

FEDERAL RESERVE BANK  
OF NEW YORK

ATCIR No 7905  
June 28, 1976

REAL ESTATE SETTLEMENT PROCEDURES ACT

*To the Chief Executive Officer of Each State Member  
Bank in the Second Federal Reserve District:*

The Board of Governors of the Federal Reserve System has requested that each State member bank be provided with a copy of the enclosed pamphlet, relating to the Real Estate Settlement Procedures Act of 1974, as amended in 1975 (RESPA), which becomes effective June 30, 1976. The pamphlet contains the text of the Act, the text of the implementing Regulation X, together with related rulings, of the Department of Housing and Urban Development (HUD), a Special Information Booklet issued by HUD, and a copy of the revised Uniform Settlement Statement form (HUD-1).

The HUD regulation requires lenders to provide each applicant for a federally related mortgage loan with a copy of the Special Information Booklet. Rules governing the reproduction and use of the booklet may be found in Section 3500.6 of the HUD regulation. The revised Uniform Settlement Statement form does not have to be used until supplies of the superseded form are depleted.

Any questions regarding these matters should be directed to the Office of Consumer Affairs and Regulatory Functions, Attention: RESPA, Department of Housing and Urban Development, Room 4100, 451 Seventh Street, S.W., Washington, D.C. 20410.

PAUL A. VOLCKER,  
*President.*

**Real Estate  
Settlement  
Procedures Act**

**Statute**

**Regulations**

**Special  
Information  
Booklet**

U.S. Department of Housing and Urban Development

THE REAL ESTATE SETTLEMENT  
PROCEDURES ACT OF 1974  
AS AMENDED IN 1975

An Act

88 STAT. 1724

To further the national housing goal of encouraging homeownership by regulating certain lending practices and closing and settlement procedures in federally related mortgage transactions to the end that unnecessary costs and difficulties of purchasing housing are minimized, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Real Estate  
Settlement  
Procedures  
Act of 1974.  
12 USC 2601  
note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Real Estate Settlement Procedures Act of 1974".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that significant reforms in the real estate settlement process are needed to insure that consumers throughout the Nation are provided with greater and more timely information on the nature and costs of the settlement process and are protected from unnecessarily high settlement charges caused by certain abusive practices that have developed in some areas of the country. The Congress also finds that it has been over two years since the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs submitted their joint report to the Congress on "Mortgage Settlement Costs" and that the time has come for the recommendations for Federal legislative action made in that report to be implemented. (b) It is the purpose of this Act to effect certain changes in the settlement process for residential real estate that will result—

12 USC 2601.

- (1) in more effective advance disclosure to home buyers and sellers of settlement costs;
- (2) in the elimination of kickbacks or referral fees that tend to increase unnecessarily the costs of certain settlement services;
- (3) in a reduction in the amounts home buyers are required to place in escrow accounts established to insure the payment of real estate taxes and insurance; and
- (4) in significant reform and modernization of local record-keeping of land title information.

DEFINITIONS

SEC. 3. For purposes of this Act—

12 USC 2602.

(1) the term "federally related mortgage loan" includes any loan (other than temporary financing such as a construction loan) which—

a first lien on

(A) is secured by residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from one to four families; and

(B) (i) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is regulated by any agency of the Federal Government; or

(ii) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing or urban development

88 STAT. 1725

program administered by the Secretary or a housing or related program administered by any other such officer or agency; or

(iii) is intended to be sold by the originating lender to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a financial institution from which it is to be purchased by the Federal Home Loan Mortgage Corporation; or

(iv) is made in whole or in part by any "creditor", as defined in section 103(f) of the Consumer Credit Protection Act (15 U.S.C. 1602(f)), who makes or invests in residential real estate loans aggregating more than \$1,000,000 per year;

except that for the purpose of this Act, the term "creditor" does not include any agency or instrumentality of any State.

(2) the term "thing of value" includes any payment, advance, funds, loan, service, or other consideration;

(3) the term "settlement services" includes any service provided in connection with a real estate settlement including, but not limited to, the following: title searches, title examinations, the provision of title certificates, title insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest and fungus inspections, services rendered by a real estate agent or broker, and the handling of the processing, and closing or settlement;

(4) the term "title company" means any institution which is qualified to issue title insurance, directly or through its agents, and also refers to any duly authorized agent of a title company;

(5) the term "person" includes individuals, corporations, associations, partnerships, and trusts; and

(6) the term "Secretary" means the Secretary of Housing and Urban Development.

(a) UNIFORM SETTLEMENT STATEMENT

12 USC 2603.

Sec. 4. The Secretary, in consultation with the Administrator of Veterans Affairs, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall develop and prescribe a standard form for the statement of settlement costs which shall be used (with such variations as may be necessary to reflect

differences in legal and administrative requirements or practices in different areas of the country) as the standard real estate settlement form in all transactions in the United States which involve federally related mortgage loans. Such form shall conspicuously and clearly itemize all charges imposed upon the borrower and all charges imposed upon the seller in connection with the settlement and shall indicate whether any title insurance premium included in such charges covers or insures the lender's interest in the property, the borrower's interest, or both.

The Secretary may, by regulation, permit the deletion from the form prescribed under this section of items which are not, under local laws or customs, applicable in any locality, except that such regulation shall require that the numerical code prescribed by the Secretary be retained in forms to be used in all localities. Nothing in this section may be construed to require that that part of the standard form which relates to the borrower's transaction be furnished to the seller, or to require that that part of the standard form which relates to the seller be furnished to the borrower.

(b) The form prescribed under this section shall be completed and made available for inspection by the borrower at or before settlement by the person conducting the settlement, except that (1) the Secretary may exempt from the requirements of this section settlements occurring in localities where the final settlement statement is not customarily provided at or before the date of settlement, or settlements where such requirements are impractical and (2) the borrower may, in accordance with regulations of the Secretary, waive his right to have the form made available at such time. Upon the request of the borrower to inspect the form prescribed under this section during the business day immediately preceding the day of settlement, the person who will conduct the settlement shall permit the borrower to inspect those items which are known to such person during such preceding day.

SPECIAL INFORMATION BOOKLETS

12 USC 2604.

Sec. 5. (a) The Secretary shall prepare and distribute booklets to help persons borrowing money to finance the purchase of residential real estate better to understand the nature and costs of real estate settlement services. The Secretary shall distribute such booklets to all lenders which make federally related mortgage loans.

(b) Each booklet shall be in such form and detail as the Secretary shall prescribe and, in addition to such other information as the Secretary may provide, shall include in clear and concise language—

(1) a description and explanation of the nature and purpose of each cost incident to a real estate settlement;

(2) an explanation and sample of the standard real estate settlement form developed and prescribed under section 4;

(3) a description and explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate;

(4) an explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incident to a real estate settlement; and

(5) an explanation of the unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement.

Such booklets shall take into consideration differences in real estate settlement procedures which may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory.

(c) Each lender shall include with the booklet a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement as prescribed by the Secretary.

(d) Each lender referred to in subsection (a) shall provide the booklet described in such subsection to each person from whom it receives or for whom it prepares a written application to borrow money to finance the purchase of residential real estate. Such booklet shall be provided at the time of receipt or preparation of such application.

(e) Booklets may be printed and distributed by lenders if their form and content are approved by the Secretary as meeting the requirements of subsection (b) of this section.

PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES

12 USC 2607.

SEC. 8. (a) No person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.

(b) No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed.

(c) Nothing in this section shall be construed as prohibiting (1) the payment of a fee (A) to attorneys at law for services actually rendered or (B) by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance or (C) by a lender to its duly appointed agent for services actually performed in the making of a loan, (2) the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed,

or (3) payments pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and brokers, or (4) such other payments or classes of payments or other transfers as are specified in regulations prescribed by the Secretary, after consultation with the Attorney General, the Administrator of Veterans' Affairs, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Secretary of Agriculture.

(d) (1) Any person or persons who violate the provisions of this section shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

Penalties.

(2) In addition to the penalties provided by paragraph (1) of this subsection, any person or persons who violate the provisions of subsection (a) shall be jointly and severally liable to the person or persons whose business has been referred in an amount equal to three times the value or amount of the fee or thing of value, and any person or persons who violate the provisions of subsection (b) shall be jointly and severally liable to the person or persons charged for the settlement services involved in an amount equal to three times the amount of the portion, split, or percentage. In any successful action to enforce the liability under this paragraph, the court may award the court costs of the action together with a reasonable attorney's fee as determined by the court.

TITLE COMPANIES

SEC. 9. (a) No seller of property that will be purchased with the assistance of a federally related mortgage loan shall require directly or indirectly, as a condition to selling the property, that title insurance covering the property be purchased by the buyer from any particular title company.

12 USC 2608.

(b) Any seller who violates the provisions of subsection (a) shall be liable to the buyer in an amount equal to three times all charges made for such title insurance.

Liability.

ESCROW ACCOUNTS

Sec. 10. A lender, in connection with a federally related mortgage loan, may not require the borrower or prospective borrower—

(1) to deposit in any escrow account which may be established in connection with such loan for the purpose of assuring payment of taxes, insurance premiums, or other charges with respect to the property, in connection with the settlement, an aggregate sum (for such purpose) in excess of a sum that will be sufficient to pay such taxes, insurance premiums and other charges attributable to the period beginning on the last date on which each such charge would have been paid under the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, and ending on the due date of its first full installment payment under the mortgage, plus one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period; or

(2) to deposit in any such escrow account in any month beginning with the first full installment payment under the mortgage a sum (for the purpose of assuring payment of taxes, insurance premiums and other charges with respect to the property) in excess of the sum of (A) one-twelfth of the total amount of the estimated taxes, insurance premiums and other charges which are reasonably anticipated to be paid on dates during the ensuing twelve months which dates are in accordance with the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, plus (B) such amount as is necessary to maintain an additional balance in such escrow account not to exceed one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period: *Provided, however,* That in the event the lender determines there will be or is a deficiency he shall not be prohibited from requiring additional monthly deposits in such escrow account to avoid or eliminate such deficiency.

LIMITATIONS AND DISCLOSURES WITH RESPECT TO CERTAIN FEDERALLY RELATED MORTGAGE LOANS

Sec. 11. (a) The Federal Deposit Insurance Act is amended by adding at the end thereof the following new section:

12 USC 1831b.

"Sec. 25. (a) No insured bank, or mutual savings or cooperative bank which is not an insured bank, shall make any federally related mortgage loan to any agent, trustee, nominee, or other person acting in a fiduciary capacity without the prior condition that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the bank. At the request of the Corporation, the bank shall report to the Corporation on the identity of such person and the nature and amount of the loan, discount, or other extension of credit.

Report.

"(b) In addition to other available remedies, this section may be enforced with respect to mutual savings and cooperative banks which are not insured banks in accordance with section 8 of this Act, and for such purpose such mutual savings and cooperative banks shall be held and considered to be State nonmember insured banks and the appropriate Federal agency with respect to such mutual savings and cooperative banks shall be the Federal Deposit Insurance Corporation."

(b) Title IV of the National Housing Act is amended by adding at the end thereof the following new section:

12 USC 1730f.

"Sec. 413. No insured institution shall make any federally related mortgage loan to any agent, trustee, nominee, or other person acting in a fiduciary capacity without the prior condition that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the institution. At the request of the Federal Home Loan Bank Board, the insured institution shall report to the Board on the identity of such person and the nature and amount of the loan."

12 USC 1730f  
note.

(c) The Federal Deposit Insurance Corporation or the Federal Home Loan Bank Board as appropriate may by regulation exempt classes or types of transactions from the provisions added by this section if the Corporation or the Board determines that the purposes of such provisions would not be advanced materially by their application to such transactions.

FEE FOR PREPARATION OF TRUTH-IN-LENDING AND UNIFORM  
SETTLEMENT STATEMENTS

12 USC 2510.

SEC. 12. No fee shall be imposed or charge made upon any other person (as a part of settlement costs or otherwise) by a lender in connection with a federally related mortgage loan made by it (or a loan for the purchase of a mobile home), for or on account of the preparation and submission by such lender of the statement or statements required (in connection with such loan) by sections 4 and 6 of this Act or by the Truth in Lending Act.

16 USC 1601  
note.

ESTABLISHMENT ON DEMONSTRATION BASIS OF LAND PARCEL  
RECORDATION SYSTEM

SEC. 13. The Secretary shall establish and place in operation on a demonstration basis, in representative political subdivisions (selected by him) in various areas of the United States, a model system or systems for the recordation of land title information in a manner and form calculated to facilitate and simplify land transfers and mortgage transactions and reduce the cost thereof, with a view to the possible development (utilizing the information and experience gained under this section) of a nationally uniform system of land parcel recordation.

12 USC 2511

REPORT OF THE SECRETARY ON NECESSITY FOR FURTHER  
CONGRESSIONAL ACTION

SEC. 14. (a) The Secretary, after consultation with the Administrator of Veterans' Affairs, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, and after such study, investigation, and hearings (at which representatives of consumers groups shall be allowed to testify) as he deems appropriate, shall, not less than three years nor more than five years from the effective date of this Act, report to the Congress on whether, in view of the implementation of the provisions of this Act imposing certain requirements and prohibiting certain practices in connection with real estate settlements, there is any necessity for further legislation in this area.

Report to  
Congress.  
12 USC 2512.

(b) If the Secretary concludes that there is necessity for further legislation, he shall report to the Congress on the specific practices or problems that should be the subject of such legislation and the corrective measures that need to be taken. In addition, the Secretary shall include in his report—

Report to  
Congress.

(1) recommendations on the desirability of requiring lenders of federally related mortgage loans to bear the costs of particular real estate settlement services that would otherwise be paid for by borrowers;

(2) recommendations on whether Federal regulation of the charges for real estate settlement services in federally related mortgage transactions is necessary and desirable, and, if he concludes that such regulation is necessary and desirable, a description and analysis of the regulatory scheme he believes Congress should adopt; and

(3) recommendations on the ways in which the Federal Government can assist and encourage local governments to modernize their methods for the recordation of land title information, including the feasibility of providing financial assistance or incentives to local governments that seek to adopt one of the model systems developed by the Secretary in accordance with the provisions of section 13 of this Act.

**DEMONSTRATION TO DETERMINE FEASIBILITY OF INCLUDING STATEMENTS OF SETTLEMENT COSTS IN SPECIAL INFORMATION BOOKLETS**

SEC. 15. The Secretary shall, on a demonstration basis in selected housing market areas, have prepared and included in the special information booklets required to be furnished under section 5 of this Act, statements of the range of costs for specific settlement services in such areas. Not later than June 30, 1976, the Secretary shall transmit to the Congress a full report on the demonstration conducted under this section. Such report shall contain the Secretary's assessment of the feasibility of preparing and including settlement cost range statements for all housing market areas in the special information booklets for such areas.

12 USC 2613.

Report to Congress.

**JURISDICTION OF COURTS**

12 USC 2614. SEC. 16. Any action to recover damages pursuant to the provisions of section 6, 8, or 9 may be brought in the United States district court for the district in which the property involved is located, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

**VALIDITY OF CONTRACTS AND LIENS**

12 USC 2615. SEC. 17. Nothing in this Act shall affect the validity or enforceability of any sale or contract for the sale of real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a federally related mortgage loan.

**RELATION TO STATE LAWS**

12 USC 2616. SEC. 18. This Act does not annul, alter, or affect, or exempt any person subject to the provisions of this Act from complying with, the laws of any State with respect to settlement practices, except to the extent that those laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency. The Secretary is authorized to determine whether such inconsistencies exist. The Secretary may not determine that any State law is inconsistent with any provision of this Act if the Secretary determines that such law gives greater protection to the consumer. In making these determinations the Secretary shall consult with the appropriate Federal agencies.

**AUTHORITY OF THE SECRETARY**

SEC. 19. (a) The Secretary is authorized to prescribe such rules and regulations, to make such interpretations, and to grant such reasonable exemptions for classes of transactions, as may be necessary to achieve the purposes of this Act.

Rules and regulations.  
12 USC 2617.

(b) No provision of this Act or the laws of any State imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Secretary or the Attorney General, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

**Title 24—Housing and Urban Development**  
**CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR CONSUMER AFFAIRS AND REGULATORY FUNCTIONS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. R-76-394]

**PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT**

The Real Estate Settlement Procedures Act Amendments of 1975 (herein the "RESPA Amendments"), signed into law January 2, 1976 (Pub. L. 94-205), made significant changes in the Real Estate Settlement Procedures Act of 1974 (RESPA), (Pub. L. 93-533), 12 U.S.C. 2601, et seq. The RESPA Amendments repealed the original requirements of advance disclosure (section 6), the disclosure of the previous selling price (section 7) and the Truth-in-Lending provisions of section 4. In their place lenders are required to provide borrowers, at time of loan application, good faith estimates of settlement costs. Persons conducting settlement are required to provide borrowers with an opportunity to inspect their settlement statements one day prior to settlement. The RESPA Amendments authorized the suspension, until June 30, 1976, of the RESPA provisions dealing with advance inspection of the Uniform Settlement Statement, use of the Special Information Booklet and the provision for good faith estimates, to allow for orderly implementation and public comment on these provisions.

On January 9, 1976, regulations were issued under this part (41 FR 1672) to conform Regulation X to the RESPA Amendments. These regulations are now superseded by the following Regulation effective June 30, 1976.

On March 29, 1976 (41 FR 13032) the Department issued a notice of proposed rule-making with respect to the Real Estate Settlement Procedures Act. This proposal would implement the entire RESPA program including certain suspended provisions, and would make various technical and editorial changes.

