

## § 3500.7

deals with these transactions, or the Secretary may choose to endorse the forms or booklets of other Federal agencies. In such an event, the requirements for delivery by lenders and the availability of the booklet or alternate materials for these transactions will be set forth in a Notice in the FEDERAL REGISTER. This paragraph shall apply to the following transactions:

- (i) Refinancing transactions;
- (ii) Closed-end loans, as defined in 12 CFR 226.2(a)(10) of Regulation Z, when the lender takes a subordinate lien;
- (iii) Reverse mortgages; and
- (iv) Any other federally related mortgage loan whose purpose is not the purchase of a 1- to 4-family residential property.

(b) *Revision.* The Secretary may from time to time revise the special information booklet by publishing a notice in the FEDERAL REGISTER.

(c) *Reproduction.* The special information booklet may be reproduced in any form, provided that no change is made other than as provided under paragraph (d) of this section. The special information booklet may not be made a part of a larger document for purposes of distribution under RESPA and this section. Any color, size and quality of paper, type of print, and method of reproduction may be used so long as the booklet is clearly legible.

(d) *Permissible changes.* (1) No changes to, deletions from, or additions to the special information booklet currently prescribed by the Secretary shall be made other than those specified in this paragraph (d) or any others approved in writing by the Secretary. A request to the Secretary for approval of any changes shall be submitted in writing to the address indicated in §3500.3, stating the reasons why the applicant believes such changes, deletions or additions are necessary.

(2) The cover of the booklet may be in any form and may contain any drawings, pictures or artwork, provided that the words "settlement costs" are used in the title. Names, addresses and telephone numbers of the lender or others and similar information may appear on the cover, but no discussion of the matters covered in the booklet shall appear on the cover.

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(3) The special information booklet may be translated into languages other than English.

### § 3500.7 Good faith estimate.

(a) *Lender to provide.* Except as provided in this paragraph (a) or paragraph (f) of this section, the lender shall provide all applicants for a federally related mortgage loan with a good faith estimate of the amount of or range of charges for the specific settlement services the borrower is likely to incur in connection with the settlement. The lender shall provide the good faith estimate required under this section (a suggested format is set forth in appendix C of this part) either by delivering the good faith estimate or by placing it in the mail to the loan applicant, not later than three business days after the application is received or prepared.

(1) If the lender denies the application for a federally related mortgage loan before the end of the three-business-day period, the lender need not provide the denied borrower with a good faith estimate.

(2) For "no cost" or "no point" loans, the charges to be shown on the good faith estimate include any payments to be made to affiliated or independent settlement service providers. These payments should be shown as P.O.C. (Paid Outside of Closing) on the Good Faith Estimate and the HUD-1 or HUD-1A.

(3) In the case of dealer loans, the lender is responsible for provision of the good faith estimate, either directly or by the dealer.

(4) If a mortgage broker is the exclusive agent of the lender, either the lender or the mortgage broker shall provide the good faith estimate within three business days after the mortgage broker receives or prepares the application.

(b) *Mortgage broker to provide.* In the event an application is received by a mortgage broker who is not an exclusive agent of the lender, the mortgage broker must provide a good faith estimate within three days of receiving a loan application based on his or her knowledge of the range of costs (a suggested format is set forth in appendix C of this part). As long as the mortgage

broker has provided the good faith estimate, the funding lender is not required to provide an additional good faith estimate, but the funding lender is responsible for ascertaining that the good faith estimate has been delivered. If the application for mortgage credit is denied before the end of the three-business-day period, the mortgage broker need not provide the denied borrower with a good faith estimate.

(c) *Content of good faith estimate.* A good faith estimate consists of an estimate, as a dollar amount or range, of each charge which:

(1) Will be listed in section L of the HUD-1 or HUD-1A in accordance with the instructions set forth in appendix A to this part; and

(2) That the borrower will normally pay or incur at or before settlement based upon common practice in the locality of the mortgaged property. Each such estimate must be made in good faith and bear a reasonable relationship to the charge a borrower is likely to be required to pay at settlement, and must be based upon experience in the locality of the mortgaged property. As to each charge with respect to which the lender requires a particular settlement service provider to be used, the lender shall make its estimate based upon the lender's knowledge of the amounts charged by such provider.

(d) *Form of good faith estimate.* A suggested good faith estimate form is set forth in appendix C to this part and is in compliance with the requirements of the Act except for any additional requirements of paragraph (e) of this section. The good faith estimate may be provided together with disclosures required by the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*, so long as all required material for the good faith estimate is grouped together. The lender may include additional relevant information, such as the name/signature of the applicant and loan officer, date, and information identifying the loan application and property, as long as the form remains clear and concise and the additional information is not more prominent than the required material.

