

The U.S. Department of Housing and Urban Development (HUD) has announced significant revisions to the lending requirements under **RESPA/Regulation X**. These changes impact the Good Faith Estimate (GFE) and HUD Settlement Statements (HUD-1 and HUD-1A) and will be effective with mortgage applications taken on or after **January 1, 2010**. *These important regulatory changes will require loan originators to ensure that borrowers are better positioned to understand their mortgage transaction.*

A summary of the four key changes are below. You will receive additional information as it becomes available.

## 1. Good Faith Estimate (GFE) and HUD Settlement Statements (HUD-1 and HUD-A) Forms

The GFE and HUD-1 forms have been re-designed with substantial changes, which standardize how fees are disclosed, making it easier for borrowers to compare offers between lenders. The GFE and HUD-1 have also been aligned to provide even greater transparency for borrowers when comparing settlement charges at closing.

Specific enhancements include:

- All lenders will be required to disclose fees in the same manner
- Loan feature information has been added to the forms
- All lender fees will be combined and shown as a single amount (fees paid by lenders, property sellers or builders and fees paid outside of closing will be included in the total settlement charges)
- A reconciliation of the GFE to the HUD-1 will be required

## 2. Settlement Service Provider List – Borrower’s Right to Choose

Lenders will be required to provide the borrower with a Settlement Service Provider List that includes settlement service provider names. This pertains to any settlement service where the service is required, but the borrower can select a provider – for example: title, pest and septic inspections. In addition:

- The list must include settlement service providers available in the local market
- If the borrower selects a service provider from the list, the lender will be subject to a 10% fee tolerance (see #4 below) for the charges associated with that provider
- If the borrower selects a service provider not on the list, the settlement service is not subject to the tolerance.

## 3. Re-Disclosure Restrictions

Subject to #2 above, lenders will be bound to fees disclosed on the initial GFE, except in certain situations where there are “changed circumstances” associated with a loan.

- Changed Circumstances:
  - If a changed circumstance occurs, only those fees affected by the changed circumstance may change
  - If the estimates within the GFE are inaccurate but no changed circumstance occurs, the lender is bound to the amounts shown on the last disclosed GFE
  - If a changed circumstance occurs, the lender must re-disclose within three business days after receipt of the information regarding the changed circumstance or the ability to re-disclose (and change a fee or term) is lost
  - Lenders must retain documentation relating to the changed circumstance and fee change, if re-disclosed, for three years
- The definition of “changed circumstances” includes the following:

- Acts of God, war or disaster
- Changes or inaccuracies in information relating to the borrower or the transaction that was relied upon in providing the GFE
- Changes to the loan amount or estimated value of the property
- New information regarding the borrower or transaction not relied upon when the initial disclosure was provided
- A lock event (locking the rate or expiration of the lock) or a change in the deal structure requested by the borrower

#### 4. Fee Tolerances

In an effort to improve the accuracy of the settlement charge information provided to borrowers, new restrictions will be placed on lenders regarding how and when fees disclosed on the GFE may change. Changes to settlement charges between the final GFE and HUD-1 will be defined in three categories:

1. Charges that cannot increase at settlement:
  - a. Origination charges
  - b. Discount or premium points for a specific interest rate selected
  - c. Adjusted origination charges (after the interest rate is locked)
  - d. Transfer taxes
2. Charges that cannot increase in the aggregate by more than 10% at settlement:
  - a. Required settlement services that the lender selects, such as appraisal services
  - b. Title services and lender's title insurance (if selected by lender or if the borrower uses a company identified on the Settlement Services Provider List)
  - c. Owner's title insurance (if the borrower uses a company identified on the Settlement Services Provider List).
  - d. Required settlement services (such as Pest Inspections) that the borrower selects from the Settlement Services Provider List
  - e. Government recording charges
3. Charges that can increase at settlement:
  - a. Required settlement services that the borrower can select, if the borrower selects a service provider not listed on the Settlement Services Provider List
  - b. Title services and lender's title insurance, if the borrower selects a service provider not listed on the Settlement Services Provider List
  - c. Owner's title insurance, if the borrower selects a service provider not listed on the Settlement Services Provider List
  - d. Initial deposit for borrower escrow account
  - e. Daily interest charges
  - f. Homeowner's insurance

**Note:** For 1 and 2 above, these fees may change prior to closing should a changed circumstance occur that directly impacts the fee and a revised GFE is provided within the 3-business-day time period after receipt of the information regarding the changed circumstance. If a violation of the tolerances for charges listed on the GFE occurs, loan originators may cure the violation by reimbursing the borrower for the excess amount of the charge at settlement or

within 30 calendar days after settlement. Reimbursement is deemed timely if delivered or mailed within 30 calendar days.

#### HUD FAQs

In response to the above amendments to RESPA, HUD has issued multiple Frequently Asked Questions (FAQs). The latest version of the FAQs is posted on HUD's website at:

[http://www.hud.gov/offices/hsg/ramh/res/resp\\_a\\_hm.cfm](http://www.hud.gov/offices/hsg/ramh/res/resp_a_hm.cfm)

**Loans with applications taken after December 31, 2009 must comply**