

Title 24—Department of Housing and  
Urban Development

SUBTITLE A—OFFICE OF THE  
SECRETARY

[Docket No. R75-318]

PART 82—REAL ESTATE SETTLEMENT  
PROCEDURES

On February 18, 1975, 40 FR 7072, the Department published a notice of proposed rulemaking which would amend Subtitle A by adding a new Part 82. This part implements sections 4, 5 and 6 of the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601, which provide for a settlement cost statement form, a special information booklet to be distributed at time of loan application, and an itemized disclosure of each charge arising in connection with each settlement that involves a federally related mortgage loan transaction. A general notice prescribing the text of the special information booklet is being published concurrently with the regulations. The final versions of the uniform disclosure settlement statement, and the Truth in Lending statement which is a part of it, are included as Appendices A and B of the regulations. The uniform disclosure settlement statement is required by section 4 of the Act to include the information and data required for relevant transactions under the Federal Truth in Lending Act and the regulations issued thereunder by the Federal Reserve Board. On March 24, 1975, (40 FR 13008) the Board published a proposed standard Truth in Lending Statement to satisfy the requirements of the Act. The Board's final revision of the form and instructions are included in these regulations as Appendix B. As a result of the invitation for public comment contained in the notice for rulemaking, more than 500 responses have been received. The Department has considered each comment carefully and as a result has adopted certain changes in both the regulations and the accompanying form, as they were proposed. The principal changes are as follows:

GENERAL COMMENTS

A number of comments objected to the overall concept of the Act, arguing that the conduct of real estate transactions was essentially a local matter, that uniformity in forms was impractical, that advance disclosure would not be of assistance to consumers, and that the procedures required by the Act would add to paperwork and costs of lenders and providers of settlement services.

COVERAGE

Numerous comments requested that the scope of coverage be defined. The final regulations provide that they apply to cases involving a purchase or transfer of property. Refinancings, junior mortgages, consumer borrowings, and other cases in which there is no transfer of title to the real estate are not covered. Transfers in which an existing loan is assumed or taken subject to are covered only if the loan terms are modified or

the lender imposes charges exceeding \$50.

The geographical coverage of the proposed regulation was unclear, as several comments pointed out. The final regulations apply to all territories and possessions of the United States in addition to the continental United States and Puerto Rico.

Several comments requested that exclusions be made for agriculture property and for builders or developers. In response to these comments, the final regulations do not apply to real estate purchased for the purpose of resale to a customer in the ordinary course of business. The final regulations apply to mortgages covering agricultural properties. Although numerous comments requested that the regulations not apply to corporations, partnerships, and other business entities, such an exclusion was not made and does not appear to be permissible.

Several comments asked that sales of vacant land be exempted from the regulations. The final regulations exempt such land unless the proceeds of the loan involved in the transaction are to be used, in whole or in part, to finance the construction of a dwelling. Several comments requested clarification of the coverage of mobile homes. The final regulations cover mobile homes and mobile home lots only if both the mobile home and the lot on which it is to be located are being purchased with the proceeds of the loan in question.

It was suggested that the effective date of the regulations be extended beyond June 20, 1975, in order to permit more time for the persons who must implement the Act to study it, prepare forms, and train their personnel. Section 19 of the Act does not give the Department discretion in this regard.

In response to numerous requests, the final regulations provide that lenders may, without special approval, place their own covers on the special information booklets which must be given to loan applicants. Other limited changes are permitted, as set forth in the final regulations or as approved by the Secretary.

Lenders may translate the booklet into other languages for the benefit of their customers, with the approval of the Secretary.

ADVANCE DISCLOSURE

The advance disclosure required by the Act must be made at least 12 days prior to settlement unless the 12-day period is waived. Many comments requested that a period shorter than 12 days be made standard, but section 6(a) of the Act does not leave this matter to the Department's discretion.