Over 240 comments were received and the Department is now issuing a final rule which adopt various changes to the proposed regulations. These changes are set forth hereinafter. Most of these changes are in response to comment, however the Department is making certain other modifications at its own initiative. Of the technical changes being made hereby, of principal note is the recodification of these RESPA regulations under 24 CFR Chapter XX. In the time since the first RESPA regulations were issued, the Department has established a new Assistant Secretary for Consumer Affairs and Regulatory Functions to whom responsibility for the program has been delegated, 41 FR 19365. Since parts 199 are reserved under Subtitle VIII of the use of the Secretary, these RESPA regulations should properly now be incorporated in Chapter XX and are therefore being recodified in that Chapter as part 3500.

**SUMMARY OF RESPA PROVISIONS**

**General.** While many comments submitted indicated general acceptance of RESPA requirements, there were numerous specific comments directed at improving or deleting particular sections. Only a few commenters called for the outright repeal of RESPA on the grounds that these provisions would not assist consumers, but would create unnecessary work for lenders and additional costs to consumers. Many commenters felt that lenders should be given considerable flexibility in implementing RESPA provisions because of the wide variations of settlement procedures between localities. The regulations have been amended to achieve flexibility.

**Coverage.** Coverage of RESPA and Regulation X has been restricted to first mortgage loans secured by 1-4 family residential properties made by a federally regulated or insured lender (see § 3500.5). Included in the definition of a "federally related mortgage loan" is the refinancing of land sales contracts where the proceeds of the loan are used to finance the acquisition of legal title pursuant to the land sales contract. Otherwise, if legal title is not transferred to the purchaser upon execution of the contract the transaction is not covered by the regulations. Loans eligible for but not intended to be sold by the originating lender to the Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA), or the Federal Home Loan Mortgage Corporation (FHLMC), or to a financial institution from which it is to be purchased by FHLMC are exempt. Also exempt are all construction loans, assumptions, novations, and sales or transfers subject to a preexisting loan (except as noted in § 3500.5(d) (4, 5 & 6) of the regulations).

**Reliance upon Rule, Regulation, or Interpretation.** The Secretary is authorized by section 19 of RESPA to prescribe such rules, regulations and interpretations as are necessary to achieve the purposes of RESPA. Any act done or omitted in good faith in conformity with such rules, regulations or interpretations will not result in liability under the Act or state law. Rules, regulations or interpretations have been defined to include Regulation X, the Uniform Settlement Statement (HUD-1) and Appendices to Regulation X. A number of commenters suggested that this definition be extended to written statements from the Secretary, General Counsel, and Assistant Secretary for Consumer Affairs and Regulatory Functions. Where a question arises as to the application of a provision (except for Section 8 of RESPA and related issues), to a specific fact situation, the Assistant Secretary for Consumer Affairs and Regulatory Functions may issue a written response. Such response, however, would not constitute an "interpretation" pursuant to Section 19 of RESPA. Where the situation is a product of state law or otherwise likely to recur, the Secretary may issue a binding interpretative ruling by appending said ruling to Regulation X and by publication of the letter of interpretation in the FEDERAL REGISTER.

**Special Information Booklet and Good Faith Estimates.** The proposed regulations required the lender to provide the borrower with a Special Information Booklet no later than one day after the lender receives or prepares a written mortgage loan application on an application form or forms normally used by that lender. A number of commenters indicated that it would be extremely difficult to provide the good faith estimates within one business day of receipt where the application is received by an agent who normally would not provide such estimates. The Department has modified the proposed regulations to meet this concern by allowing up to three business days after loan application. The intent of the regulations is to provide the good faith estimates as soon as possible.

The proposed regulations of March 29 provided for inclusion in the Special Information Booklet of information where the lender required use of a particular provider or three or less providers for a particular service.

The regulations published for effect instead require a statement as part of the good faith estimates where the lender requires a particular provider to be used. The revised requirement only applies where one provider is required to be used by the lender, and only requires identification of the provider and a statement whether the provider has a business relationship with the lender. There is no requirement to describe the business relationship. Numerous comments were received objecting to the proposed requirement for a statement whether other providers would provide the service at a lower cost. That requirement has been deleted.

In such cases, the lender is required to base the estimate of the charge on the lender's knowledge of charges imposed by the selected provider. These requirements, which are contained in Section 3500.7(b) and (e), are issued pursuant to RESPA Section 5(c). It should be noted that House Report No. 94-667 regarding the RESPA amendments stated at page 5: "Where the lender will arrange to have a settlement service provided by a particular provider, the prospective borrower should be so informed and the estimates given should reflect the lender's knowledge of the cost of that service."

**Form of Good Faith Estimates.** Section 5(c) of RESPA requires that the lender provide the borrower with the booklet and a good faith estimate of the amount or range for each charge for specific settlement services that the borrower is likely to incur in connection with the settlement. In the March 29th proposed rules, good faith estimates were required for a subset of settlement charges. Comment was made to the effect that estimates for charges computed on the basis of the actual date of settlement (reserves and prepaid items) could not be provided. Based on public comments, Regulation X was revised to require that lenders provide good faith estimates for all settlement services reported in Section L of the Uniform Settlement State-

ment except item 903 and series 1000 (Reserves Deposited with Lender). With respect to item 901 (Prepaid Interest) and 902 (Prepaid Mortgage Insurance Premium) the lender is required to state the maximum amount which can be collected at settlement. The lender's reserve requirements were not included in the required disclosure because the date of settlement and other variables are not usually within the lender's knowledge at time of loan application and represented a considerable origination burden.

The techniques used to develop the good faith estimates for either approach have not been specified in the regulations and are left to the lender. The Department recognizes that there are several ways of arriving at good faith estimates and the regulations do not restrict lenders to any specific approach. However, under Section 3500.7(b), the estimate of the amount or range of cost must bear a reasonable relationship to the borrower's ultimate cost for each settlement charge.

**Uniform Settlement Statement (HUD-1).** The regulation now permits lenders substantial flexibility in reproducing HUD-1 with adjustments to the form to allow for variations in settlement services between localities. The regulations provide that where the blank lines on HUD-1 are not adequate to take care of local insertions, additional spaces may be added without HUD approval. Also the previous restrictions on distances between lines and the size of the page have been removed. This means that space or lines may be added vertically and horizontally where the space on the HUD-1 is inadequate. This will permit, for example, listing pay-offs of prior liens and the time periods involved in proration. In addition, the regulations do not restrict type size or style and do not require that local insertions appear in a different style of type. Finally, it is no longer necessary for information concerning sellers costs to be included on the buyer's copy of HUD-1 and vice versa.

Numerous comments were received indicating the need for additional space on the form for the inclusion of customary recitals and information used locally in real estate settlement. The regulations now provide that an additional page may be attached to HUD-1 for this purpose or, if space on the form permits, this information may be added at the end of the form.

Several comments indicated a need for signature lines other than after line 1400 of the form. The final regulations do not restrict the placing of signature lines on the form. A few commenters suggested that the HUD-1 not be changed from its original format due to the cost of modifying their computer programs. The changes reflected in the revision of the form are based on experience gained from both manual and computer use of the form. The greater flexibility allowed in the final regulations to simplify the design of the form for computer application should minimize extensive reprogramming.

All settlement service charges are to be included in Section L of the HUD-1 except charges for services which (1) are not required by the Lender and (2) are paid for separately outside of settlement. When the lender requires the borrower to secure a settlement service and it is paid outside of settlement, the charge is to be included in Section L and noted as a charge paid outside of settlement.

Many comments requested that the authority to exhaust supplies of the original HUD-1 be extended to all persons conducting settlement as well as lenders. The regulations have been modified to permit this. The form has also been modified to cover situations where the lender is not the person conducting settlement. The person conducting the settlement is required to provide the lender with a copy which contains both buyer and seller information. The lender is required to retain this copy for two years, and, if a copy is required by HUD or another Federal agency, a legible reproduction of this copy may be used.

In enacting the RESPA Amendments, Congress concluded that there were certain RESPA transactions for which use of the Uniform Settlement Statement should not be required. The final regulations exempt from the use of HUD-1, RESPA transactions in which the borrower is not required to pay any settlement charges or adjustments. Also exempted are transactions in which the total amount the borrower is required to pay at settlement is a fixed amount and the borrower is so informed at the time of loan application.

Section 4 of RESPA now requires (1) that the Uniform Settlement Statement be completed and delivered at or before settlement by the person conducting settlement and (2) that on the business day before settlement, the borrower, upon request, be allowed to inspect such Uniform Settlement Statement information as the person conducting settlement has available. HUD was given the authority to exempt from this provision those settlement transactions occurring in localities where the Uniform Settlement Statement is not customarily provided at or before the date of settlement or where meeting this requirement is impractical. Numerous comments were received requesting an exemption. The Department decided not to provide blanket exemptions by jurisdiction as proposed in the March 29 proposed rules because this would result in inequities to borrowers. Exemptions tied to the specific types of transactions were considered more appropriate. The regulations, § 3500.10(d), exempt those particular settlement transactions where the borrower (or the borrower's agent) does not attend the settlement or where the person conducting settlement does not require a meeting. This is intended to cover the "escrow" type closings and special situations where the borrower or borrower's agent traditionally is not present at the settlement. When a transaction qualifies under this exemption, the person conducting settlement is required to mail to both the borrower and the seller the Uniform Set-

tlement Statement as soon as practicable after settlement.

**Prohibition Against Kickbacks and Unearned Fees.** The proposed rules of March 29 contained regulations pertaining to kickbacks and unearned fees. Most changes in these regulations were limited to clarifying language. A change from the proposed rules is contained in § 3500.14(d) which clarifies the Department's intention that a payment of a thing of value pursuant to an agreement or understanding that settlement will be referred is a violation of Section 8. Two new fact-comment situations, No. 9 and No. 10, were added to Appendix B to respond to industry practices developed partially in response to the Section 8 prohibitions.

**Distribution of Revised Booklet and Form.** The Department expects that lenders will use regular sources of supplies to secure copies of the Special Information Booklet and HUD-1. Recognizing that regular sources may not have these documents before June 30, the Department intends to provide each lender (supervised by the Federal Home Loan Bank Board, Federal Reserve Board, Federal Deposit Insurance Corporation, Comptroller of the Currency, National Credit Union Administration or HUD) a copy of the final booklet. This copy will be mailed to the lender by the appropriate supervising agency. Lenders will be authorized to duplicate copies for distribution to loan applicants. Lenders who are not supervised by the before mentioned agencies, and who need a copy of the Special Information Booklet and HUD-1, can submit a request to the Assistant Secretary for Consumer Affairs and Regulatory Functions (including a self-addressed label). A copy of both the booklet and the form will be sent. The address is Suite 4100, Attention: RESPA, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

A finding of inapplicability of section 102(2)(C) of the National Environmental Policy Act of 1969 has been made with respect to this rule, in accordance with HUD Handbook Section 1300.1. A similar finding of inapplicability, as required by OMB circular A-107, has been made with respect to potential inflation impact of the rule. Copies of these findings are available during regular business hours for public inspection in the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C.

Accordingly, Subtitle B of Title 24 is amended by adopting a new Part 3500-Real Estate Settlement Procedures to read as follows:

- |        |  |
|--------|--|
| Sec.   |  |
| 3500.1 | Authority, scope and purpose.                            |
| 3500.2 | Definitions.   |
| 3500.3 | No delegation of authority to HUD field offices.         |
| 3500.4 | Reliance upon rule, regulation or interpretation by HUD. |
| 3500.5 | Coverage of RESPA.                                       |
| 3500.6 | Special Information Booklet at time of loan application. |

## RULES AND REGULATIONS

- Sec.  
3500.7 Good Faith Estimates of Settlement Services.  
3500.8 Use of Uniform Settlement Statement Form.  
3500.9 Printing and duplication of Uniform Settlement Statement Form.  
3500.10 One day advance inspection of Uniform Settlement Statement; delivery.  
3500.11 Mailing.  
3500.12 No fee.  
3500.13 Refusion to state laws.  
3500.14 Prohibitions against kickbacks and unearned fees.

Appendix A—Instructions for completing Uniform Settlement Statement (HUD 1).

Appendix B—Facts and comments on section 8 which provide further clarification of regulations.

**AUTHORITY:** Real Estate Settlement Procedures Act of 1974, Pub. L. 93-533 (12 U.S.C. 2601 et seq.), Real Estate Settlement Procedures Act Amendments of 1975 (Pub. L. 94-205).

**§ 3500.1 Authority, scope and purpose.**

This part, which may be referred to as Regulation X, comprises the regulations issued by the Secretary of Housing and Urban Development pursuant to the Real Estate Settlement Procedures Act of 1974 (Pub. L. 93-533), 12 U.S.C. 2601, et seq., as amended by the Real Estate Settlement Procedures Act Amendments of 1975 (Pub. L. 94-205) herein "RESPA".

**§ 3500.2 Definitions.**

(a) "Date of Settlement" means the date on which the documents creating the security interest in real property become effective as between the borrower and the Lender, except that in the conversion of a construction loan to a permanent security interest in real property to finance purchase by a first user, Date of Settlement shall be the date on which title is transferred as between seller and buyer not subject to revocation by seller or buyer.

(b) "Federally Related Mortgage Loan" is defined in § 3500.5.

(c) "Lender" means the secured creditor or creditors named as such in the debt obligation and document creating the lien or other security interest.

(d) "Mortgaged Property" means the real property covered by the Federally Related Mortgage Loan, or the cooperative unit with respect to which stock is pledged to secure the Federally Related Mortgage Loan.

(e) "Person" means any individual, corporation, partnership, trust, association or other entity.

(f) "RESPA" means the Real Estate Settlement Procedures Act of 1974 (Pub. L. 93-533), U.S.C. 2601 et seq., as amended by the Real Estate Settlement Procedures Act Amendments of 1975 (Pub. L. 94-205).

(g) "Secretary" means the Secretary of Housing and Urban Development or any official delegated the authority of the Secretary with respect to RESPA.

(h) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and

any territory or possession of the United States.

**§ 3500.3 No delegation of authority to HUD Field Offices.**

No authority granted to the Secretary under RESPA has been delegated to HUD Regional Offices, HUD Area Offices or HUD Insuring Offices. Any questions or suggestions from the public regarding RESPA should be directed to the Office of Consumer Affairs and Regulatory Functions, Attention: RESPA, Department of Housing and Urban Development, Room 4100, 451 7th Street, SW., Washington, D.C. 20410.

**§ 3500.4 Reliance upon rule, regulation or interpretation by HUD.**

(a) Section 19(b) of RESPA provides: "No provision of this Act or the laws of any State imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Secretary or the Attorney General, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

(b) For purposes of Section 19(b) of RESPA only the following constitute a "rule, regulation, or interpretation thereof by the Secretary":

(1) The Uniform Settlement Statement, HUD-1, and HUD instructions set forth in Appendix A; and

(2) All other provisions, Appendices and Amendments thereto contained in this part, but not including any document referred to in this part except to the extent such document is set forth in this part.

(c) A "rule, regulation, or interpretation thereof by the Secretary" for purposes of section 19(b) of RESPA shall not include the Special Information Booklet prescribed by the Secretary or any other statement or issuance, whether oral or written, by an officer or representative of HUD, letter or memorandum by the Secretary, General Counsel, any Assistant Secretary or other officer or employee of HUD, preamble to a regulation or other issuance of HUD, report to Congress, pleading, affidavit or other document in litigation, pamphlet, handbook, guide, telegraphic communication, explanation, instructions to forms, speech or other material of any nature which is not specifically included in paragraph (b) of this section.

**§ 3500.5 Coverage of RESPA.**

(a) *Applicability.* RESPA and this part as applicable to all Federally Related Mortgage Loans.

(b) *Definition of Federally Related Mortgage Loan.* "Federally Related Mortgage Loan" means a loan which is not made to finance an exempt transaction specified in subsection (d), below, and which meets all of the following four requirements:

(1) The proceeds of the loan are used in whole or in part to finance the purchase by the borrower, or other transfer

of legal title of the Mortgaged Property. Execution of an instrument creating a security interest is not considered to be a transfer of legal title for purposes of this part;

(2) The loan is secured by a first lien or other first security interest covering real estate, including a fee simple, life estate, remainder interest, ground lease or other long-term leasehold estate:

(i) Upon which there is located a structure designed principally for the occupancy of from 1 to 4 families; or

(ii) Upon which there is located a mobile home; or

(iii) Upon which a structure designed principally for the occupancy of from 1 to 4 families is to be constructed using proceeds of the loan; or

(iv) Upon which there will be placed a mobile home to be purchased using proceeds of the loan; or

(v) Which is a condominium unit (or a first lien covering a cooperative unit) designed principally for the occupancy of from 1 to 4 families;

(3) The Mortgaged Property is located in a State; and

(4) The loan (i) is made by a Lender meeting the requirements of paragraph (c), below, or (ii) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or other officer or agency of the Federal Government, or (iii) is made in connection with a housing or urban development program administered by the Secretary or other agency of the Federal Government, or (iv) is intended to be sold by the originating lender to the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), or the Federal Home Loan Mortgage Corporation (FHLMC), or to a financial institution which intends to sell the mortgage to FHLMC.

(c) A Lender is within paragraph (b) (4) (i) if it is:

(1) A lending institution the deposits or accounts of which are insured by the Federal Savings and Loan Corporation (FSLIC), the Federal Deposit Insurance Corporation (FDIC) or any other agency of the Federal Government.

