

New HUD-1 RESPA Rules



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On January 1, 2010, HUD will require that lenders and mortgage brokers provide consumers with a standard Good Faith Estimate (GFE) that clearly discloses key loan terms and closing costs. Closing agents will also be required to provide borrowers a new HUD-1 Settlement Statement that clearly compares consumers' final and estimated costs. The following is a list of the new RESPA rules:

1. Good Faith Estimate (GFE) and HUD-1 are required as of 01/01/2010.

A. May be used now

B. GFE is now a standardized form

1. Page 1 - Sum of required loan
2. Page 2 - Loan costs - including settlement charges
3. Page 3 - Categorizes charges into three groups
 - a. Charges that can not increase
 - b. Charges that can not increase up to 10% in the aggregate
 - c. Charges that can change at closing

C. New HUD-1

1. First page - Generally unchanged

- a. If 2 loans, 2 GFE's and 2 HUD-1's

2. Second Page

- a. Eliminates commission percentage (Section 700)
- b. Adds GFE line numbers for easy comparison
- c. Some fees are bundled (lines 801, 1001, 1101, 1201, and 1301)
- d. Section 800 - Loan fees
 - (1) Line 801 includes all origination charges except for discount points
 - (2) Line 802 - discount points (could be a credit)
 - (3) Line 803 - the sum of lines 801 and 802
 - (4) Other charges in section 800 are broken out and shown in column only if paid to third parties.

e. Section 1100- Title charges

- (1) Line 1101 - includes all title insurance fees for the Borrower
 - (i.) Includes escrow fee per HUD
- (2) Line 1103 - Owner title premium
- (3) Lines 1107 and 1108 - Show the division of title premium between underwriter and agent.

f. Seller Credits to Borrower

- (1) Charge listed in borrowers column
- (2) Credit to Borrower in same amount on lines 204-209
- (3) Charge to seller on lines 506-509
- (4) If third-party paying, off setting credit on page 1 of HUD-1, identifying payor

g. New Page 3 of HUD-1

- (1) Comparison chart and loan terms disclosure
 - (i.) Lender must provide copy of GFE with closing instructions
 - (ii.) Reference areas of GFE for consumer comparison
 - (iii.) Categorizes tolerances as described on page 3 of GFE
 - (iv.) Discloses final loan terms
- (2) Three categories of tolerances:
 - (i.) Zero tolerance - origination fee and lender costs

- (ii.) 10% combined tolerance - individual services required by lender, may increase so long as total charge increase remains 10%
- (iii.) Charges that can change, borrower selected settlement services

h. Ten Percent Tolerances -

- (1) Settlement services recommended by lender are subject to 10% tolerance between GFE and HUD-1
 - (i.) Title charges are included in this category if lender recommended title company is chosen by borrower
- (2) Tolerance applies to the sum of all included charges-individual charges can change so long as total of charges does not exceed 10%
- (3) Lenders will need fee quote from title company when they prepare the GFE

i. What if the HUD-1 is wrong?

- (1) Right to cure by Lenders
 - (i.) If charges exceed the tolerance in either zero or 10% categories
 - (ii.) Lenders have 30 days to cure
 - (iii.) Lender should pay through the title company so that there is an amended HUD-1
- (2) Closing agent has 30 days to cure any errors or omissions on HUD-1
- (3) Seller's side only settlement statement does not require Page 3 of HUD-1 or borrowers fees
- (4) Borrowers side only settlement statement required only borrowers fees

2. Truth in Lending (TIL) changes

- A. Federal Reserve Board (FRB) - the July Rule
- B. Mortgage Disclosure Improvement Act (MDIA)

1. Expands FRB's July Rule:

- a. Adds second home loans
- b. Adds new seven day waiting period before closing
- c. Adds new three day waiting period after receipt of re-disclosure

2. Imposes July 30, 2009, initiation date

3. Initial TIL no later than three business days after application

- a. Defines "business day" in 2 ways
 - (i.) General business days
 - (ii.) Precise business days

4. Defines an "application" as the submission of a borrower's financial information in anticipation of credit decision relating to a federally related mortgage loan, which shall include:

- a. Borrowers name, monthly income, and social security number (to obtain a credit report);
- b. Property address;
- c. Estimate of the value of the property (if unknown then ask applicant)
- d. Mortgage loan amount sought

Note: An application may either be in writing or electronically submitted, including a written record of oral application.

5. Reaffirms July Rule that no fee can be charged until after initial TIL receipt, except for reasonable credit report fee
6. Provides mailing rule for lenders
7. Re-disclosure required if terms change from initial TIL
 - a. Three day waiting after receipt before you can close
8. Bona fide emergency provision for waiving 7 day and/or 3 day waiting periods.