In general, advance disclosure must be given not later than 7 days after the date of the loan commitment. In cases in which a loan commitment is made more than 60 days before the anticipated date of settlement, the disclosure may be given later than the loan commitment, but not less than 60 days prior to settlement.

Many comments asked for a clarification of the term "loan commitment". The

final regulations clarify the term, so that general advertising would not be regarded as a loan commitment. On the other hand, suggestions that the term be confined to written commitments were not adopted, since under such a rule, lenders might in some cases forego giving written commitments.

Numerous commentators believed that the lender or its employees were required to prepare and transmit the advance disclosure. The final regulations have been clarified to permit the lender either to do such work itself or to cause it to be done by some other party, such as a title, settlement, or escrow company or a lawyer. However, under the Act (section 6(b)) the lender remains responsible.

Some comments raised questions concerning the degree of efforts which the lender or other person preparing the advance disclosure must exert to determine the charges to be made for various services. If no provider of a particular service has been selected for the transaction at the time of disclosure, the lender may make an estimate based on its knowledge of general practices in the area. If a provider has been selected, that provider should be contacted and asked what his fee will be, unless the lender already knows the provider's schedule of fees and reasonably expects that schedule to be followed in the present case.

Advance disclosure of prorations of taxes and assessments may be based on estimates if exact figures are not available. Such advance disclosure may be based on the assumption that no taxes or assessments are delinquent.

A number of comments asked if the advance disclosure must be reissued if more information about settlement charges become available to the lender after the initial disclosure but prior to settlement. Under the final regulations, reissuance of the advance disclosure is not required.

Some comments pointed out that the retention-of-records requirements in the proposed regulations were not clear and were not identical to the requirements for Truth in Lending statements. Under the final regulations, copies of the advance disclosure and the settlement statement must be retained by the lender for two years, except where the loan file is transferred, and copies must be submitted to the Department upon request. This requirement will enable the Department to fulfill its statutory duty under section 14 of the Act to study and investigate settlement costs and to report to Congress thereon.

The proposed regulations required the signatures of the borrower and the seller on the advance disclosure statement, and several comments objected to this procedure or requested clarification. In the final regulations all requirements for signature on either the advance disclosure or the settlement statement have been dropped.

Mailing of the advance disclosure is permitted by the final regulations, but in certain cases the applicable time limits are 3 days earlier where advance disclosure is mailed.

# WAIVER OF ADVANCE DISCLOSURE

Several comments requested clarification whether a seller or borrower can bind the other by a waiver. The final regulations specify that each party who has not received timely advance disclosure waives this right, so that one party cannot waive for the other.

Numerous comments objected to the shortness of the 18-day period processing rule. The final regulations extend this period to 21 days. The final regulations provide that advance disclosure may be made prior to commitment. This will enable lenders, by making advance disclosure before commitment as to loans requiring speedy settlements, to be able to hold settlement on such loans as soon as the commitment is issued.

Some comments objected to the 3-day advance disclosure requirement in the proposed regulations. The provisions in the final regulations as to waiver take into account the express directions in the Act that, in its prescribing of the waiver regulations and form, the Secretary should take into account the need to protect the borrower's and seller's right to timely disclosure.

In keeping with the Act, the final regulations require that the advance disclosure be received by the parties on or before the time of the loan commitment but not less than 3 days prior to settlement in any waiver situation.

A number of comments pointed out that the execution of the waiver by the lender served no purpose and this requirement was omitted in the final regulations. Similarly, the witness lines are omitted from the waiver form.

## SETTLEMENT STATEMENT

Many of the comments indicated a lack of understanding of the relationship between the advance disclosure form and the settlement statement. Although the same basic format is used for both, it is permissible for lenders to print such forms separately and to place titles on them accordingly. The official version published in these final regulations can be used for both purposes by checking the appropriate square near the top of the form. Ordinarily some of the entries on the settlement statement will differ from those on the advance disclosure (because some charges are different than estimated, or because the date of actual settlement is different from the date estimated). The final regulations specify that copies of the settlement statement must be provided to the buyer and seller as soon after settlement as practicable, and in no case later than three days after settlement.