(2) A lending institution which is regulated by the Federal Home Loan Bank Board or any other agency of the Federal Government, or

(3) A "creditor", as defined in section 103(f) of the Consumer Credit Protection Act (15 U.S.C. 1602(f)), who makes or invests in residential real estate loans aggregating more than \$1,000,000 in either the calendar year in which the Date of Settlement of the Federally Related Mortgage Loan in question occurs or the calendar year prior thereto, except that the term "creditor" does not include any agency or instrumentality of any state. Section 103(f) of the Consumer Credit Protection Act defines "creditor" as follows:

"... The term 'creditor' refers only to creditors who regularly extend, or arrange for the extension of, credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, whether in con-

nection with loans, sales of property or services, or otherwise."

(d) *Exempt transactions.* This part shall not apply to:

(1) A loan to finance the purchase or transfer of a property of 25 or more acres;

(2) A home improvement loan, loan to refinance, or other loan where the proceeds are not used to finance the purchase or transfer of legal title to the property;

(3) A loan to finance the purchase or transfer of a vacant lot, where no proceeds of the loan are to be used for the construction of a 1 to 4 family residential structure or for the purchase of a mobile home to be placed on the lot;

(4) An assumption, novation, or sale or transfer subject to a pre-existing loan, except that the use of or conversion of a construction loan to a permanent mortgage loan to finance purchase by the first user;

(5) A construction loan, except where the construction loan is used as or converted to a permanent loan to finance purchase by the first user;

(6) A permanent loan the proceeds of which will be used to finance the construction of a 1 to 4 family structure, where the lot is already owned by the borrower or borrowers;

(7) A loan to finance the purchase of a property where the primary purpose of the purchase is for resale; or

(8) Execution of a land sales contract or installment land contract where the legal title is not transferred to the purchaser upon execution. However, a loan to finance the acquisition of title pursuant to a land sales contract is a Federally Related Mortgage Loan.

**§ 3500.6 Special Information Booklet at time of loan application.**

(a) *Lender to provide information booklet.* The Lender shall provide a copy of the Special Information Booklet currently prescribed by the Secretary, together with the Good Faith Estimates of closing costs required under Section 3500.7, to every person from whom the Lender receives or for whom it prepares a written application on an application form or forms normally used by the Lender for a Federally Related Mortgage Loan. Where more than one individual applies for a loan, the Lender is in compliance with this requirement if the Lender supplies a copy of the Special Information Booklet to one of the individuals applying. The Lender shall supply the Special Booklet by delivering it or placing it in the mail to the applicant on the day the application is received not later than three business days after the application is received. The Lender shall supply the Good Faith Estimates by delivering or placing the mail or not later than three business days after the application is received. The Lender shall complete the Equal Credit Opportunity Notice, located on the inside rear cover of the Special Information Booklet, in accordance with Regulation B, 12 CFR 202.4(d) of the Federal Reserve Board.

(b) *Printing and duplication.* The Secretary may from time to time revise the Special Information Booklet. The Special Information Booklet may be printed or reproduced in any form, provided that no change is made, other than as provided under subsection (c) below. 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 and easily readable.

(c) *Permissible changes.* No changes to, deletions from or additions to the foreword and text of the Special Information Booklet currently prescribed by the Secretary shall be made other than those specified below or any others approved in writing by the Secretary.

(1) The cover of the booklet may be in any form and may contain any drawings, pictures, of 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.

(2) The Special Information Booklet may be translated into other languages.

**§ 3500.7 Good faith estimates of settlement services.**

(a) *Lender to provide Good Faith Estimates with information booklet at time of loan application.* The Lender shall provide the Good Faith Estimates required under this section to every person to whom it must provide a copy of the Special Information Booklet under § 3500.6 of this part. Time of provision is set forth in § 3500.6(a).

(b) *Good Faith Estimate.* The Lender shall provide a good faith estimate, as a dollar amount or range, of each charge for a settlement service which the borrower is likely to incur. Each such good faith estimate must 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 or area in which the Mortgaged Property is located.

As to each charge with respect to which the Lender requires a particular settlement service provider to be used, the Lender shall make its good faith estimate based upon the Lender's knowledge of the amounts charged by such provider.

(c) *Settlement Services for which Good Faith Estimates are required.* The Lender is required to provide the loan applicant with a Good Faith Estimate for each settlement charge which will be listed in Section L (except item 903 and series 1000 of Section L) of the Uniform Settlement Statement which the Lender anticipates that the borrower will pay at settlement based upon the Lender's general experience as to which party normally pays each charge in the locality.

(d) *Form of Good Faith Estimates.* The Lender may provide the loan appli-

cant with the required Good Faith Estimates on any form, including Section L, of the Uniform Settlement Statement, which the Lender determines to use, if the following requirements are met:

(1) The form must be clear and concise. It shall include the Lender's name. The form shall set forth in bold type the following or a substantially equivalent statement: "This form does not cover all items you will be required to pay in cash at settlement, for example, deposit in escrow for real estate taxes and insurance. You may wish to inquire as to the amounts of such other items." You may be required to pay other additional amounts at settlement.

(2) The terminology shall be identical, so far as practicable, to the terms used in the Uniform Settlement Statement (HUD-1) or the terms which will be inserted in blank spaces in the Uniform Settlement Statement. Lenders are encouraged, but are not required, to set forth the items numbers for each item which appears in the Uniform Settlement Statement (HUD-1).

(3) Additional information relating to a stated item may be provided. Charges which may be grouped together pursuant to the instructions of the Uniform Settlement Statement may be grouped in this disclosure. For example, the amount for several title charges (listed as lines 1101-1106 of the Uniform Settlement Statement) may, in some jurisdictions, customarily be included in an attorney's fee (listed as line 1107).

(e) *Description of Lender's requirements on selection of providers.* Where the Lender requires that a particular provider (or affiliated group of providers, such as a law firm) be used to provide legal services, title examination services or title insurance or to conduct settlement and requires the borrower to pay all or a portion of the cost of such services (regardless of the interests represented by the provider), the Lender is required to include as part of the Good Faith Estimate, a statement which clearly designates the corresponding estimated charges, and states:

(1) The name, address and telephone number of each provider designated by the Lender, the services which would be rendered by such provider, and the fact that Lender's estimate is based upon the charges of the designated provider; and

(2) A statement whether or not each such provider has a business relationship with the Lender.

(f) As to each Federally Related Mortgage Loan which is exempt from the use of the Uniform Settlement Statement by reason of Section 3500.8(d) of this part, the lender shall keep an accurate record for two years of the itemized list of the settlement services provided, the exact charge, if any, which is to be imposed at settlement, and the subparagraph (Section 3500.8(d) (1) or (d) (2)) under which the exemption is granted. With respect to a transaction which is exempt under Section 3500.8(d) (2), the lender shall deliver or place in the mail to the borrower not later than three business days after loan application a statement of

the amount of the fixed charge and a statement of the settlement services and other items covered by such charge.

**§ 3500.8 Use of Uniform Settlement Statement Form.**

(a) *Use of HUD-1.* As required by section 4 of RESPA, the Uniform Settlement Statement (HUD-1, set forth in Appendix A) shall be used by the person conducting settlement in every Federally Related Mortgage Loan settlement transaction whether or not such person is the Lender. Persons conducting settlements may exhaust supplies of the original HUD-1 which are in stock at the time these regulations take effect.

(b) *Charges to be stated.* The Uniform Settlement Statement, HUD-1, shall be completed to itemize all charges to be paid by the borrower and the seller in connection with the settlement, except those charges not imposed upon the borrower or seller by the Lender and which the borrower or seller contract to pay for separately outside of the settlement. Charges which are required by the Lender but paid outside of closing shall be included on the statement but marked "P.O.C.", as provided in the general instructions to the form. Lines and columns which relate to the borrower's transaction may be deleted from the copy of the form which will be furnished to the seller and lines and columns which relate to the seller's transaction may be deleted from the copy of the form which will be furnished to the borrower.

(c) *Recordkeeping.* The person conducting the settlement shall provide the Lender with a copy of each settlement statement (both borrower's and seller's copies, where different) required to be prepared pursuant to section 4 of RESPA. The Lender shall retain the settlement statement for two years after the date of settlement unless the Lender disposes of its interest in the mortgage and does not service the mortgage. The Lender may permit its copy of the settlement statement to be delivered to the owner or servicer of the mortgage as a part of the transfer of the loan file. If copy of the settlement statement is required to be submitted to the Secretary or other Federal agency, a legible reproduction of the copy retained by the Lender may be used to meet this requirement.

(d) *RESPA Transactions exempt from the use of the Uniform Settlement Statement.* (1) Transactions in which the borrower is not required to pay any settlement charges or adjustments.

(2) Transactions in which the borrower is required to pay a fixed amount for all charges imposed at settlement and the borrower is informed of the fixed amount at the time of loan application.

**§ 3500.9 Printing and duplication of Uniform Settlement Statement Form.**

(a) *Permissible changes.* The Uniform Settlement Statement form, HUD-1, may be reproduced with the following permissible changes and insertions:

(1) The person reproducing the form may insert in Section A its business name

and/or logotype and may rearrange, but not delete, the other information which appears in Section A.

(2) The name, address and other information regarding the Lender and settlement agent (person conducting settlement), respectively, may be printed in Sections F and H.

(3) Reproduction of HUD-1 must conform to the terminology, sequence and numbering of line items as presented in lines 100-1400 which 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 correspondingly shortened. The number of a deleted item shall not be used for a substitute or new item, but the number of a blank space on HUD-1 may be used for a substitute or new item.

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

(5) The following variations in layout and format are within the discretion of persons reproducing 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 additional horizontal space on lines (for example, to provide sufficient space for recording time periods used in proration); printing of HUD-1 contents on separate pages, on the front and back of a single page, or on one continuous page; use of multi-copy tear-out sets; printing on rolls for computer purposes; reorganization of Sections B through I where necessary to accommodate computer printing; placement on the form the HUD number but not the OMB approval number, neither of which in any case may be deleted from the form.

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

(7) Signature lines may be added.

(8) The form may be translated into any other language.

(9) An additional page may be attached to HUD-1 for the purpose of including customary recitals and information used locally in real estate settlements, for example, breakdown of pay-off figures; a breakdown of mortgagor'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 HUD-1.

(b) Any other deviation in the form is only permissible upon receipt of written approval of the Secretary. A request to the Secretary for approval may be submitted in writing to the Assistant Secretary for Consumer Affairs and Regulatory Functions, Attention: RESPA,

Room 4100, 451 7th Street, SW., Washington, D.C. 20410, stating the reasons why the applicant believes such deviation is needed. Prior to receiving such approval, the prescribed form must be used.

**§ 3500.10 One day advance inspection of Uniform Settlement Statement; delivery.**

(a) *Inspection one day prior to settlement.* Except as provided in paragraph (d), upon the request of the borrower, the person conducting the settlement shall permit the borrower to inspect the Uniform Settlement Statement, completed to set forth those items which are known to such person at the time of inspection, during the business day immediately preceding the Date of Settlement.

(b) *Delivery.* The Uniform Settlement Statement shall be delivered or mailed to the borrower and the seller or their agents at or before settlement, except as provided in paragraphs (c) and (d).

(c) *Waiver.* The borrower may waive the right to delivery of the completed Uniform Settlement Statement no later than at settlement by executing a written waiver at or before settlement. In such case, the completed Uniform Settlement Statement shall be mailed or delivered to the borrower and seller as soon as practicable after settlement.

(d) *Exempt transactions.* Where the borrower or the borrower's agent does not attend the settlement or where the person conducting settlement does not require a meeting of the parties for that purpose, the transaction shall be exempt from the requirements of paragraphs (a) and (b) above, except that the Uniform Settlement Statement shall be delivered as soon as practicable after settlement.

**§ 3500.11 Mailing.**

The provisions of this part requiring or permitting mailing of settlement statements or other documents shall be deemed to be satisfied by placing the document in the mail (whether or not received by the addressee) addressed to the addresses stated in the loan application or in other information submitted to or obtained by Lender at the time of loan application, or submitted to or obtained by the Lender or person conducting settlement, except that a revised address shall be used where the Lender or such other person has been expressly informed in writing of a change of address.

**§ 3500.12 No fee.**

As provided in section 12 of RESPA, no fee shall be imposed or charge made upon any other person, as a part of settlement costs or otherwise, by a Lender in connection with or on account of the preparation and distribution of the statement required by section 4 of RESPA (Uniform Settlement Statement) or by the Truth in Lending Act.

**§ 3500.13 Relation to State laws.**

Section 18 of RESPA provides:

This Act does not annul, alter, or affect or exempt any person subject to the provi-

sions of this Act from complying with the laws of any State with respect to settlement practices, except to the extent that those laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency. The Secretary is authorized to determine whether such inconsistencies exist. The Secretary may not determine that any State law is inconsistent with any provision of this Act if the Secretary determines that such law gives greater protection to the consumer. In making these determinations the Secretary shall consult with the appropriate Federal agencies.

A determination by the Secretary that such an inconsistency exists shall be made, after consultation with appropriate Federal agencies, by publication of a notice in the FEDERAL REGISTER.

**§ 3500.14 Prohibition against kickbacks and unearned fees.**

(a) *Statutory prohibitions.* Section 8 of RESPA provides:

(a) No person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.

(b) No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed.

(c) Nothing in this section shall be construed as prohibiting (1) the payment of a fee (A) to attorneys at law for services actually rendered or (B) by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance or (C) by a lender to its duly appointed agent for services actually performed in the making of a loan, (2) the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed,

or (3) payments pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and brokers, or (4) such other payments or classes of payments or other transfers as are specified in regulations prescribed by the Secretary, after consultation with the Attorney General, the Administrator of Veterans' Affairs, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Secretary of Agriculture.

(d) (1) Any person or persons who violate the provisions of this section shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(2) In addition to the penalties provided by paragraph (1) of this subsection, any person or persons who violate the provisions of subsection (a) shall be jointly and severally liable to the person or persons whose business has been referred in an amount equal to three times the value or amount of the fee or thing of value, and any person or persons who violate the provisions of subsection (b) shall be jointly and severally liable to the person or persons charged for the settlement services involved in an amount equal to three times the amount of the portion, split, or percentage. In any successful action to enforce the liability under this paragraph, the court may award the court costs of the action together with a reasonable attorney's fee as determined by the court.

(b) *Thing of value.* "Thing of value" is broadly defined by section 3(2) of RESPA to include any payment, advance, fund, loan, service, or other consideration. Under section 8 of RESPA, a thing of value may be provided either directly or indirectly to the person referring settlement business and can take many forms including, but not limited to, monies, things, discounts, salaries, commissions, fees, duplicate payments of a charge, stock, dividends, distributions of partnership profits, credits representing monies that may be paid at a future date, special bank deposits or accounts, banking terms, special loan or loan guarantee terms, services of all types at special or free rates, and sales or rentals at special prices or rates.

(c) *Agreement or understanding.* An agreement or understanding for the referral of settlement business need not be verbalized but may be established by a practice, pattern or course of conduct pursuant to which the payor and recipient of the thing of value understand that the payment is in return for the referral of business. A payment that is made repeatedly and is connected in any way with the volume or value of the business referred to the payor by the recipient is presumptively pursuant to an agreement or understanding.

(d) *Payment of thing of value for referral of business.* Any person who gives and any person who receives any fee, kickback or thing of value that represents compensation for the referral of business incident to or a part of a real estate settlement service is in violation of section 8 of RESPA. The fact that the payment of the thing of value does not result in an increase in the charge made for the settlement service by the payor in the particular transaction is irrelevant in determining whether the payment is prohibited.

(e) *Payment for goods or services actually rendered.* The payment and receipt of a thing of value that bears a reasonable relationship to the value of the goods or services received by the person or company making the payment is not prohibited by RESPA section 8. To the extent the thing of value is in excess of the reasonable value of the goods provided or services performed, the excess is not for services actually rendered and may be considered a kickback or referral fee proscribed by RESPA section 8. The value of the referral itself (i.e., the additional business obtained thereby) is not to be taken into account in determining whether the payment is reasonable.

(f) *Exemptions.* The following are not proscribed by RESPA section 8:

(1) The payment of a fee (a) to attorneys at law for services actually rendered, or (b) by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance, or (c) by a Lender to its duly appointed agent for services actually performed in the making of a loan.

(2) The payment to any person of a bona fide salary, compensation or other

payment for goods or facilities actually furnished or for services actually performed.

(3) Payments pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and brokers.

(4) Normal promotional and educational activities not directly conditioned on the referral of business and that do not involve the defraying of expenses that otherwise would be incurred by persons in a position to refer settlement business, such as a reception by a title company, free seminars on title matters to professionals, furnishing property descriptions and names of record owners without charge to persons such as Lenders, real estate brokers or attorneys or distribution of calendars and other promotional material of nominal value.

(5) The waiver by a Lender of the requirement that a borrower pay a prepayment penalty provided in mortgage documents, whether or not such waiver is conditioned upon receipt by the Lender of a loan application from, or the making of a loan to, such borrower or a person purchasing a property from such borrower. This exemption is established pursuant to authority to establish exemptions from Section 8 of RESPA; and is not applicable by analogy to any category of cases other than waiver of prepayment penalties.

(g) *Examples of violations under section 8.* The following are examples of violations under section 8 and are applicable by analogy to other providers of settlement services in addition to those specified in the examples:

(1) A title company pays a portion of the title insurance premium to a person who performs no services for the title company other than placing an application with the title company.

(2) A title company gives a discount or allowance for the prompt payment of a title insurance premium or other charge for a settlement service to a real estate agent, attorney or lender as a rebate for the placement of business with such title company.

