consumers are not likely to understand or use to shop.
 - (b) The proposed changes to the HUD-1 are meant to make it easier to compare costs with the GFE by parenthetically referring to GFE sections, but they could make it more confusing because they still don't provide an "apples to apples" comparison of pricing.
2. **The Rule Would Not Promote Shopping** – The proposed rule may have the unintended effect of inhibiting consumer shopping.
 - (a) The proposed rule would allow originators to recommend settlement services providers, whose estimates would be subject to a 10% "tolerance." Although ALTA commends the Department for attempting to control prices, there is nothing in this rule to ensure that recommended settlement service providers are the least expensive, most knowledgeable or qualified.
 - (b) The rule would inhibit a consumer's willingness to shop if consumers felt that there would be no restriction on increased fees if they chose

settlement service providers other than those recommended by the lender. Consumers also would be discouraged from shopping and obtaining multiple GFEs because lenders are allowed to charge a fee for each GFE a consumer requests.

- (c) The rule would incentivize the consolidation of settlement service providers and encourage lender-owned affiliated business arrangements, which may create less competition and shopping.
3. **Timing** – HUD’s proposed changes are ill advised in light of the down business market.
- (a) Given the present credit crunch, settlement service providers are reducing their staff. This is not the time to propose sweeping changes to the real estate industry that will burden settlement service providers with the time and expense to retool and retrain staff.
4. **Closing Script** – The rule would require the settlement agent or closer to draft, read aloud, and provide a closing script in writing to consumers, which would explain the loan terms and compare fees on the HUD-1 to those estimated on the GFE. While fine in concept (ALTA members currently explain the terms and forms to consumers at the closing.), the rule fails to foresee and address several practical considerations.
- (a) It is unclear what action a consumer should take if questions are raised that cannot be answered by the closer who is not in the position to provide answers.
 - (b) Today, closers often don’t receive closing information from the lender until just prior to the closing. The rule would not change that practice.
 - (c) Rather than require a closing script, ALTA would support legislation that would *require* earlier submission of closing information to the closer, to enable our members to provide closing documents to the consumer in advance.
 - (d) The proposed closing script explanation could subject the closer to state charges of the unlicensed practice of law.

For questions or comments please contact Edward Miller, ALTA Vice President of Public Policy at ed@alta.org or (202) 261-2936.