When charges are paid directly by the borrower or seller, rather than paid through the settlement agent, some comments asked whether it would be necessary to show them on the forms. The final regulations provide special rules for hazard insurance charges, attorney's fees and charges for certain other services independently procured by the borrower or seller.

# FORM DESIGN

Many comments requested flexibility in the design of the form. The final regulations allow some degree of flexibility. Additional items describing common local charges may be inserted in blank spaces on the form. The spacing between lines may be increased for computer printing, and the lender or settlement agent may add a firm name or logotype to the title block. Signature lines may be added.

Numerous comments objected to the number of subtotals which the proposed form required. These have been largely eliminated in the final version. The "disbursements" column has also been eliminated, since nearly all comments which discussed it thought that it would confuse consumers.

A large number of comments requested that separate forms be provided for borrower and seller. The form was redesigned so that separate summaries of the borrower's and seller's transactions appear on page 1, but the information on page 2 must be provided to both borrower and seller, as required by the Act. The instructions permit the lender or settlement agent to send a copy of the form to the borrower with the seller's summary left blank, and similarly to send a copy to the seller with the borrower's summary left blank.

A large number of comments objected to inclusion in the advance disclosure of the liens and charges against the seller's land; these comments asserted that such information would not be available until a title search was completed and payoff letters from existing lenders were obtained, and that the amounts could not therefore be estimated in any meaningful way. The Department believes that this view is correct, and the final instructions to the form permit the portions dealing with these matters to be left blank when the form is used for advance disclosure. This means that in most cases the advance disclosure will not indicate to the seller the amount of cash he can expect to realize from the transaction. However, the portions of the form summarizing the buyer's transaction must be completed when the form is used for advance disclosure, thus indicating to the buyer the amount of cash he will need to complete settlement.

The Department has determined this rule does not have significant impact on the environment and a finding of inapplicability has been prepared pursuant to HUD Handbook 1390.1. A copy of this finding is available during regular business hours for public inspection in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10245, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Accordingly, Subtitle A of Title 24 is amended by adopting a new Part 82—Real Estate Settlement Procedures to read as follows:

## PART 82—REAL ESTATE SETTLEMENT PROCEDURES

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82.1	Authority, scope and purpose.
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82.11	Relation to State laws.

AUTHORITY: Real Estate Settlement Procedures Act of 1974, Pub. L. 93-533 (12 U.S.C. 2601).

### REGULATION X

#### § 82.1 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, herein "RESPA". This part applies to certain 1 to 4 family mortgages, defined as "Home Mortgages" in this part. RESPA Section 4 (Uniform Settlement Statement) authorizes and directs the Secretary to prescribe a uniform settlement statement to be used in the settlement of Home Mortgages. RESPA Section 5 authorizes and directs the Secretary to prescribe special information booklets to be provided by the Lender to each person borrowing money to finance the purchase of certain residential real estate transactions so that he or she may better understand the nature and costs of real estate settlement services. RESPA Section 6 authorizes and directs the Secretary to prescribe the form and implementing regulations by which every Lender, with respect to a Home Mortgage subject to Section 6, shall disclose in advance of settlement every charge arising in connection with the settlement. RESPA Section 12 prohibits imposition by a lender of a fee for or on account of preparing and submitting the statements required by Sections 4 and 6 or by the Truth in Lending Act, 15 U.S.C. 1601 et seq. RESPA section 18(a) authorizes the Secretary to determine whether state laws with respect to settlement practices are inconsistent with any provision of RESPA. Section 18(b) provides that no provision of RESPA or of the laws of a state shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Secretary.

#### § 82.2 Definitions.

For purposes of this part, the following definitions apply, unless the context indicates otherwise.