(3) An attorney gives a portion of his fees to another attorney, a Lender or a real estate agent who only referred a prospective client to the attorney.

(4) A title company pays a "commission" to a corporation that is wholly owned by one or more Lenders, even though such corporation performs no substantial services on behalf of the title company.

**APPENDIX A—INSTRUCTIONS FOR COMPLETING UNIFORM SETTLEMENT STATEMENT (HUD-1)**

The following are instructions for completing sections A through L of the Uniform Settlement Statement HUD-1, required under section 4 of RESPA and called Regulation X. This form is to be used as a uniform statement of actual costs and adjustments to be given to the parties in connection with the settlement. The instructions for completion of the form are primarily for the benefit of the persons who prepare the statements and need not be transmitted to the parties as an integral part of the form. Refer to Regulation X of the Department of Housing and Urban De-

## RULES AND REGULATIONS

velopment (24 CFR Part 3500) to determine if the Uniform Settlement Statement is legally required to be used in a particular mortgage loan transaction. There is no objection of the use of the form in transactions in which its use is not legally required.

### GENERAL INSTRUCTIONS

Information and amounts may be filled in by typewriter, hand printing, computer printing, or any other method producing clear and legible results. Copies of the form sent to the borrower and the seller may be carbon copies or other clear legible copies. Refer to Regulation X regarding rules applicable to printing of the form. An additional page may be attached to HUD-1 for the purpose of including customary recitals and information used locally in real estate settlements, for example, a breakdown of payoff figures; a breakdown of mortgagor'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. The reverse side of the form may be used instead of an additional sheet.

Where charges are paid outside of the settlement (normally by separate check), but are included in the requirements of § 3500.8(b), they shall be stated with the notation "P.O.C." (Paid outside closing) and shall not be included in computing totals. In accordance with § 3500.8(b), charges not imposed upon the borrower or seller by the Lender and which borrower or seller contract to pay for separately outside of the settlement, need not be entered on HUD-1.

### LINE ITEM INSTRUCTIONS

Instructions for completing the individual items on the form follow. Where no instructions are given, the item is thought to be self-explanatory.

Section A. The Lender, title company, other firm, or other person conducting settlement and preparing the form may insert its name and/or logotype in Section A.

Section B. Check appropriate loan type and complete the remaining items as applicable.

Sections D and E. Fill in the names and current mailing addresses and zip codes of the borrower and the seller. Where there is more than one buyer or seller, the name and address of one is sufficient.

Section G. The street address of the secured property, should be given. If there is no street address, a brief legal description or other location of the property should be inserted. In all cases give the zip code of the property.

Section H. Fill in name, address, and zip code of settlement agent; address and zip code of "place of settlement."

Section J. Summary of Borrower's Transaction. The borrower may be given a copy of the form which does not contain the information filled in under "Summary of Seller's Transaction" (Section K, Series 400, 500, and 600 items).

Lines 104 and 105 are for additional amounts owed by the buyer. For example, the balance in the seller's reserve account held by the Lender, if assigned to the buyer in a loan assumption case, will be entered here. These lines will also be used when a tenant in the property being sold has not yet

paid his rent, which the buyer will collect, for a period of time prior to the settlement. The seller will be credited on lines 404-406.

Lines 106 through 112 are for items which the seller had paid in advance, and for which the buyer must therefore reimburse the seller. Examples of items for which adjustments will be made may include taxes and assessments paid in advance for an entire year or other period, when settlement occurs prior to the expiration of the year or other period for which they were paid. Additional examples include flood and hazard insurance premiums, if the buyer is being substituted as an insured under the same policy; mortgage insurance in loan assumption cases; planned unit development or condominium association assessments paid in advance; fuel or other supplies on hand, purchased by the seller, which the buyer will use when buyer takes possession of the property; and ground rent paid in advance.

Line 203 is used for cases in which the buyer is assuming or taking title subject to an existing loan or lien on the property.

Lines 204-209 may be used in cases in which the seller has taken a trade-in or other property from the buyer in part payment for the property being sold. They may also be used in cases in which a seller (typically a builder) is making an "allowance" to the buyer for carpets or drapes which the buyer is to purchase on his own. Such an allowance should also be entered on lines 506 to 509.

Lines 210 through 219 are for items which have not yet been paid, and which the buyer is expected to pay, but which are attributable in part to a period of time prior to the settlement. In jurisdictions in which taxes are paid late in the tax year, most cases will show the proration of taxes in these lines. Other examples include utilities used but not paid for by the seller, rent collected in advance by the seller from a tenant for a period extending beyond the settlement date, and interest on loan assumptions.

Line 303 may indicate either the cash required from the borrower at settlement (the usual case in a purchase transaction) or cash payable to the borrower at settlement (if, for example, the buyer's earnest money deposit exceeded his cash obligations in the transaction). The appropriate box should be checked.

Section K. Summary of Seller's Transaction. The seller may be given a copy of the form which does not contain the information filled in under "Summary of Borrower's Transaction" (Section J, Series 100, 200, and 300 items).

Instructions for the use of lines 106-112, above, apply also to lines 406 to 412.

Line 501. If the seller's real estate broker has received and holds an earnest money deposit which exceeds the commission owed to him, and if he will tender the excess deposit directly to the seller, rather than through the settlement agent, the amount of excess deposit should be entered on line 501.

Line 503 is used if the purchaser is assuming or taking title subject to existing liens which are to be deducted from sales price.

Line 506 through 509 may be used to list additional liens which must be paid off through the settlement to clear title to the property. They may also be used to indicate funds to be held by the settlement agent for

the payment of water, fuel, or other utility bills which cannot be prorated between the parties at settlement because the amounts used by the seller prior to settlement are not yet known.

Instructions for the use of lines 510 through 519 are the same as those for lines 210 to 219 above.

**Section L. Settlement Charges.** For all items except those paid to and retained by the Lender, the name of the person or firm receiving the payment should be shown. The column which relates to the borrower's transaction may be deleted from the copy of the form which will be furnished to the seller and the column which relates to the seller's transaction may be deleted from the copy of the form which will be furnished to the borrower.

**Line 700.** If the sales commission paid by the seller is based on a percentage of the purchase price, enter the purchase price, the percentage, and the dollar amount of the total commission paid by the seller.

**Lines 701-702** are to be used to state the split of the commission where the person conducting the settlement disburses portions of the commission to two or more agents.

**Line 703.** If the broker is retaining a part of the earnest money deposit to apply towards his commission, include in lines 703 only that part of the commission being disbursed at settlement.

**Line 704** may be used for additional charges made by the sales agent, or for a sales commission charged to the buyer, which will be disbursed by the settlement agent.

**Line 801.** Enter the fee charged by the Lender for processing or originating the loan. If this fee is computed as a percentage of the loan amount, enter the percentage in the blank indicated.

**Line 802.** Enter the loan discount charged by the lender, and, if it is computed as a percentage of the loan amount, enter the percentage in the blank indicated.

**Line 803.** Enter appraisal fees, if there is a charge separate from the origination fee. The VA or FHA appraisal fee is included on line 806.

**Line 805** is used only for inspections by the lender or his personnel. Charges for other pest or structural inspections, required by Regulation X to be stated, should be entered in lines 1301-1305.

**Line 806** should be used for a VA appraisal fee, FHA application fee (which covers the cost of appraisal for the agency as well), or a fee required by a private mortgage insurance company.

**Line 807** is provided for convenience in using the form for loan assumption transactions.

**Line 901.** If interest is collected at settlement for a part of a month or other period between settlement and the date from which interest will be collected with the first regular monthly payment, enter that amount here. If such interest is not collected until the first regular monthly payment, no entry should be made on line 901.

**Lines 1000-1008.** This series is used for amounts collected by the Lender from the borrower and held in an account for the future payment of the obligations listed as they fall due. In many jurisdictions this is referred to as an "escrow," "impound," or

"trust" account. In addition to the items listed, some Lenders may require reserves for flood insurance, condominium owners association assessments, etc.

**Lines 1100-1113.** In many jurisdictions the same person (for example, an attorney or a title insurance company) performs several of the services listed in this series and makes a single undifferentiated charge for such services. In such cases, enter the overall fee on line 1107 (for attorneys), or line 1108 (for title companies), and enter on that line the item numbers of the services listed which are covered in the overall fee. If this is done, no amounts should be entered for the individual items which are covered by the overall fee.

**Line 1101.** Enter here the fee of the person or firm conducting the settlement. In some jurisdictions this is termed a closing or escrow fee. If two or more persons or firms make charges in connection with the same transaction, enter total charges in the appropriate columns, and indicate the breakdown of charges on the line after the word "to."

**Lines 1102 and 1103.** In some jurisdictions the same person (for example, an attorney) both searches the title (that is, performs the necessary research in the records) and examines title (that is, makes a determination as to what matters affect title, and provides a title report or opinion). If such a person charges only one fee for both services, it should be entered on line 1103. If separate persons perform these tasks, or if separate charges are made for searching and examination, they should be listed separately.

**Line 1105.** Enter charges for preparation of deeds, mortgages, notes, etc. If more than one person receives a fee for such work in the same transaction, show the total paid in the appropriate column and the individual charges on the line following the word "to."

**Lines 1108-1110.** Enter the total charge for title insurance (except for the cost of the title binder) on line 1108. Enter on lines 1109 and 1110 the individual charges for the Lender's and owner's policies. Note that these charges are not carried over into the borrower's and seller's columns, since to do so would result in a duplication of the amount in line 1108. If a combination Lender's/owner's policy is available show this amount as an additional entry on line 1109 and 1110.

**Lines 1111-1113.** These lines are for the entry of other title charges not already itemized. Examples in some jurisdictions would include a fee to a private tax service, a fee to a county tax collector for a tax certificate, and a fee to a public title registrar for a certificate of title under a Torrens Act. Show the Lender's attorney's fee if any on lines 1111-1113.

**Lines 1303-1305.** Enter on these lines any other settlement charges not referable to the categories listed above on the form, which are required to be stated by Regulation X. Examples may include structural inspections or pre-sale inspection of heating, plumbing, or electrical equipment. These inspection charges may include a fee for insurance or warranty coverage.

**Line 1400.** Enter the total settlement charges paid from borrower's funds and seller's funds. These totals are also entered on lines 103 and 502, respectively, in sections J and K

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Form Approved  
OMB NO. 63-R-1501

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<p style="text-align: center;"><b>A.</b></p> <p style="text-align: center;">U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</p> <p style="text-align: center;"><b>SETTLEMENT STATEMENT</b></p>	<p style="text-align: center;"><b>B. TYPE OF LOAN</b></p> <p>1. <input type="checkbox"/> FRA    2. <input type="checkbox"/> FmHA    3. <input type="checkbox"/> CONV. UNINS.                  4. <input type="checkbox"/> VA        5. <input type="checkbox"/> CONV. INS.</p> <p>6. File Number: _____ 7. Loan Number: _____</p> <p>8. Mortgage Insurance Case Number: _____</p>
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**C. NOTE:** This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

<b>D. NAME OF BORROWER:</b>	<b>E. NAME OF SELLER:</b>	<b>F. NAME OF LENDER:</b>
<b>G. PROPERTY LOCATION:</b>	<b>H. SETTLEMENT AGENT:</b>	<b>I. SETTLEMENT DATE:</b>
<b>PLACE OF SETTLEMENT:</b>		

J. SUMMARY OF BORROWER'S TRANSACTION	
<b>100. GROSS AMOUNT DUE FROM BORROWER:</b>	
101. Contract sales price	
102. Personal property	
103. Settlement charges to borrower (line 1400)	
104.	
105.	
<i>Adjustments for items paid by seller in advance</i>	
106. City/town taxes to	
107. County taxes to	
108. Assessments to	
109.	
110.	
111.	
112.	
120. <b>GROSS AMOUNT DUE FROM BORROWER</b>	
<b>200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:</b>	
201. Deposit or earnest money	
202. Principal amount of new loan(s)	
203. Existing loan(s) taken subject to	
204.	
205.	
206.	
207.	
208.	
209.	
<i>Adjustments for items unpaid by seller</i>	
210. City/town taxes to	
211. County taxes to	
212. Assessments to	
213.	
214.	
215.	
216.	
217.	
218.	
219.	
220. <b>TOTAL PAID BY/FOR BORROWER</b>	
<b>300. CASH AT SETTLEMENT FROM/TO BORROWER</b>	
301. Gross amount due from borrower (line 120)	
302. Less amounts paid by/for borrower (line 220)	( )
303. <b>CASH ( <input type="checkbox"/> FROM ) ( <input type="checkbox"/> TO ) BORROWER</b>	

K. SUMMARY OF SELLER'S TRANSACTION	
<b>400. GROSS AMOUNT DUE TO SELLER:</b>	
401. Contract sales price	
402. Personal property	
403.	
404.	
405.	
<i>Adjustments for items paid by seller in advance</i>	
406. City/town taxes to	
407. County taxes to	
408. Assessments to	
409.	
410.	
411.	
412.	
420. <b>GROSS AMOUNT DUE TO SELLER</b>	
<b>500. REDUCTIONS IN AMOUNT DUE TO SELLER:</b>	
501. Excess deposit (see instructions)	
502. Settlement charges to seller (line 1400)	
503. Existing loan(s) taken subject to	
504. Payoff of first mortgage loan	
505. Payoff of second mortgage loan	
506.	
507.	
508.	
509.	
<i>Adjustments for items unpaid by seller</i>	
510. City/town taxes to	
511. County taxes to	
512. Assessments to	
513.	
514.	
515.	
516.	
517.	
518.	
519.	
520. <b>TOTAL REDUCTION AMOUNT DUE SELLER</b>	
<b>600. CASH AT SETTLEMENT TO/FROM SELLER</b>	
601. Gross amount due to seller (line 420)	
602. Less reductions in amount due seller (line 520)	( )
603. <b>CASH ( <input type="checkbox"/> TO ) ( <input type="checkbox"/> FROM ) SELLER</b>	

L. SETTLEMENT CHARGES				PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$ @ % =					
Division of Commission (line 700) as follows:					
701. \$	to				
702. \$	to				
703. Commission paid at Settlement					
704.					
800. ITEMS PAYABLE IN CONNECTION WITH LOAN					
801. Loan Origination Fee %					
802. Loan Discount %					
803. Appraisal Fee to					
804. Credit Report to					
805. Lender's Inspection Fee					
806. Mortgage Insurance Application Fee to					
807. Assumption Fee					
808.					
809.					
810.					
811.					
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE					
901. Interest from to @ \$ /day					
902. Mortgage Insurance Premium for months to					
903. Hazard Insurance Premium for years to					
904. years to					
905.					
1000. RESERVES DEPOSITED WITH LENDER					
1001.	Hazard insurance	months @ \$	per month		
1002.	Mortgage insurance	months @ \$	per month		
1003.	City property taxes	months @ \$	per month		
1004.	County property taxes	months @ \$	per month		
1005.	Annual assessments	months @ \$	per month		
1006.		months @ \$	per month		
1007.		months @ \$	per month		
1008.		months @ \$	per month		
1100. TITLE CHARGES					
1101. Settlement or closing fee to					
1102. Abstract or title search to					
1103. Title examination to					
1104. Title insurance binder to					
1105. Document preparation to					
1106. Notary fees to					
1107. Attorney's fees to					
(includes above items numbers;					
1108. Title insurance to					
(includes above items numbers;					
1109. Lender's coverage \$					
1110. Owner's coverage \$					
1111.					
1112.					
1113.					
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES					
1201. Recording fees: Deed \$ Mortgage \$ Release \$					
1202. City/county tax/stamps: Deed \$ Mortgage \$					
1203. State tax/stamps: Deed \$ Mortgage \$					
1204.					
1205.					
1300. ADDITIONAL SETTLEMENT CHARGES					
1301. Survey to					
1302. Pest inspection to					
1303.					
1304.					
1305.					
1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K)					

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## RULES AND REGULATIONS

## APPENDIX B—FACTS AND COMMENTS ON SECTION 8 WHICH PROVIDE FURTHER CLARIFICATION OF REGULATIONS

The following illustrations provide additional guidance on the meaning and coverage of Section 8 of RESPA. While particular illustrations may refer to particular providers of settlement services, such illustrations are applicable by analogy to providers of settlement services other than those specifically mentioned. It should be noted that other provisions of Federal or state law may be applicable to the practices and payments discussed in the following illustrations.

1. *Facts.* A, a provider of settlement services, maintains and abnormally large balance a non-interest bearing account with B, a mortgage lender, pursuant to an understanding that B will refer borrowers of Federally Related Mortgage Loans to A for the purchase of settlement services in connection with the settlement of such loans.

*Comments.* Allowing B to use the deposited funds at no interest appears to be a thing of value given by A to B pursuant to an agreement or understanding that business incident to a real estate settlement shall be referred to A in violation of Section 8 of RESPA. The maintenance of any accounts reasonably needed by A in the normal course of its business would not be a violation of Section 8.

2. *Facts.* B, a lender of Federally Related Mortgage Loans, pays A, a real estate agent, a fee of \$25 per transaction purportedly for services performed such as arranging for B's appraisal to visit the property. The purported services for which the fee is paid are services that real estate agents frequently perform as part of their services and the fee is really intended to enable B to compensate A for referring potential borrowers to B.

*Comments.* Both A and B are in violation of Section 8 of RESPA, since the fee is being paid in compensation for the referral of business rather than for legitimate services actually rendered by B on behalf of A.