(e) *Particular providers required by lender.* (1) If the lender requires the use (see §3500.2, "required use") of a particular provider of a settlement serv-

ice, other than the lender's own employees, and also requires the borrower to pay any portion of the cost of such service, then the good faith estimate must:

(i) Clearly state that use of the particular provider is required and that the estimate is based on the charges of the designated provider;

(ii) Give the name, address, and telephone number of each provider; and

(iii) Describe the nature of any relationship between each such provider and the lender. Plain English references to the relationship should be utilized, e.g., "X is a depositor of the lender," "X is a borrower from the lender," "X has performed 60% of the lender's settlements in the past year." (The lender is not required to keep detailed records of the percentages of use. Similar language, such as "X was used [regularly] [frequently] in our settlements the past year" is also sufficient for the purposes of this paragraph.) In the event that more than one relationship exists, each should be disclosed.

(2) For purposes of paragraph (e)(1) of this section, a "relationship" exists if:

(i) The provider is an associate of the lender, as that term is defined in 12 U.S.C. 2602(8);

(ii) Within the last 12 months, the provider has maintained an account with the lender or had an outstanding loan or credit arrangement with the lender; or

(iii) The lender has repeatedly used or required borrowers to use the services of the provider within the last 12 months.

(3) Except for a provider that is the lender's chosen attorney, credit reporting agency, or appraiser, if the lender is in an affiliated business relationship (see §3500.15) with a provider, the lender may not require the use of that provider.

(4) If the lender maintains a controlled list of required providers (five or more for each discrete service) or relies on a list maintained by others, and at the time of application the lender has not yet decided which provider will be selected from that list, then the lender may satisfy the requirements of this section if the lender:

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(i) Provides the borrower with a written statement that the lender will require a particular provider from a lender-controlled or -approved list; and

(ii) Provides the borrower in the Good Faith Estimate the range of costs for the required provider(s), and provides the name of the specific provider and the actual cost on the HUD-1 or HUD-1A.

(f) *Open-end lines of credit (home-equity plans) under Truth in Lending Act.* In the case of a federally related mortgage loan involving an open-end line of credit (home-equity plan) covered under the Truth in Lending Act and Regulation Z, a lender or mortgage broker that provides the borrower with the disclosures required by 12 CFR 226.5b of Regulation Z at the time the borrower applies for such loan shall be deemed to satisfy the requirements of this section.

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[61 FR 13233, Mar. 26, 1996, as amended at 61 FR 58476, Nov. 15, 1996]

### § 3500.8 Use of HUD-1 or HUD-1A settlement statements.

(a) *Use by settlement agent.* The settlement agent shall use the HUD-1 settlement statement in every settlement involving a federally related mortgage loan in which there is a borrower and a seller. For transactions in which there is a borrower and no seller, such as refinancing loans or subordinate lien loans, the HUD-1 may be utilized by using the borrower's side of the HUD-1 statement. Alternatively, the form HUD-1A may be used for these transactions. Either the HUD-1 or the HUD-1A, as appropriate, shall be used for every RESPA-covered transaction, unless its use is specifically exempted, but the HUD-1 or HUD-1A may be modified as permitted under this part. The use of the HUD-1 or HUD-1A is exempted for open-end lines of credit (home-equity plans) covered by the Truth in Lending Act and Regulation Z.

(b) *Charges to be stated.* The settlement agent shall complete the HUD-1 or HUD-1A in accordance with the instructions set forth in appendix A to this part.

(c) *Aggregate accounting at settlement.*

(1) After itemizing individual deposits in the 1000 series using single-item accounting, the servicer shall make an adjustment based on aggregate accounting. This adjustment equals the difference in the deposit required under aggregate accounting and the sum of the deposits required under single-item accounting. The computation steps for both accounting methods are set out in § 3500.17(d). The adjustment will always be a negative number or zero (-0-). The settlement agent shall enter the aggregate adjustment amount on a final line in the 1000 series of the HUD-1 or HUD-1A statement.

(2) During the phase-in period, as defined in § 3500.17(b), an alternative procedure is available. The settlement agent may initially calculate the 1000 series deposits for the HUD-1 and HUD-1A settlement statement using single-item analysis with only a one-month cushion (unless the mortgage loan documents indicate a smaller amount). In the escrow account analysis conducted within 45 days of settlement, however, the servicer shall adjust the escrow account to reflect the aggregate accounting balance. Appendix E to this part sets out examples of aggregate analysis. Appendix A to this part contains instructions for completing the HUD-1 or HUD-1A settlement statements using an aggregate analysis adjustment and the alternative process during the phase-in period.

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### § 3500.9 Reproduction of settlement statements.

(a) *Permissible changes—HUD-1.* The following changes and insertions are permitted when the HUD-1 settlement statement is reproduced:

(1) The person reproducing the HUD-1 may insert its business name and logo in section A and may rearrange, but not delete, the other information that appears in section A.

(2) The name, address, and other information regarding the lender and settlement agent may be printed in sections F and H, respectively.