(a) "Assumption Approval" means the approval by the Lender or his duly authorized agent or representative of an assumption of, or a sale subject to, a Home Mortgage where such approval is

conditioned or based upon a change in the interest rate or other terms and conditions of the promissory note or document creating the mortgage lien, or is made in consideration of the payment of a fee in excess of fifty dollars (\$50) paid to the Lender or his agent, representative or servicer.

(b) "Date of Settlement" means, in the case of a sale or transfer financed by a new mortgage, the date on which the documents creating the mortgage become effective as between the borrower and the Lender, and in the case of a purchase of a property subject to an existing mortgage, whether or not the buyer assumes personal liability, the date on which title is transferred as between seller and buyer not subject to revocation by seller or buyer.

(c) "Days" are computed as follows: All time periods in this part are expressed in days. Periods do not include the day from which they are measured. Where the last day on which an act or event is permitted to occur is a Saturday, Sunday or Federal or State holiday, such act or event may occur on the next succeeding day which is not a Saturday, Sunday or Federal or State holiday. Where a period is 7 days or more, it is measured in calendar days. Where a period is less than 7 days and not specified as calendar days, it is measured in business days, excluding Saturdays, Sundays and Federal or State holidays.

(d) "Federal Lender" means: (1) A lending institution, the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation (FSLIC), the Federal Deposit Insurance Corporation (FDIC) or any other agency of the Federal Government, or (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 made new investments in residential real estate loans aggregating more than \$1,000,000 in either the calendar year in which the Date of Settlement of the Home Mortgage in question occurs or the calendar year prior thereto. Section 103(f) defines "creditor" as follows:

(f) The term "creditor" refers only to creditors who regularly extend, or arrange for the extension of, credit for which the payment of a finance charge is required, whether in connection with loans, sales of property or services, or otherwise. The provisions of this title apply to any such creditor, irrespective of his or its status as a natural person or any type of organization.

(e) "Home Mortgage" means a loan which is not made to finance an exempt transaction under section 82.4(b) 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 title, of the mortgaged property or the loan was previously made and the lender makes an assumption approval in con-

nection with the purchase of or transfer of title to the mortgaged property;

(2) The loan is secured by a lien on or other security interest in real estate, including a fee simple, life estate, remainder interest, or leasehold estate, upon which there is located a structure, including a mobile home owned or to be owned by the borrower and covered or to be covered by the mortgage, designed principally for the occupancy of from 1 to 4 families or upon which such a structure is to be constructed, or purchased in the case of a mobile home, using part or all of the proceeds of the loan, or the loan is secured by a lien or other security interest covering a 1 to 4 family residential condominium unit, or the loan is secured by a pledge of cooperative stock or interest corresponding to a 1 to 4 family residential cooperative unit;

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

(4) The loan is made by a Federal Lender, or 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 is made in connection with a housing or urban development program administered by the Secretary or other agency of the Federal Government, or is eligible for purchase by the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), or the Federal Home Loan Mortgage Corporation (FHLMC). Note that GNMA's authority to purchase mortgages includes broad authority under 12 U.S.C. 1720(a) "to purchase such types, classes, or categories of home mortgages" as the President shall determine to carry out the purposes of 12 U.S.C. 301(b).

(f) "Lender" means, in the case of a new loan, the secured creditor or creditors named as such in the debt obligation and document creating the lien or other security interest, and in the case of an Assumption Approval with respect to a preexisting loan, the current owner or owners of the Home Mortgage at the time of the Assumption Approval.

(g) "Loan Application" means an oral or written application for a Home Mortgage or Assumption Approval received by the Lender or his agent or representative or independent contractor originating the Home Mortgage in the name of the Lender or servicing the Home Mortgage for the Lender. The date of Loan Application is the date of actual receipt.