3. *Facts.* A, a provider of settlement services, provides settlement services at abnormally low rates or at no charge at all to B, a builder, in connection with a subdivision being developed by B. B agrees to refer purchasers of the completed homes in the subdivision to A for the purchase of settlement services in connection with the sale of individual lots by B.

*Comments.* The rendering of services by A to B at little or no charge constitutes a thing of value given by A to B in return for a referral of settlement business and both A and B are in violation of Section 8 of RESPA.

4. *Facts.* B, a Lender, encourages persons to receive Federally Related Mortgage Loans from it to employ A, an attorney, to search title and perform related settlement services in connection with their transactions. B and A have an understanding that in

return for the referral of this business A will provide legal services to B or B's officers or employees at abnormally low rates or for no charge.

*Comments.* Both A and B are in violation of Section 8 of RESPA.

5. *Facts.* A, a provider of settlement services, pays referral fees to persons who refer settlement business on commercial real estate to A.

*Comments.* While commercial transactions are not covered by RESPA, the payment of such referral fees would be a violation of Section 8 if they involve indirect compensation for the referral of settlement business covered by RESPA.

6. *Facts.* A, a real estate broker, obtains all necessary licenses under state law to act as a title insurance agent. A refers individuals who are purchasing homes in transactions in which A participates as a broker to B, a title company, for the purchase of title insurance services. A fills out a simple form but performs no other services in connection with the issuance of the title insurance policy. B pays A a commission for the transaction.

*Comments.* The payment of a commission by B to A under circumstances where no substantial services are being provided by A to B is a violation of Section 8 of RESPA.

7. *Facts.* A, a "mortgage originator" or "mortgage broker", receives loan applications and refers borrowers to lenders for a fee.

*Comments.* If A performs services such as obtaining credit and appraisal information or preparing an application for mortgage insurance or guarantee which are of value to the Lender paying the fee, without reference to the referral value of such services, and the fees paid bear a reasonable relationship to the value of such services, the payment of such a fee would not be in violation of Section 8 of RESPA.

8. *Facts.* A, a title insurance company, provides among its other services an "Insured Closing Service Letter". Under this letter, for which no separate or additional charge is made, the company agrees to provide indemnity against loss due to certain fraudulent or negligent acts of the company's policy-issuing agents or approved attorneys in complying with closing instructions and in conducting the closing of any transaction in connection with which a policy of title insurance is to be issued by A.

*Comments.* Where A has provided such an Insured Closing Service Letter to a specified person and the protection afforded thereby is effective without regard to whether the particular case was referred to A by the person receiving protection under such letter, the provision of the letter would not be pursuant to an agreement or understanding that settlement services be referred, and therefore not in violation of Section 8.

9. *Facts.* A, a service corporation, is a title insurance agent for B, a title insurance company. The search and examination of title, in connection with applications for title in-

sure policies prepared by A, are performed by employees of B. Employees of B also make any determinations as to the insurability of title. A issues title insurance policies on behalf of B and receives a commission equal to the amount paid other title insurance agents in the community, including other agents of B, who perform the title search and examination as well as prepare and issue the title insurance policy.

*Comments.* While A may be performing some real service for B, the fact that the amount of the commission received by A is equal to the commissions customarily paid to full-service title insurance agents who perform substantially greater and more valuable services indicates that the commission paid by B to A is really intended to compensate A for the referral of business. The amount by which the commission exceeds the reasonable value of the services rendered by A to B would be a referral fee prohibited by Section 8 of RESPA. Section 8 does not prohibit variations in the amount of commissions that may be paid, nor does it require that the quantum of services rendered be identical in all cases, so long as services significant to the issuance of a title insurance policy are rendered and the amount of the commission bears a reasonable relationship to the services rendered.

10. *Facts.* A, a real estate broker, refers title business to B, a company that is a licensed title agent for C, a title insurance company. A is part owner of B. B performs the title search and examination, makes determinations of insurability and issues a policy of title insurance on behalf of C, for which C pays B a commission. B pays annual dividends to its owners, including A, based on the relative amount of business each of its owners refers to B.

*Comments.* While the payments of a commission by C to B is not a violation of Section 8 of RESPA, if the amount of the commission constitutes reasonable compensation for the services performed by B for C, the payment of a dividend or the giving of any other thing of value by B to A that is based on the amount of business referred to B by A constitutes a violation of Section 8. Similarly, if the amount of stock held by A in B (or, if B were a partnership, the distribution of partnership profits by B to A) varied in proportion to the amount of business referred or expected to be referred, or if B retained any funds for subsequent distribution to A where such funds were generally in proportion to the amount of business A referred to B, such arrangements would constitute violations of section 8.

CONSTANCE B. NEWMAN,  
Assistant Secretary for Consumer Affairs and Regulatory Functions, U.S. Department of Housing and Urban Development.

[FR Doc.76-15864 Filed 6-1-76;9:59 am]

**Title 24—Housing and Urban Development  
CHAPTER XX—OFFICE OF ASSISTANT  
SECRETARY FOR CONSUMER AFFAIRS  
AND REGULATORY FUNCTIONS, DE-  
PARTMENT OF HOUSING AND URBAN  
DEVELOPMENT**

[Docket No. R-76-394]

**PART 3500—REAL ESTATE SETTLEMENT  
PROCEDURES ACT**

**Corrections**

In Part III of the FEDERAL REGISTER for Friday, June 4, 1976, appearing on pages 22702-22712, the following corrections should be made:

**§ 3500.6 [Amended]**

1. Page 22705, § 3500.6(a) is corrected by inserting in the third sentence the word "Information" after the word "Special", and by inserting the word "but" after the word "received"; by inserting the words "them in" after the word "placing", and deleting the word "or" after the word "mail" in the fourth sentence; and by deleting in the last sentence the period after the word "Board" and adding the words "unless provided elsewhere."

**§ 3500.7 [Amended]**

2. Page 22705, § 3500.7(d) (1) delete the quotation mark after the word "items" and add a quotation mark after the phrase "amounts at settlement".

**§ 3500.9 [Amended]**

3. Page 22706, section 3500.9(a) (3) is corrected by inserting in the first sentence a period after the words "lines 100-1400" and inserting the phrase "However, blank lines or items listed in lines 100-1400" before the word "which".

4. Page 22706, Section 3500.9(a) (5) is corrected by inserting the word "of" after the word "form" in the last sentence.

5. On page 22709, the paragraph dealing with lines 1111-1113 is corrected by deleting the last sentence and adding the following, "Show the attorney's fees for legal representation on lines 1111-1113."

6. On page 22712, add the following phrase: "Effective date: June 30, 1976" before the signature block.

Effective June 8, 1976.

**CONSTANCE B. NEWMAN,  
Assistant Secretary for Con-  
sumer Affairs and Regulatory  
Functions.**

[FR Doc.76-17093 Filed 6-10-76;8:45 am]

SETTLEMENT COSTS

A HUD Guide

U.S. Department of Housing and Urban Development  
June 1976

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## SETTLEMENT COSTS

### INTRODUCTION

For many people, buying a home is the single most significant financial step in a lifetime. The Real Estate Settlement Procedures Act (RESPA), a Federal statute, helps to protect you at this step.

Settlement is the formal process by which ownership of real property passes from seller to buyer. It is the end of the home buying process, the time when title to the property is transferred from the seller to the buyer.

RESPA covers most residential mortgage loans used to finance the purchase of one to four family properties, such as a house, a condominium or cooperative apartment unit, a lot with a mobile home, or a lot on which you will build a house or place a mobile home using the proceeds of the loan.

RESPA was not designed to set the prices of settlement services. Instead, it provides you with information to take the mystery out of the settlement process, so that you can shop for settlement services and make informed decisions.

This information booklet was prepared as provided in RESPA by the Office of Consumer Affairs and Regulatory Functions of the U.S. Department of Housing and Urban Development.

Part One of this booklet describes the settlement process and nature of charges and suggests questions you might ask of lenders, attorneys and others to verify what services they will provide you for the charges quoted. It also contains information on your rights and remedies available under RESPA, and alerts you to unfair or illegal practices.

Part Two of this booklet is an item-by-item explanation of settlement services and costs, with sample forms and worksheets that will help you in making cost comparisons. Remember that terminology varies by locality so that terminology used here may not exactly match that used in your area. For example, settlement is sometimes called closing and settlement charges are frequently referred to as closing costs.

### PART I

#### IT HAPPENS AND WHEN

Suppose you have just found a home you would like to buy. In a typical situation, when you reach an agreement with the seller on the price, you then sign a sales contract. The terms of the sales contract can be negotiated to your benefit, and the booklet explains below.

Next you will probably seek a mortgage to finance the purchase. This booklet suggests questions you should raise as you shop for a lender.

When you file your application for a loan, the lender is required by RESPA to provide a good faith estimate of the costs of settlement services and a copy of this booklet. The lender has three business days, after written loan application, to mail these materials to you.

Between loan application time and settlement, you usually have a chance to shop for settlement services, to ensure that you will obtain good value for your money.

Finally, one business day before settlement, if you so request, the person conducting the settlement must allow you an opportunity to see a Uniform Settlement Statement that shows whatever figures are available at that time for settlement charges you will be required to pay. At settlement, the completed Uniform Settlement Statement will be given to you.

Note: In some parts of the country where there is no actual settlement meeting, or in cases where neither you nor your authorized agent attends the closing meeting, the person conducting settlement has the obligation to deliver the Uniform Settlement Statement to you by mail.

There is no standard settlement process followed in all localities; therefore, what you experience, involving many of the same services, will probably vary from the description in this booklet.

## SHOPPING FOR SERVICES

When settlement arrives, you are committed to the purchase of the property and may have made a partial payment, sometimes called earnest money, to the seller or his agent. Services may have been performed for which you are obligated to pay. Unless a seller fails to perform a legally binding promise or has acted in a fraudulent fashion, you are normally obligated to complete your part of the contract and pay settlement costs. Thus the time to decide the terms of sale, raise questions, and establish fair fees is not at time of settlement, but earlier, when you negotiate with the seller and providers of settlement services. By the time of settlement, any changes in settlement costs and purchase terms may be difficult to negotiate.

You can also negotiate with the seller of the house about who pays various settlement fees and other charges. There are generally no fixed rules about which party pays which fees, although in many cases this is largely controlled by local custom.

Among the many factors that determine the amount you will pay for settlement costs are the location of your new home, the type of sales contract you negotiate, the arrangements made with the real estate broker, the lender you select, and your decisions in selecting the various firms that provide required settlement services.

If the chosen house is located in a "special flood hazard area," identified as such by HUD on a flood insurance map, the lender may require you to purchase flood insurance pursuant to Federal law (See page 23). Information on flood insurance availability, limits of coverage and copies of maps can be obtained through the National Flood Insurers Association servicing company for your state or by calling HUD toll free numbers 800-424-8872 or 73.

### Role of the Broker

Although real estate brokers provide helpful advice on many aspects of home buying, and may in some areas supervise the settlement, they normally serve the interests of the seller, not the buyer. The broker's basic objective is to obtain a signed contract of sale which properly expresses the agreement of the parties, and to complete the sale. However, as state licensing laws require that a broker be fair in his dealings with all parties to the transaction, you could feel free to point this out to the broker if you feel you are being treated unfairly.

A broker may recommend that you deal with a particular lender, title company, attorney, or other provider of settlement services. Ask brokers why they recommend a particular company or firm in preference to others. Advise them that while you welcome their suggestions (and, indeed, they probably have good contacts), you reserve the right to pick your own providers of services.

### Negotiating a Sales Contract

If you have obtained this booklet before you have signed a sales contract with the seller of the property, here are some important points to consider regarding that contract.

The sales agreement you and the seller sign can expressly state which settlement costs you will pay and which will be paid by the seller although these may be negotiable up to time of settlement. Buyers can and do negotiate with sellers as to which party is to pay for specific settlement costs. The success of such negotiations depends upon factors such as how eager the seller is to sell, how eager you are to buy, the quality of the house itself, how long the house has been on the market, whether other potential buyers are interested, and how willing you are to negotiate for lower costs. If the contract is silent on these costs, they are still open to negotiation.

There is no standard sales contract which you are required to sign. You are entitled to make any modifications or additions in any standard form contract to which the seller will agree. You should consider including the following clauses:

- The seller provides title, free and clear of all liens and encumbrances except those which you specifically agree to in the

contract or approve when the results of the title search are reported to you. You may negotiate as to who will pay for the title search service to determine whether the title is "clear."

. A refund of your deposit (earnest money) be made by the seller or escrow agent, and cancellation of the sale if you are unable to secure from a lending institution a first mortgage or deed-of-trust loan with an amount, interest rate, and length of term, as set forth in the contract, within a stated time period.

. A certificate be provided at time of settlement, stating that the house is free from termites or termite damage.

. A certificate that the plumbing, heating, electrical systems and appliances are in working order, and that the house is structurally sound. Negotiate who pays for any necessary inspections. There is no uniform custom in most areas. Many buyers prefer to pay for these inspections because they want to know that the inspector is conducting the service for them, not for the seller. (You can also purchase a warranty to back up the inspection, if you wish.)

. An agreement be reached on how taxes, water and sewer charges, premiums on existing transferable insurance policies, utility bills, interest on mortgages, and rent (if there are tenants) are to be divided between buyer and seller as of the date of the settlement.

Before you sign the sales contract, make sure that it correctly expresses your agreement with the seller on such important details as the sales price of the home, method of payment, the time set for your taking possession, what fixtures, appliances, and personal property are to be sold with the home, and the other items described above.

The above list is not complete, but does illustrate the importance of the sales agreement and its terms. Before you sign a sales contract you may want to ask an attorney to review the proposed agreement and determine if it protects your interests for once signed, the contract is binding on you and the seller. If you do not know of an attorney you may wish to consult the local bar association referral service or neighborhood legal service office.

### Selecting an Attorney

If you seek the aid of an attorney, first ask what services will be performed for what fee. If the fee seems too high, shop for another lawyer. Does the attorney have substantial experience in real estate?

The U. S. Supreme Court has said that it is illegal for bar associations to fix minimum fee schedules for attorneys, so do not be bashful about discussing and shopping for legal fees you can afford. Your attorney will understand.

Questions you may wish to ask the attorney include: What is the charge for reading documents and giving advice concerning them? For being present at settlement? Will the attorney represent any other party in the transaction in addition to you? In some areas attorneys act as closing agents handling the mechanical aspects of the settlement. A lawyer who does this may not fully represent your interests since as closing agent, he would be representing the seller and other interests as well.

### Electing a Lender

Your choice of lender will influence not only your settlement costs, but also the monthly cost of your mortgage loan.

Lending institutions require certain settlement services, such as a new survey or title insurance, or they may charge you for other settlement-related services, such as the appraisal or credit report. You may find, in shopping for a lender, that other institutions may not have such requirements. Part Two of this booklet provides a descriptions of the various kinds of services that may be required and fees that may be charged to you. You will also find a worksheet in Part Two, which you can use to compare requirements and cost estimates from different lenders.

Many lending institutions deal regularly with certain title companies, attorneys, appraisers, surveyors, and others in whom they have confidence. They may want to arrange for settlement services to be provided through these parties. This booklet discusses your rights in such a situation under the section below on Homebuyer's Rights.

If you choose a lending institution which allows you a choice of settlement service providers, you should shop and compare among the providers in your area, to find the best service for the best price. Where the lender designates the use of particular firms, check with other firms to see if the lender's stated charges are competitive.

Questions you may want to ask the lender should include these:

.Are you required to carry life or disability insurance?  
Must you obtain it from a particular company? (You may prefer no insurance or may wish to obtain it at a better premium rate elsewhere.)

- . Is there a late payment charge? How much? How late may your payment be before the charge is imposed? You should be aware that late payments may harm your credit rating.
- . If you wish to pay off the loan in advance of maturity (for example, if you move and sell the house), must you pay a prepayment penalty? How much? If so, for how long a period will it apply?
- . Will the lender release you from personal liability if your loan is assumed by someone else when you sell your house?
- . If you sell the house and the buyer assumes your loan, will the lender have the right to charge an assumption fee, raise the rate of interest, or require payment in full of the mortgage?
- . If you have a financial emergency, will the terms of the loan include a future advances clause, permitting you to borrow additional money on the mortgage after you have paid off part of the original loan?
- . Will you be required to pay monies into a special reserve (escrow or impound) account to cover taxes or insurance? If so, how large a deposit will be required at the closing of the sale? The amount of reserve deposits required is limited under RESPA. Some recent state laws have required that these accounts bear interest for the benefit of the borrower (buyer). If reserve requirements can be waived, you will be responsible for paying the particular charges for taxes or insurance directly to the tax collector or insurance company. Further information is in "Reserve Accounts" in Part Two of this booklet.
- . In looking for the best mortgage to fit your particular financial needs, you may wish to check the terms and requirements of a private conventional loan versus a loan insured through the Federal Housing Administration or Farmers Home Administration or guaranteed by the Veterans Administration. The FHA, VA, and Farmers Home Administration loans involve Federal ceilings on permissible charges for some settlement services, which may be of interest to you. Ask lenders about these programs. Another source of information about the federally insured or guaranteed programs is from public documents some of which are listed in the bibliography of this booklet.
- . If you are dealing with the lender who holds the existing mortgage, you might be able to take over the prior loan, in a transaction called "assumption". Assumption usually saves money in settlement costs if the interest rate on the prior loan is lower than that being asked in the market. In times of inflation in the housing market, a higher downpayment might be required than if you had obtained a new loan. You may want to ask the seller whether he would be willing to "take back" a second mortgage to finance part of the difference between the assumed loan and the sales price.

