

Office of Asst. Sec. for Housing, HUD

§ 3500.8

within 30 calendar days after settlement.

(Approved by the Office of Management and Budget under control number 2502-0265)

[61 FR 13233, Mar. 26, 1996, as amended at 61 FR 58476, Nov. 15, 1996; 73 FR 68240, Nov. 17, 2008]

§ 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. The HUD-1 or HUD-1A may be modified as permitted under this part. Either the HUD-1 or the HUD-1A, as appropriate, shall be used for every RESPA-covered transaction, unless its use is specifically exempted. 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. The loan originator must transmit to the settlement agent all information necessary to complete the HUD-1 or HUD-1A.

(1) *In general.* The settlement agent shall state the actual charges paid by the borrower and seller on the HUD-1, or by the borrower on the HUD-1A. The settlement agent must separately itemize each third party charge paid by the borrower and seller. All origination services performed by or on behalf of the loan originator must be included in the loan originator's own charge. Administrative and processing services related to title services must be included in the title underwriter's or title agent's own charge. The amount stated on the HUD-1 or HUD-1A for any itemized service cannot exceed the amount actually received by the settlement service provider for that itemized service, unless the charge is an average

charge in accordance with paragraph (b)(2) of this section.

(2) *Use of average charge.* (i) The average charge for a settlement service shall be no more than the average amount paid for a settlement service by one settlement service provider to another settlement service provider on behalf of borrowers and sellers for a particular class of transactions involving federally related mortgage loans. The total amounts paid by borrowers and sellers for a settlement service based on the use of an average charge may not exceed the total amounts paid to the providers of that service for the particular class of transactions.

(ii) The settlement service provider shall define the particular class of transactions for purposes of calculating the average charge as all transactions involving federally related mortgage loans for:

(A) A period of time as determined by the settlement service provider, but not less than 30 calendar days and not more than 6 months;

(B) A geographic area as determined by the settlement service provider; and

(C) A type of loan as determined by the settlement service provider.

(iii) A settlement service provider may use an average charge in the same class of transactions for which the charge was calculated. If the settlement service provider uses the average charge for any transaction in the class, the settlement service provider must use the same average charge in every transaction within that class for which a GFE was provided.

(iv) The use of an average charge is not permitted for any settlement service if the charge for the service is based on the loan amount or property value. For example, an average charge may not be used for transfer taxes, interest charges, reserves or escrow, or any type of insurance, including mortgage insurance, title insurance, or hazard insurance.

(v) The settlement service provider must retain all documentation used to calculate the average charge for a particular class of transactions for at least 3 years after any settlement for which that average charge was used.

(c) *Violations of section 4 of RESPA (12 U.S.C. 2604).* A violation of any of the

requirements of this section will be deemed to be a violation of section 4 of RESPA. An inadvertent or technical error in completing the HUD-1 or HUD-1A shall not be deemed a violation of section 4 of RESPA if a revised HUD-1 or HUD-1A is provided in accordance with the requirements of this section within 30 calendar days after settlement.

[73 FR 68241, Nov. 17, 2008]

§ 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.

(3) Reproduction of the HUD-1 must conform to the terminology, sequence, and numbering of line items as presented in lines 100-1400. However, blank lines or items listed in lines 100-1400 that are not used locally or in connection with mortgages by the lender may be deleted, except for the following: Lines 100, 120, 200, 220, 300, 301, 302, 303, 400, 420, 500, 520, 600, 601, 602, 603, 700, 800, 900, 1000, 1100, 1200, 1300, and 1400. The form may be shortened correspondingly. The number of a deleted item shall not be used for a substitute or new item, but the number of a blank space on the HUD-1 may be used for a substitute or new item.

(4) Charges not listed on the HUD-1, but that are customary locally or pursuant to the lender's practice, may be inserted in blank spaces. Where existing blank spaces on the HUD-1 are insufficient, additional lines and spaces may be added and numbered in sequence with spaces on the HUD-1.

(5) The following variations in layout and format are within the discretion of persons reproducing the HUD-1 and do not require prior HUD approval: size of pages; tint or color of pages; size and style of type or print; vertical spacing between lines or provision for addi-

tional horizontal space on lines (for example, to provide sufficient space for recording time periods used in proration); printing of the HUD-1 contents on separate pages, on the front and back of a single page, or on one continuous page; use of multicopy tear-out sets; printing on rolls for computer purposes; reorganization of sections B through I, when necessary to accommodate computer printing; and manner of placement of the HUD number, but not the OMB approval number, neither of which may be deleted. The designation of the expiration date of the OMB number may be deleted. Any changes in the HUD number or OMB approval number may be announced by notice in the FEDERAL REGISTER, rather than by amendment of this part.

(6) The borrower's information and the seller's information may be provided on separate pages.

(7) Signature lines may be added.

(8) The HUD-1 may be translated into languages other than English.

(9) An additional page may be attached to the HUD-1 for the purpose of including customary recitals and information used locally in real estate settlements; for example, breakdown of payoff figures, a breakdown of the borrower's total monthly mortgage payments, check disbursements, a statement indicating receipt of funds, applicable special stipulations between buyer and seller, and the date funds are transferred. If space permits, such information may be added at the end of the HUD-1.

(10) As required by HUD/FHA in FHA-insured loans.

(11) As allowed by § 3500.17, relating to an initial escrow account statement.

(b) *Permissible changes—HUD-1A.* The changes and insertions on the HUD-1 permitted under paragraph (a) of this section are also permitted when the HUD-1A settlement statement is reproduced, except the changes described in paragraphs (a)(3) and (6) of this section.

(c) *Written approval.* Any other deviation in the HUD-1 or HUD-1A forms is permissible only upon receipt of written approval of the Secretary. A request to the Secretary for approval shall be submitted in writing to the address indicated in § 3500.3 and shall