### Selecting a Settlement Agent

Settlement practices vary from locality to locality, and even within the same county or city. In various areas settlements are conducted by lending institutions, title insurance companies, escrow companies, real estate brokers, and attorneys for the buyer or seller. By investigating and comparing practices and rates, you may find that the first suggested settlement agent may not be the least expensive. You might save money by taking the initiative in arranging for settlement and selecting the firm and location which meets your needs.

### Securing Title Services

A title search may take the form of an abstract, a compilation of pertinent legal documents which provides a condensed history of the property ownership and related matters. In many areas title searches are performed by extracting information from the public record without assembling abstracts. In either situation, an expert examination is necessary to determine the status of title and this is normally made by attorneys or title company employees. In areas where both title insurance companies and attorneys perform these and other settlement services, compare fees for services (such as title certification, document preparation, notary fee, closing fee, etc.), provided by each to determine the better source for these services.

In many jurisdictions a few days or weeks prior to settlement the title insurance company will issue a binder (sometimes called a commitment to insure) or preliminary report, a summary of findings based on the search or abstract. It is usually sent to the lender or use until the title insurance policy is issued after the settlement. The binder lists all the defects in and liens against the title identified by the search. You should arrange to have a copy sent to you (or to an attorney who represents you) so that you can raise an objection if there are matters affecting the title which you did not agree to accept when you signed the contract of sale.

Title insurance is often required to protect the lender against loss if a flaw in title is not found by the title search made when the house is purchased. You may also get an owner's title policy to protect yourself. In some states, attorneys provide bar-related title insurance as part of their services in examining title and providing a title opinion. In these states the attorney's fee may include the title insurance premium, although the total title-related charges in the transaction should be taken into account in determining whether you will realize any savings.

Bear in mind that a title insurance policy issued only to the lender does not protect you. Similarly, the policy issued to a prior owner, such as the person from whom you are buying the house, does not protect you. To protect yourself from loss because of a mistake made by the title searcher, or because of a legal defect of a type which does not appear on the public records, you will need an owner's policy. Such a mistake rarely occurs but, when it does, it can be financially devastating to the uninsured. If you buy an owner's policy it is usually much less expensive if purchased simultaneously with a lender's policy.

To reduce title insurance costs, be sure to compare rates among various title insurance companies, and ask what services and limitations on coverage are provided by each policy so that you can decide whether a higher rate is consistent with your needs.

Depending upon practice in your jurisdiction, there may be no need for a full historical title search each time title to a home is transferred. If you are buying a home which has changed hands within the last several years, inquire at the title company that issued the previous title insurance policy about a "reissue rate," which would be a lower charge than for a new policy. If the title insurance policy of the previous owner is available, take it to the title insurer or lawyer whom you have selected to do your search.

To mark the boundaries of the property as set out in the title, lenders may require a survey. A homebuyer may be able to avoid the cost of a repetitive complete survey of the property if he can locate the surveyor who previously surveyed the project which he can update. However, the requirements of investors who buy loans originated by your lender may limit the lender's discretion to negotiate this point. Check with the lender or title company on this.

#### HOMEBUYER'S RIGHTS

##### Information Booklet

When you submit or the lender prepares your written application for a loan, the lender is legally required, under RESPA to give you a copy of this booklet.

If the lender does not give it to you in person on the day of your loan application, he must put it in the mail to you no later than three business days after your application is filed.

### Good Faith Estimates

When you file your application for a loan, the lender must also, under the terms of RESPA, provide you with good faith estimates of settlement services charges you will likely incur. If he does not give it to you, he has three business days in which to put it in the mail.

See Part Two of this booklet for a full item-by-item discussion of settlement services. On the form entitled "Settlement Statement," you will find Section L, which lists possible settlement services and charges you will encounter.

The lender is required to give you his good faith estimate, based on his experience in the locality in which the property is located, for each settlement charge in Section L that he anticipates you will incur, except for paid in advance hazard insurance premium (line 903) and reserves deposited with the lender (all Section 1000 items). The estimate may be stated as either a dollar amount or range for each charge. Where the lender designates the use of a particular firm, the lender must make its good faith estimate based upon the lender's knowledge of the amounts charged by the firm. The form used for this good faith estimate must be concise and clear, and the estimates must bear a reasonable relationship to the costs you will likely incur. If the lender provides you good faith estimates in the form of ranges, ask the lender what the total settlement costs will most likely be. While the lender is not obligated to provide this information under RESPA, it is important for you to know as you evaluate the different mortgage packages being offered you.

Lenders were not required to give good faith estimates for reserves deposited with them or for the prepaid hazard insurance premium because these charges require information not normally known to the lender at time of loan application. It is important for you to make these calculations because they can represent a sizeable cash payment you may have to make at settlement. Calculation of the reserve items presented later in this booklet under "Reserve Accounts." Ask the lender what his policies are in terms of reserve accounts, for what amounts the lender requires reserves and for what period of time. You may want to ask the lender to run through a hypothetical calculation for you based upon the date you will most likely close on the house. Other assumptions may be necessary, for example, the assessed value of the property for determining property taxes. The lender can probably be more

specific on hazard insurance premiums, particularly for those coverages which a lender requires.

Once you have obtained these estimates from the lender be aware that they are only estimates. The final costs may not be the same. Estimates are subject to changing market conditions, and fees may change. Changes in the date of settlement may result in changes in escrow and proration requirements. In certain cases, it may not be possible for the lender to anticipate exactly the pricing policies of settlements firms. Moreover, your own careful choice of settlement firms might result in lower costs, just as hasty decisions might result in higher costs. Remember that the lender's estimate is not a guarantee.

#### Lender Designation of Settlement Service Providers

Some lending institutions follow the practice of designating specific settlement service providers to be used for legal services, title examination services, title insurance, or the conduct of settlement.

Where this occurs the lender, under RESPA, is required to provide you as part of the good faith estimates a statement in which the lender sets forth:

(1) The name, address and telephone number of each provider he has designated. This must include a statement of the specific services each designated firm is to provide for you, as well as an estimate of the amount the lender anticipates you will have to pay for the service, based on the lender's experience as to what the designated provider usually charges. If the services or charges are not clear to you, ask further questions.

(2) Whether each designated firm has a business relationship with the lender.

While designated firms often provide the services needed, a conflict of interest may exist. Take for example the situation where the provider must choose between your interests and those of the lender. Where legal services are involved, it is wise to employ your own attorney to ensure that your interests are properly protected. It is wise for you to contact other firms to determine whether their costs are competitive and their services are comparable.

#### Disclosure of Settlement Costs One Day Before Closing and Delivery

One business day before settlement, you have the right to inspect the form, called the Uniform Settlement Statement, on which are itemized the services provided to you and fees charged to you.

This form (developed by the U.S. Department of Housing and Urban Development) is filled out by the person who will conduct the settlement meeting. Be sure you have the name, address, and telephone number of the settlement agent if you wish to inspect this form or if you have any questions.

The settlement agent may not have all costs available the day before closing, but is obligated to show you, upon request, what is available.

The Uniform Settlement Statement must be delivered or mailed to you (while another statement goes to the seller) at or before settlement. If, however, you waive your right to delivery of the completed statement at settlement, it will then be mailed at the earliest practicable date.

In parts of the country where the settlement agent does not require a meeting, or in cases where you or your agent do not attend the settlement, the statement will be mailed as soon as practicable after settlement and no advance inspection is required.

The Uniform Settlement Statement is not used in situations where: 1) there are no settlement fees charged to the buyer (because the seller has assumed all settlement-related expenses), or (2) the total amount the borrower is required to pay for all charges imposed at settlement is determined by a fixed amount and the borrower is informed of this fixed amount at the time of loan application. In the latter case, the lender is required to provide the borrower, within three business days of application, an itemized list of services rendered.

#### Escrow Closing

Settlement practices differ from state to state. In some parts of the country, settlement may be conducted by an escrow agent, which may be a lender, real estate agent, title company representative, attorney, or an escrow company. After entering into a contract of sale, the parties sign an escrow agreement which requires them to deposit specified documents and funds with the agent. Unlike other types of closing, the parties do not meet around a table to sign and exchange documents. The agent may request a title report and policy; draft deed or other documents; obtain rent statements; pay off existing loans; adjust taxes, rents, and insurance between the buyer and seller; compute interest on loans; and acquire hazard insurance. All this may be authorized in the escrow agreement. If all the papers and monies are deposited with the agent within the agreed time, the escrow is "closed".

The escrow agent then records the appropriate documents and gives each party the documents and money each is entitled to receive, including the completed Uniform Settlement Statement. If one party has failed to fulfill his agreement, the escrow is not closed and legal complications may follow.

### Truth-in-Lending

The lender is required to provide you a Truth-in-Lending statement by the time of loan consummation which disclosed the annual percentage rate or effective interest rate which you will pay on your mortgage loan. This rate may be higher than the contract interest rate because the latter includes only interest, while the annual percentage rate includes discount points, fees, and financing charges and certain other charges besides on the loan. The Truth-in-Lending statement will also disclose any additional charges for prepayment should you pay off the remaining balance of the mortgage before it is due.

Lenders are not required to provide you a Truth-in-Lending disclosure at the time of loan application, when the good faith estimate of settlement costs and this informational booklet are given to you. However, since the annual percentage rate the lender will be charging you is an important item of information which you can use as you shop for services, you may want to request its disclosure at time of loan application.

### Protection Against Unfair Practices

A principal finding of Congress in the Real Estate Settlement Procedures Act of 1974 is that consumers need protection from "...unnecessarily high settlement charges caused by certain abusive practices that have developed in some areas of the country." The potential problems discussed below may not be applicable to most loan settlements, and the discussion is not intended to deter you from buying a home. Most professionals in the settlement business will give you good service. Nevertheless, you may save yourself money and worry by keeping the following considerations in mind:

Kickbacks. Kickbacks and referrals of business for gain are often tied together. The law prohibits anyone from giving or taking a fee, kickback, or anything of value under an agreement that business will be referred to a specific person or organization. It is also illegal to charge or accept a fee or part of a fee where no service has actually been performed. This requirement does not prevent agents for lenders and title companies, attorneys, or others actually performing a service in connection with the mortgage loan or settlement transaction, from receiving compensation for their work. It also does not prohibit payments pursuant to cooperative brokerage, such as a multiple listing service, and referral arrangements or agreements between real estate agents and brokers.

The prohibition is aimed primarily at eliminating the kind of arrangement in which one party agrees to return part of his

fee in order to obtain business from the referring party. The danger is that some settlement fees can be inflated to cover payments to this additional party, resulting in a higher total cost to you. There are criminal penalties of both fine and imprisonment for any violation of these provisions of law. There are also provisions for you to recover three times the amount of the kickback, rebate, or referral fee involved, through a private lawsuit. In any successful action to enforce your right, the court may award you court costs together with a fee for your attorney.

Title Companies. Under the law, the seller may not require, as a condition of sale, that title insurance be purchased by the buyer from any particular title company. A violation of this will make the seller liable to you in an amount equal to three times all charges made for the title insurance.

Fair Credit Reporting. There are credit reporting agencies around the nation which are in the business of compiling credit reports on citizens, covering data such as how you pay your bills, if you have been sued, arrested, filed for bankruptcy, etc.. In addition, this file may include your neighbors' and friends' views of your character, general reputation, or manner of living. This latter information is referred to as an "investigative consumer report."

The Fair Credit Reporting Act does not give you the right to inspect or physically handle your actual report at the credit reporting agency, nor to receive an exact copy of the report. But you are entitled to a summary of the report, showing the nature, substance, and sources of the information it contains.

If the terms of your financing have been adversely affected by a credit report, you have the right to inspect the summary of that report free of charge (there may otherwise be a small fee). The accuracy of the report can also be challenged, and corrections required to be made. For more detailed information on your credit report rights, contact the Federal Trade Commission (FTC) in Washington, D. C. or the nearest FTC regional office. The FTC Buyer's Guide No. 7: Fair Credit Reporting Act is a good summary of this Act.

### e Right to File Complaints

As with any consumer problems, the place to start if you have complaint is back at the source of the problem (the lender, settlement agent, broker, etc.). If that initial effort brings no satisfaction and you think you have suffered damages through violations the Real Estate Settlement Procedures Act of 1974, as amended, you y be entitled to bring a civil action in the U.S. District Court for e District in which the property involved is located, or in any

other court of competent jurisdiction. This is a matter best determined by your lawyer. Any suit you file under RESPA must be brought within one year from the date of the occurrence of the alleged violation. You may have legal remedies under other State or Federal laws in addition to RESPA.

You should note that RESPA provides for specific legal sanctions only under the provisions which prohibit kickbacks and unearned fees, and which prohibit the seller from requiring the buyer to use a particular title insurer. If you feel you should recover damages for violations of any provision of RESPA, you should consult your lawyer.

Most settlement service providers, particularly lenders, are supervised by some governmental agency at the local, State and/or Federal level. Others are subject to the control of self-policing associations. If you feel a provider of settlement services has violated RESPA, you can address your complaint to the agency or association which has supervisory responsibility over the provider. The supervisory agency for the lending institution is provided on the back cover of this booklet. If the lender has given you this information elsewhere, he is not required to provide it here. For the names of agencies supervising other providers, you will have to check with local and State consumer agencies. You are also encouraged to forward a copy of complaints regarding RESPA violations to the HUD Office of Consumer Affairs and Regulatory Functions, which has the primary responsibility for administering the RESPA program. Your complaints can lay the foundation for future legislative or administrative actions.

Send copies of complaints, and inquiries, to:

Assistant Secretary for Consumer Affairs and  
Regulatory Functions  
Attention: RESPA Office  
U.S. Department of Housing and Urban Development  
451 7th Street, S.W.  
Room 4100  
Washington, D.C. 20410

## THE HOMEBUYER'S OBLIGATIONS (REPAYMENT OF LOAN AND MAINTENANCE OF HOME)

At settlement you will sign papers legally obligating you to pay the mortgage loan financing the purchase of your home. You must pay according to the terms of the loan - interest rate, amount and due date of each monthly payment, repayment period - specified in the documents signed by you. You will probably sign at settlement a note or bond which is your promise to repay the loan for the unpaid balance of the purchase price. You will also sign a mortgage deed of trust which pledges your home as security for repayment of the loan.

Failure to make monthly mortgage payments on time may lead to late payment charge, if provided for in the documents. If you default on the loan by missing payments altogether and do not make them up within a period of time usually set by State law, the documents also specify certain actions which the lender may take to recover the amount owed. Ultimately, after required notice to you, default could lead to foreclosure and sale of the home which secures your loan.

You should also be careful to maintain your home in a proper state of repair, both for your own satisfaction and comfort as the occupant and because the home is security for your loan. The mortgage deed of trust may in fact specifically obligate you to keep the property in good repair and not allow deterioration.

Read the documents carefully at or before settlement, and be aware of your obligations as a homeowner.

### PART TWO

This part of the booklet provides an item-by-item discussion of possible settlement services that may be required and for which you may be charged. It also provides a sample of the Uniform Settlement Statement form, and worksheets which you may find handy in comparing costs from different service providers.

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<b>U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</b>  <b>SETTLEMENT STATEMENT</b>		<b>B. TYPE OF LOAN</b> 1. <input type="checkbox"/> FHA    2. <input type="checkbox"/> FmHA    3. <input type="checkbox"/> CONV. UNINS. 4. <input type="checkbox"/> VA    5. <input type="checkbox"/> CONV. INS. 6. File Number: _____ 7. Loan Number: _____ 8. Mortgage Insurance Case Number: _____	
<p><b>C. NOTE:</b> This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.</p>			
<b>D. NAME OF BORROWER:</b>		<b>E. NAME OF SELLER:</b>	
<b>G. PROPERTY LOCATION:</b>		<b>H. SETTLEMENT AGENT:</b>	
<b>PLACE OF SETTLEMENT:</b>		<b>I. SETTLEMENT DATE:</b>	

J. SUMMARY OF BORROWER'S TRANSACTION	
<b>100. GROSS AMOUNT DUE FROM BORROWER:</b>	
101. Contract sales price	
102. Personal property	
103. Settlement charges to borrower (line 1400)	
104.	
105.	
<i>Adjustments for items paid by seller in advance</i>	
106. City/town taxes to	
107. County taxes to	
108. Assessments to	
109.	
110.	
111.	
112.	
<b>120. GROSS AMOUNT DUE FROM BORROWER</b>	
<b>200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:</b>	
201. Deposit or earnest money	
202. Principal amount of new loan(s)	
203. Existing loan(s) taken subject to	
204.	
205.	
206.	
207.	
208.	
209.	
<i>Adjustments for items unpaid by seller</i>	
210. City/town taxes to	
211. County taxes to	
212. Assessments to	
213.	
214.	
215.	
216.	
217.	
218.	
219.	
<b>220. TOTAL PAID BY/FOR BORROWER</b>	
<b>300. CASH AT SETTLEMENT FROM/TO BORROWER</b>	
301. Gross amount due from borrower (line 120)	
302. Less amounts paid by/for borrower (line 220)	( )
<b>303. CASH ( <input type="checkbox"/> FROM ) ( <input type="checkbox"/> TO ) BORROWER</b>	

K. SUMMARY OF SELLER'S TRANSACTION	
<b>400. GROSS AMOUNT DUE TO SELLER:</b>	
401. Contract sales price	
402. Personal property	
403.	
404.	
405.	
<i>Adjustments for items paid by seller in advance</i>	
406. City/town taxes to	
407. County taxes to	
408. Assessments to	
409.	
410.	
411.	
412.	
<b>420. GROSS AMOUNT DUE TO SELLER</b>	
<b>500. REDUCTIONS IN AMOUNT DUE TO SELLER:</b>	
501. Excess deposit (see instructions)	
502. Settlement charges to seller (line 1400)	
503. Existing loan(s) taken subject to	
504. Payoff of first mortgage loan	
505. Payoff of second mortgage loan	
506.	
507.	
508.	
509.	
<i>Adjustments for items unpaid by seller</i>	
510. City/town taxes to	
511. County taxes to	
512. Assessments to	
513.	
514.	
515.	
516.	
517.	
518.	
519.	
<b>520. TOTAL REDUCTION AMOUNT DUE SELLER</b>	
<b>600. CASH AT SETTLEMENT TO/FROM SELLER</b>	
601. Gross amount due to seller (line 420)	
602. Less reductions in amount due seller (line 520)	( )
<b>603. CASH ( <input type="checkbox"/> TO ) ( <input type="checkbox"/> FROM ) SELLER</b>	

L. SETTLEMENT CHARGES				PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$ @ % =					
Division of Commission (line 700) as follows:					
701. \$	to				
702. \$	to				
703. Commission paid at Settlement					
704.					
800. ITEMS PAYABLE IN CONNECTION WITH LOAN					
801. Loan Origination Fee	%				
802. Loan Discount	%				
803. Appraisal Fee	to				
804. Credit Report	to				
805. Lender's Inspection Fee					
806. Mortgage Insurance Application Fee to					
807. Assumption Fee					
808.					
809.					
810.					
811.					
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE					
901. Interest from	to	@ \$	/day		
902. Mortgage Insurance Premium for months to					
903. Hazard Insurance Premium for years to					
904. years to					
905.					
1000. RESERVES DEPOSITED WITH LENDER					
1001. Hazard insurance	months @ \$		per month		
1002. Mortgage insurance	months @ \$		per month		
1003. City property taxes	months @ \$		per month		
1004. County property taxes	months @ \$		per month		
1005. Annual assessments	months @ \$		per month		
1006.	months @ \$		per month		
1007.	months @ \$		per month		
1008.	months @ \$		per month		
1100. TITLE CHARGES					
1101. Settlement or closing fee	to				
1102. Abstract or title search	to				
1103. Title examination	to				
1104. Title insurance binder	to				
1105. Document preparation	to				
1106. Notary fees	to				
1107. Attorney's fees	to				
(includes above items numbers;				)	
1108. Title insurance	to				
(includes above items numbers;				)	
1109. Lender's coverage	\$				
1110. Owner's coverage	\$				
1111.					
1112.					
1113.					
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES					
1201. Recording fees: Deed \$		: Mortgage \$		: Release \$	
1202. City/county tax/stamps: Deed \$		: Mortgage \$			
1203. State tax/stamp: Deed \$		: Mortgage \$			
1204.					
1205.					
1300. ADDITIONAL SETTLEMENT CHARGES					
1301. Survey	to				
1302. Pest inspection	to				
1303.					
1304.					
1305.					
1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K)					

SETTLEMENT COSTS WORK SHEET <i>(Use this worksheet to compare the charges of various lenders and providers of settlement services.)</i>	PROVIDER 1	PROVIDER 2	PROVIDER 3
<b>800. ITEMS PAYABLE IN CONNECTION WITH LOAN:</b>			
801. Loan Origination Fee                   %			
802. Loan Discount                        %			
803. Appraisal Fee                       to			
804. Credit Report                       to			
805. Lender's Inspection Fee			
806. Mortgage Insurance Application Fee   to			
807. Assumption Fee			
808.			
809.			
810.			
811.			
<b>900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE:</b>			
901. Interest from           to           @ \$           per day			
902. Mortgage Insurance Premium for           months to			
903. Hazard Insurance Premium for           years to			
904.   years to			
905.			
<b>1000. RESERVES DEPOSITED WITH LENDER:</b>			
1001. Hazard Insurance                   months @ \$           per month			
1002. Mortgage Insurance               months @ \$           per month			
1003. City property taxes               months @ \$           per month			
1004. County property taxes           months @ \$           per month			
1005. Annual assessments               months @ \$           per month			
1006.                                       months @ \$           per month			
1007.                                       months @ \$           per month			
1008.                                       months @ \$           per month			
<b>1100. TITLE CHARGES:</b>			
1101. Settlement or closing fee           to			
1102. Abstract or title search           to			
1103. Title examination                 to			
1104. Title insurance binder           to			
1105. Document preparation           to			
1106. Notary fees                       to			
1107. Attorney's fees                   to			
<i>(includes above items numbers:)</i>			
1108. Title insurance                   to			
<i>(includes above items numbers:)</i>			
1109. Lender's coverage               \$			
1110. Owner's coverage                 \$			
1111.			
1112.			
1113.			
<b>1200. GOVERNMENT RECORDING AND TRANSFER CHARGES:</b>			
1201. Recording fees: Deed \$           ; Mortgage \$           ; Releases \$			
1202. City/county tax/stamps: Deed \$           ; Mortgage \$			
1203. State tax/stamps: Deed \$           ; Mortgage \$			
1204.			
1205.			
<b>1300. ADDITIONAL SETTLEMENT CHARGES:</b>			
1301. Survey                           to			
1302. Pest inspection                 to			
1303.			
1304.			
1305.			
<b>1400. TOTAL SETTLEMENT CHARGES. ....</b>			

Sections A through I of the Uniform Settlement Statement contain information concerning the loan and parties to the settlement. Sections J and K contain a summary of all funds transferred between the buyer, seller, lender, and providers of settlement services. The bottom line in the left-hand column shows the net cash to be paid by the borrower, while the bottom line in the right-hand column shows the cash due the seller.

Section L is a list of settlement services that may be required and for which you may be charged. Blank lines are provided for any additional settlement services.

You would add up the costs entered on the lines of Section L, and carry them forward to Sections J and K, in order to arrive at the net cash figures on the bottom lines of the left and right columns.

#### Uses of This Form

(1) Settlement services comparisons. As you shop for settlement services, you can use the Settlement Costs Worksheet as a handy guide, noting on it the different services required by different lenders and the different fees quoted by different service providers.

(2) Disclosure of actual settlement costs. A copy of this form, or one with similar terminology, sequence and numbering of line items, must be filled out by the person conducting the settlement meeting. Your right to inspect the form one business day before settlement was discussed earlier in this booklet. The form will be completely filled in at the settlement meeting.

#### SPECIFIC SETTLEMENT SERVICES

The following defines and discusses each specific settlement service. The numbers correspond to the items listed in Section L of the Uniform Settlement Statement form.

##### 700. SALES/BROKER'S COMMISSION

This is the total dollar amount of sales commission, usually paid by the seller. Fees are usually a percentage of the selling price of the house, and are intended to compensate brokers

or salesmen for their services. Custom and/or the negotiated agreement between the seller and the broker determine the amount of the commission.

701-702. Division of Commission

If several brokers or salesmen work together to sell the house, the commission may be split among them. If they are paid from funds collected for settlement, this is shown on lines 701-702.

703. Commission Paid at Settlement

Sometimes the broker will retain the earnest money deposit to apply towards his commission. In this case, line 703 will show only the remainder of the commission which will be paid at settlement.

800. ITEMS PAYABLE IN CONNECTION WITH LOAN

These are the fees which lenders charge to process, approve and make the mortgage loan.

801. Loan Origination

This fee covers the lender's administrative costs in processing the loan. Often expressed as a percentage of the loan, the fee will vary among lenders and from locality to locality. Generally the buyer pays the fee unless another arrangement has been made with the seller and written into the sales contract.

802. Loan Discount

Often called "points," a loan discount is a one-time charge used to adjust the yield on the loan to what market conditions demand. It is used to offset constraints placed on the yield by state or federal regulations. Each "point" is equal to

one percent of the mortgage amount. For example, if a lender charges four points on a \$30,000 loan this amounts to a charge of \$1,200.

803. Appraisal Fee

This charge, which may vary significantly from transaction to transaction, pays for a statement of property value for the lender, made by an independent appraiser or by a member of the lender's staff. The lender needs to know if the value of the property is sufficient to secure the loan if you fail to repay the loan according to the provision of your mortgage contract, and the lender must foreclose and take title to the house. The appraiser inspects the house and the neighborhood, and considers sales prices of comparable houses and other factors in determining the value. The appraisal report may contain photos and other information of value to you. It will provide the factual data upon which the appraiser based the appraised value. Ask the lender for a copy of the appraisal report or review the original.

The appraisal fee may be paid by either the buyer or the seller, as agreed in the sales contract. In some cases this fee is included in the Mortgage Insurance Application Fee. See line 806.

804. Credit Report Fee

This fee covers the cost of the credit report, which shows how you have handled other credit transactions. The lender uses this report in conjunction with information you submitted with the application regarding your income, outstanding bills, and employment, to determine whether

you are an acceptable credit risk and to help determine how much money to lend you.

Where you encounter credit reporting problems you have protections under the Fair Credit laws as summarized under "Home-buyer's Rights" in this booklet.

805. Lender's Inspection Fee

This charge covers inspections, often of newly constructed housing, made by personnel of the lending institution or an outside inspector. (Pest or other inspections made by companies other than the lender are discussed in connection with line 1302).

806. Mortgage Insurance Application Fee

This fee covers processing the application for private mortgage insurance which may be required on certain loans. It may cover both the appraisal and application fee.

807. Assumption Fee

This fee is charged for processing papers for cases in which the buyer takes over payments on the prior loan of the seller.

900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE

You may be required to prepay certain items, such as interest, mortgage insurance premium and hazard insurance premium, at the time of settlement.

901. Interest

Lenders usually require that borrowers pay at settlement the interest that accrues on the mortgage from the date of settlement to the beginning of the period covered by the first monthly payment. For example, suppose your settlement takes place on April 16, and your first

regular monthly payment will be due June 1, to cover interest charges for the month of May. On the settlement date, the lender will collect interest for the period from April 16 to May 1. If you borrowed \$30,000 at 9% interest, the interest item would be \$112.50. This amount will be entered on line 901.

902. Mortgage Insurance  
Premium

Mortgage insurance protects the lender from loss due to payment default by the home owner. The lender may require you to pay your first premium in advance, on the day of settlement. The premium may cover a specific number of months or a year in advance. With this insurance protection, the lender is willing to make a larger loan, thus reducing your downpayment requirements. This type of insurance should not be confused with mortgage life, credit life, or disability insurance designed to pay off a mortgage in the event of physical disability or death of the borrower.

903. Hazard Insurance  
Premium

This premium prepayment is for insurance protection for you and the lender against loss due to fire, windstorm, and natural hazards. This coverage may be included in a Homeowners Policy which insures against additional risks which may include personal liability and theft. Lenders often require payment of the first year's premium at settlement.

A hazard insurance or homeowner's policy may not protect you against loss caused by flooding. In special flood-prone areas identified by HUD, you may be required

by federal law to carry flood insurance on your home. Such insurance may be purchased at low federally subsidized rates in participating communities under the National Flood Insurance Act.

**1000. RESERVES DEPOSITED  
WITH LENDERS**

Reserves (sometimes called "escrow" or "impound" accounts) are funds held in an account by the lender to assure future payment for such recurring items as real estate taxes and hazard insurance.

You will probably have to pay an initial amount for each of these items to start the reserve account at the time of settlement. A portion of your regular monthly payments will be added to the reserve account. RESPA places limitations on the amount of reserve funds which may be required by the lender. Read "Reserve Accounts" in this booklet for reserve calculation procedures. Do not hesitate to ask the lender to explain any variance between your own calculations and the figure presented to you.

**1001. Hazard Insurance**

The lender determines the amount of money that must be placed in the reserve in order to pay the next insurance premium when due.

**1002. Mortgage Insurance**

The lender may require that part of the total annual premium be placed in the reserve account at settlement. The portion to be received in reserve may be negotiable.

**1003-1004. City/County  
Property Taxes**

The lender may require a regular monthly payment to the reserve account for property taxes.

**1005. Annual Assessments**

This reserve item covers assessments that may be imposed by subdivisions or municipalities for special improvements (such as sidewalks, sewers or paving) or fees (such as homeowners association fees).

**100. TITLE CHARGES**

Title charges may cover a variety of services performed by the lender or others for handling and supervising the settlement transaction and services related thereto. The specific charges discussed in connection with lines 1101 through 1109 are those most frequently incurred at settlement. Due to the great diversity in practice from area to area, your particular settlement may not include all these items or may include others not listed. Ask your settlement agent to explain how these fees relate to services performed on your behalf. An extended discussion is presented in "Securing Title Services" earlier in this booklet.

**101. Settlement or Closing Fee**

This fee is paid to the settlement agent. Responsibility for payment of this fee should be negotiated between the seller and buyer, at the time the sales contract is signed.

**102-1104. Abstract or Title Search, Title Examination, Title Insurance Binder**

These charges cover the costs of the search and examination of records of previous ownership, transfers, etc., to determine whether the seller can convey clear title to the property, and to disclose any matters on record that could adversely affect the

buyer or the lender. Examples of title problems are unpaid mortgages, judgment or tax liens, conveyances of mineral rights, leases, and power line easements or road right-of-ways that could limit use and enjoyment of the real estate. In some areas, a title insurance binder is called a commitment to insure.

**1105. Document Preparation**

There may be a separate document fee that covers preparation of final legal papers, such as a mortgage, deed of trust, note, or deed. You should check to see that these services, if charged for, are not also covered under some other service fees, ask the settlement agent.

**1106. Notary Fee**

This fee is charged for the cost of having a licensed person affix his or her name and seal to various documents authenticating the execution of these documents by the parties.

**1107. Attorney's Fees**

You may be required to pay for legal services provided to the lender in connection with the settlement, such as examination of the title binder or sales contract. Occasionally this fee can be shared with the seller, if so stipulated in the sales contract. If a lawyer's involvement is required by the lender, the fee will appear on this part of the form. The buyer and seller may each retain an attorney to check the various documents and to represent them at all stages of the transaction including settlement. Where this service is not required and is paid for outside of closing, the person conducting settlement is not obligated to record the fee on the settlement form.

**1108. Title Insurance**

The total cost of owner's and lender's title insurance is shown here. The borrower may pay all, a part or none of this cost depending on the terms of the sales contract or local custom.

**1109. Lender's Title Insurance**

A one-time premium may be charged at settlement for a lender's title policy which protects the lender against loss due to problems or defects in connection with the title. The insurance is usually written for the amount of the mortgage loan and covers losses due to defects or problems not identified by title search and examination. In most areas this is customarily paid by the borrower unless the seller agrees in the sales contract to pay part or all of it.

**1110. Owner's Title Insurance**

This charge is for owner's title insurance protection and protects you against losses due to title defects. In some areas it is customary for the seller to provide the buyer with an owner's policy and for the seller to pay for this policy. In other areas, if the buyer desires an owner's policy he must pay for it.

**200. GOVERNMENT RECORDING  
AND TRANSFER CHARGES**

These fees may be paid either by borrower or seller, depending upon your contract when you buy the house or accept the loan commitment. The borrower usually pays the fees for legally recording the new deed and mortgage (item 1201). These fees, collected when property changes hands or when a mortgage loan is made, may be quite large and are set by state and/or local governments. City, county and/or state tax stamps may have to be purchased as well (item 1201 and 1203).

**1300. ADDITIONAL SETTLEMENT CHARGES****1301. Survey**

The lender or the title insurance company may require that a surveyor conduct a property survey to determine the exact location of the house and the lot line, as well as easements and rights of way. This is a protection to the buyer as well. Usually the buyer pays the surveyor's fees, but sometimes this may be handled by the seller.

**1302. Pest and Other Inspections**

This fee is to cover inspections for termite or other pest infestation of the house. This may be important if the sales contract included a promise by the seller to transfer the property free from pests or pest-caused damage. Be sure that the inspection shows that the property complies with the sales contract before you complete the settlement. If it does not you may wish to require a bond or other financial assurance that the work will be completed. This fee can be paid either by the borrower or seller depending upon the terms of the sales contract. Lenders vary in their requirements as to such an inspection.

Fees for other inspections, such as for structural soundness, are entered on line 1303.

**1400. TOTAL SETTLEMENT CHARGES**

All the fees in the borrower's column entitled "Paid from Borrower's Funds at Settlement" are totaled here and transferred to line 103 of Section J, "Settlement charges to borrower" in the Summary of Borrower's Transaction on page 1

of the Uniform Settlement Statement. All the settlement fees paid by the seller are transferred to line 502 of Section K, Summary of Seller's Transaction on page 1 of the Uniform Settlement Statement.

### PARING LENDER COSTS

If a lender is willing to reduce his fees for such items loan origination, discount points and other one-time settlement charges, he may gain it back if he charges a higher mortgage interest rate.

Here is one rule of thumb which you can use to calculate the combined effect of the interest rate on your loan and the one-time settlement charges (paid by you) such as "points." While not exactly accurate, it is usually close enough for meaningful comparisons between lenders. The rule is, that one-time settlement charges equaling one percent of the loan amount increase the interest rate by one-eighth (1/8) of one percent. The 1/8 factor corresponds to pay a back period of approximately 15 years. If you had instead to hold the property for only five years and pay off the loan at that time, the factor increases to 1/4.

Here is an example of the rule. Consider only those charges which differ between lenders. Suppose you wish to borrow \$30,000. Lender A will make the loan at 8.5 percent interest, but charges 2 percent origination fee, a \$150.00 application fee, and requires that you use a lawyer, for title work, selected by the lender at a fee of \$300.

Lender B will make the loan at 9 percent interest, but has no additional requirements or charges. As part of that nine percent interest, though, Lender B will not charge an application fee and will absorb the lawyer's fee. What are the actual charges in each case?

Begin by relating all of Lender A's one-time charges to percentages of the \$30,000 loan amount:

2 percent origination fee	= 2 percent of loan amount
\$150 application fee	= 0.5 percent of loan amount
\$300 lawyer's fee	= 1 percent of loan amount
Total	= <u>3.5 percent of loan amount</u>

Each 1 percent of the loan amount in charges is the equivalent of 1/8 percent increase in interest, the effective interest

rate from Lender A is the quoted or "contract" interest rate, 8.5 percent plus .44 percent (3.5 times  $1/8$ ), or a total of 8.94 percent interest. Since Lender B has offered a nine percent interest rate, Lender A has made a more attractive offer. Of course, it is more attractive only if you have sufficient cash to pay Lender A's one-time charges and still cover your downpayment, moving expenses, and other settlement costs. This is simply a method to compare diverse costs on an equal basis. In the above illustration, Lender A does not receive the \$300 lawyer fee.

The calculation is sensitive to your assumption about the period of time you plan to own the house before paying off the mortgage. As indicated above, the factor increases to  $1/4$  if you expect to pay off the mortgage in five years. Applying this new factor to the above illustration, the effective interest rate for Lender A would be 8.5 percent plus .87 ( $3.5 \times 1/4$ ) for a total of 9.37 percent interest. Lender A's offer is no longer more attractive than Lender B's which was 9.0 percent.

In doing these calculations you should also be careful as to which one time fees you place into the calculation. For example, if Lender B in the above illustration did not include in his charge a legal fee but told you that you had to secure legal services in order to obtain the loan from him, you would have to add to Lender B's interest rate the legal fee that you had to incur.

You can use this method to compare the effective interest rates of any number of lenders as you shop for a loan. If the lenders have provided Truth-in-Lending disclosures, these are even a better comparative tool. You should question lenders carefully to make sure you have learned of all the charges they intend to make. The good faith estimate you receive when you make a loan application is a good checklist for this information, but it is not precise. Thus, you should ask the lender how the charges and fees are computed.

CALCULATING THE BORROWER'S TRANSACTIONS

A Sample Worksheet

This page is a sample worksheet for a family purchasing a \$35,000 house and getting a new \$30,000 loan. Line 103 assumes that their total settlement charges are \$1000. (This figure is the sum of all the individual settlement charges, which will be listed in detail in Section L, of their Uniform Settlement Statement.) The \$1000 figure is merely illustrative. The amount may be higher in some areas and for some types of transactions, and lower for others.

J. SUMMARY OF BORROWER'S TRANSACTION	
<b>100. GROSS AMOUNT DUE FROM BORROWER:</b>	
101. Contract sales price	35,000.00
102. Personal property	200.00
103. Settlement charges to borrower (line 1400)	1,000.00
104.	
105.	
<i>Adjustments for items paid by seller in advance</i>	
106. City/town taxes to	
107. County taxes to	
108. Assessments 6-30 to 7-31 (owners assn)	20.00
109. Fuel oil 25 to gal @ 50/gal	12.50
110.	
111.	
112.	
<b>120. GROSS AMOUNT DUE FROM BORROWER</b>	<b>36,232.50</b>
<b>200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:</b>	
201. Deposit or earnest money	1,000.00
202. Principal amount of new loan(s)	30,000.00
203. Existing loan(s) taken subject to	
204.	
205.	
206.	
207.	
208.	
209.	
<i>Adjustments for items unpaid by seller</i>	
210. City/town taxes to	
211. County taxes 1-1 to 6-30 @\$600/vr	300.00
212. Assessments 1-1 to 6-30 @\$100/vr	50.00
213.	
214.	
215.	
216.	
217.	
218.	
219.	
<b>220. TOTAL PAID BY/FOR BORROWER</b>	<b>31,350.00</b>
<b>300. CASH AT SETTLEMENT FROM/TO BORROWER</b>	
301. Gross amount due from borrower (line 120)	36,232.50
302. Less amounts paid by/for borrower (line 220)	31,350.00
<b>303. CASH ( <input checked="" type="checkbox"/> FROM ) ( <input type="checkbox"/> TO ) BORROWER</b>	<b>4,882.50</b>

Your Financial Worksheet

Once you have decided which providers you wish to use for your settlement services and have selected the lender who will make your loan, you can calculate the total estimated cash you will need to complete the purchase. The form below, which is a part of the Uniform Settlement Statement, can be used as a worksheet for this purpose.

J. SUMMARY OF BORROWER'S TRANSACTION	
<b>100. GROSS AMOUNT DUE FROM BORROWER:</b>	
101. Contract sales price	
102. Personal property	
103. Settlement charges to borrower (line 1400)	
104.	
105.	
<i>Adjustments for items paid by seller in advance</i>	
106. City/town taxes to	
107. County taxes to	
108. Assessments to	
109.	
110.	
111.	
112.	
<b>120. GROSS AMOUNT DUE FROM BORROWER</b>	
<b>200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:</b>	
201. Deposit or earnest money	
202. Principal amount of new loan(s)	
203. Existing loan(s) taken subject to	
204.	
205.	
206.	
207.	
208.	
209.	
<i>Adjustments for items unpaid by seller</i>	
210. City/town taxes to	
211. County taxes to	
212. Assessments to	
213.	
214.	
215.	
216.	
217.	
218.	
219.	
<b>220. TOTAL PAID BY/FOR BORROWER</b>	
<b>300. CASH AT SETTLEMENT FROM/TO BORROWER</b>	
301. Gross amount due from borrower (line 120)	
302. Less amounts paid by/for borrower (line 220)	( )
<b>303. CASH ( <input type="checkbox"/> FROM ) ( <input type="checkbox"/> TO ) BORROWER</b>	

10. GROSS AMOUNT DUE  
FROM BORROWER

Page 1 of the Uniform Settlement Statement summarizes all actual costs and adjustments for the borrower and seller, including total settlement fees and charges found on line 1400 of Section L.

1. Contract Sales Price

This is the price of the home agreed to in the sales contract between the buyer and seller.

2. Personal Property

If, at the time the sales contract was made, you and the seller agreed that some items were to be transferred with the house, the price of those items is entered here. If it was agreed to include these items in the price of the home, their cost will be part of the sales price recorded on line 101. Personal property could include items such as carpets, drapes, stove, refrigerator, etc.

3. Settlement Charges  
to Borrower

The total charges detailed in Section L and totaled on line 1400, are recorded here. This figure includes all of the items payable in connection with the loan, items required by the lender to be paid in advance, reserves deposited with the lender, title charges, government recording and transfer charges, and any additional related charges.

-105. Additional  
Costs

This space is for listing any additional amounts owed the seller, such as reserve funds if the buyer is assuming the seller's loan. This may not be applicable to your settlement.

106-112. Adjustments

These include taxes, front footage charges, insurance, rent, fuel and other items that the seller has previously paid for covering a period which runs beyond the settlement date. The costs are usually divided on a proportional basis with the seller being reimbursed for charges accruing after the date of transfer of title.

## 120. GROSS AMOUNT DUE

This is the total of lines 101 through 112.

## 200. AMOUNTS PAID BY OR ON BEHALF OF BORROWER

201. Deposit or Earnest Money

This is the amount which you paid against the sales price when the sales contract was signed. It is credited to the purchase.

202. Principal Amount of New Loan

This is the amount of the new mortgage which you will repay to the lender in the future.

203. Existing Loan(s)

If you are taking over the seller's mortgage(s) instead of obtaining a new loan or paying all cash, the amount still owed on those prior loans will be shown here.

210-219. Adjustments

This includes taxes or assessments which become due after settlement, but which the seller pays because they cover a period of time prior to settlement. See "Reserve Accounts" for a further discussion of these matters.

## 220. TOTAL AMOUNTS PAID BY/FOR BORROWER

This is the sum of lines 201 through 219.

300. CASH AT SETTLEMENT  
FROM/TO BUYER

Remaining are the summary lines which are 301-303 for the borrower (and 601-603 for the seller). Subtracting line 302 (gross amount paid by or for the borrower) from line 301 (gross amount due from the borrower) results in the net cash the borrower must pay at settlement.

RESERVE ACCOUNTS

In most instances, a monthly mortgage payment is made up of a payment on the principal amount of the mortgage debt which reduces the balance due on the loan, an interest payment which is the charge for use of the borrowed funds, and a reserve payment (also known as an escrow or impound payment) which represents approximately one-twelfth of the estimated annual insurance premiums, property taxes, assessments and other recurring charges.

When settlement occurs you may need to make an initial deposit into the reserve account; otherwise, your regular monthly deposits to it will not accumulate enough to pay the taxes, insurance or other charges when they fall due. Under RESPA, the maximum amount the lender can require borrowers or prospective borrowers to deposit into a reserve account at settlement is a total gross amount not to exceed the sum of: (a) an amount that would have been sufficient to pay taxes, insurance premiums, or other charges which would have been paid under normal lending practices, and ending on the due date of the first full monthly mortgage installment payment; plus (b) an additional amount not in excess of one-sixth (2 months) of the estimated total amount of taxes, insurance premiums and other charges to be paid on the dates indicated above during any twelve month period to follow.

An illustration will help clarify this calculation. Assume the following set of facts on a loan, and that taxes are paid at the end of the period against which taxes are assessed.

Example:

Settlement date	April 30, 1977
Due Date of first mortgage loan repayment	June 1, 1977
Taxes due yearly	\$360.00
Monthly tax accrual	\$ 30.00
Due date for taxes	December 1st for the calendar year

The reserve amount for category (a) is \$180.00. This represents the amount of taxes accruing between December 1, 1976 (the last tax due date) and May 30, 1977 (\$30.00 x 6 months). Reserve amounts chargeable under category (b) could be up to two months advance payment times \$30.00 or a total of \$60.00. Therefore, total reserve deposits for taxes at settlement would be a maximum of \$240.00. Changing the due date for taxes and/or the first mortgage payment results in a different reserve amount for the same illustration.

The same procedure is used to determine the maximum amounts that can be collected by the lender for insurance premiums or other charges. You need to know the charges and due dates in order to compute the amounts.

Once you begin your monthly mortgage payments, you cannot be required to pay more than one-twelfth of the annual taxes and other charges each month, unless a larger payment is necessary to make up for a deficit in your account or to maintain the cushion of the one-sixth of annual charges mentioned in (b) above. A deficit may be caused, for example, if your taxes or insurance premiums are raised.

You should note that the above monthly mortgage payments reserve limitations apply to all RESPA covered mortgage loans whether they were originated before or after the implementation of RESPA.

#### ADJUSTMENTS BETWEEN BUYER AND SELLER

The previous section dealt with setting up and maintaining your reserve account with the lender. At settlement it is also usually necessary to make an adjustment between buyer and seller for property taxes and other charges. This is an entirely separate matter from the initial deposit which the borrower makes into the new reserve account.

The adjustments between buyer and seller are shown in Sections J and K of the Uniform Settlement Statement. In the example given in the foregoing section, the taxes, which are payable annually, had not yet been paid when the settlement occurs on April 30. The homebuyer will have to pay a whole year's taxes on the following December 1. However, the seller lived in the house for the first four months of the year. Thus, four-twelfths of the year's taxes are to be paid by the seller. Accordingly, lines 208 and 508 on the Uniform

Settlement Statement would read as follows:

County taxes 1/1/77 to 4/30/77 \$120.00

The buyer would be given credit for this amount in the settlement and the seller would have to pay this amount or count it as a deduction from sums payable to the seller.

In some areas taxes are paid at the beginning of the taxable year. If, in our example, the taxes were paid by the seller on January 1, 1977 for the following tax year ending December 31, 1977, the buyer will have to compensate the seller for the taxes paid by the seller for those months that the buyer will be in possession of the property (April 30-December 31). This adjustment will be shown on lines 107 and 407 of the Uniform Settlement Statement. With settlement occurring on April 30, those lines will read as follows:

County taxes 4/30/77 to 12/31/77 \$240.00

This amount would be credited to the seller in the settlement.

Similar adjustments are made for insurance (if the policy is being kept in effect), special assessments, fuel and other utilities, although the billing periods for these may not always be on an annual basis. Be sure you work out these prorations with the seller prior to settlement. It is wise for you to notify utility companies of the change in ownership and ask for a special reading on the day of settlement, with the bill for pre-settlement charges to be mailed to the seller at his new address. This will eliminate much confusion that can result if you are billed for utilities which cover the time when the seller owned the unit.

## APPENDIX A

CONSUMER LITERATURE ON HOME PURCHASING, MAINTENANCE, PROTECTION,  
AND OTHER TOPICS

U. S. Department of Housing and Urban Development

Appraisals

Questions and Answers on FHA Home Property Appraisals HUD-38-F

Condominiums

Financing Condominium Housing HUD-77-F  
HUD/FHA Non-Assisted Program for Condominium Housing HUD-227-F

Questions About Condominiums HUD-365-F  
HUD/FHA Comparison of Condominium and Cooperative Housing HUD-321-F

Cooperatives

Let's Consider Cooperatives HUD-17-F  
HUD/FHA Program for Unsubsidized Cooperative Housing HUD-256-F

Home Mortgage Insurance

Home Mortgage Insurance HUD-43-F  
Programs for Home Mortgage Insurance HUD-97-F

Home Ownership

The Home Buying Serviceman, HUD-121-F  
HUD's Home Ownership Subsidy Program HUD-419-HPMC

Miscellaneous

Protecting Your Home Against Theft HUD-315-F  
Termites HUD-323-F  
Be An Energy Miser in Your Home HUD-324-PA

Mobile Homes

Buying and Financing a Mobile Home HUD-243-F  
Mobile Home Financing Through HUD HUD-265-F

General Interest

Wise Home Buying HUD-267-F  
Should You Buy or Rent a Home HUD-328-F

Protecting Your Housing Investment	HUD-346-PA
Home Owners Glossary of Building Terms	HUD-369-F
Home Buyers Vocabulary	HUD-383-HM
Your Housing Rights	HUD-177-EO

Contact: U.S. Department of Housing & Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, Room B-258 or HUD Regional Area and Insuring Offices throughout the country.

### U.S. Veterans Administration

Pointers for the Veteran Homeowner  
 Questions and Answers on Guaranteed and Direct Loans for Veterans  
 To the Home-Buyer Veteran

Contact: Your Nearest VA Regional Office

### U.S. Department of Agriculture

Selecting and Financing a Home

Contact: Office of Communications, U.S. Department of Agriculture  
 Washington, D.C. 20250

### U.S. Department of Labor

Rent or Buy? (No. 178D)

Contact: Consumer Information Center,  
 Pueblo, Colorado 81009

### General Services Administration

Consumer Information: A Catalog of Selected Federal Publications

Contact: Consumer Information Center,  
 Pueblo, Colorado 81009

#### Equal Credit Opportunity Notice

The lender may provide the applicant the Equal Credit Opportunity Notice on this page. (Federal Reserve Board Regulation B, 12 CFR 202.4(d)) The Equal Credit Opportunity Act, 15 U.S.C. 1691 et. seq., prohibits discrimination against credit applicants on the basis of sex and marital status. Beginning March 23, 1977, the Act extends this protection to race, color, religion, national origin, age, whether all or part of the applicant's income is derived from any public assistance program, or if the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The applicant should note that the lender must either provide the notice here, on an application form, or on some other separate sheet of paper. This notice provides the name of the lender's supervising agency.

[FB Doc.76-16775 Filed 6-7-76;10:33 am]

HUD-146-22  
HUD-155-2  
HUD-163-2M  
HUD-177-20

Protecting the Public Interest  
from Owners' Abuse of Building Terms  
from Owners' Abuse of Building Terms  
from Owners' Abuse of Building Terms

Contact: U.S. Department of Housing & Urban Development, 451 Broadway  
New York, N.Y. 10013, Room B-125  
and Regional Area and Lending Offices throughout  
the country.

U.S. Veterans Administration

Pointers for the Veteran Homeowner  
Questions and Answers on Guaranteed and Direct Loans for Veterans  
to the Home-Owned Veterans

Contact: Your Nearest VA Regional Office

U.S. Department of Agriculture

Selecting and Financing a Home

Contact: Office of Communications, U.S. Department of Agriculture  
Washington, D.C. 20250

U.S. Department of Labor

Real or Boy? (No. 1780)

Contact: Consumer Information Center  
ueblo, Colorado 81002

General Services Administration

Consumer Information: A Catalog of Federal Products

Contact: Consumer Information Center  
ueblo, Colorado 81002

Equal Credit Opportunity Notice

The Federal Reserve Board provides the Equal Credit Opportunity  
Notice on this page. (Federal Reserve Board Regulation B, 12 CFR 202)  
The Equal Credit Opportunity Act, 15 U.S.C. 1691 et. seq. prohibits  
discrimination against credit applicants on the basis of sex and  
marital status. Beginning March 23, 1977, the Act extends this  
protection to race, color, religion, national origin, age, and marital  
status. If the applicant's income is derived from any public assistance  
program, or if the applicant has in good faith exercised any right under  
the Consumer Credit Protection Act. The applicant should note that the  
lender must either provide the notice here, or an equivalent form  
in the other separate sheet of paper. The notice provides the  
of the lender's supervising agency.



HUD-433-CARF  
June 1976