(h) "Loan Commitment" means a promise by a Lender to a borrower, oral or written, to make a Home Mortgage or Assumption Approval, with respect to a specified property, whether or not such promise is subject to any conditions and whether or not the borrower is obligated to accept such Home Mortgage or Assumption Approval.

(i) "Mortgaged Property" means the real property covered by the Home Mortgage, or the cooperative unit with respect to which stock is pledged to secure the Home Mortgage loan.

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

(k) "RESPA". The Real Estate Settlement Procedures Act of 1974 (Pub. L. 93-533), 12 U.S.C. 2601, as amended.

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

(m) "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.

#### § 82.3 Reliance upon rule, regulation or interpretation by HUD of RESPA.

(a) Section 18(b) of RESPA provides:

No provision of this Act or of 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, 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 18(b), only the following constitute a "rule, regulation, or interpretation thereof by the Secretary":

(1) The Uniform Disclosure/Settlement Statement, HUD Form 1, and HUD instructions set forth in Appendix A, but not including page 3 of the form and the Federal Reserve Board instructions thereto, set forth in Appendix B;

(2) All other provisions and Appendices 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; and

(3) Each formal legal opinion regarding RESPA, designated as a "RESPA Legal Opinion," numbered and dated, by the General Counsel of the Department.

(c) A "rule, regulation, or interpretation thereof by the Secretary" for purposes of RESPA section 18(b) 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.

#### § 82.4 Applicability.

(a) *Transactions covered.* This part applies to loans which constitute Home Mortgages as defined in § 82.2(e). As defined therein, Home Mortgage does not include a home improvement loan or other loan secured by a lien on a 1 to 4 family residential property where the proceeds of the loan are not used to finance the purchase or transfer of the property. Nor does Home Mortgage in-

clude refinancing of a mortgage loan secured by a lien on a 1 to 4 family residential property where there is no transfer of title.

(b) *Exempt transactions.* This part shall not apply to purchases of property for resale in the ordinary course of business.

(c) *Commencement of applicability—*

(1) *Information booklet.* The Special Information Booklet must be distributed with respect to every Loan Application received on or after June 20, 1975.

(2) *Advance disclosure.* After June 20, 1975, advance disclosure, as required by § 82.7 of this Part, must be provided with respect to every Home Mortgage except a Home Mortgage (i) which is made pursuant to a Loan Commitment evidenced by a letter or written agreement signed by the Lender prior to June 20, 1975, and (ii) as to which the Date of Settlement occurs on or before October 20, 1975. Where advance disclosure is required, it may be made prior to June 20, 1975.

(3) *Settlement statement.* The Uniform Disclosure/Settlement Statement shall be used as the settlement statement with respect to every Home Mortgage subject to the advance disclosure requirements pursuant to paragraph (c) (2) of this section.

§ 82.5 Information booklet for persons applying for loans to purchase residential real property.

(a) *Lender to provide information booklet.* Every lender shall provide a copy of the Special Information Booklet currently prescribed by the Secretary to every person who makes a loan application. Where more than one individual makes a loan application, the lender is required to supply a copy of the Special Information Booklet to at least one of the individuals applying. The lender shall supply the Special Information Booklet by delivering it to or placing it in the mail to the applicant not later than the third business day of the lender following the day on which the application is received.

(b) *Printing and duplication.* The Special Information Booklet may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. 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 permitted under paragraph (c) of this section. The Special Information Booklet may not be made a part of a larger document for purposes of distribution under RESPA and this section. Any color, size and quality of paper, type of print, and method of reproduction may be used so long as the booklet is clearly legible and easily readable.

(c) *Permissible changes.* No change to, deletion from or addition 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, or artwork, provided that the words "settlement costs" are used in the title. Names, addresses and telephone numbers of the lender or others and similar information may appear on the cover, but no discussion of the matters covered in the booklet shall appear.

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

(3) The wording may be deleted which precedes the foreword, authorizing the reprinting of the booklet and referring to sale by the Superintendent of Documents, but not the first paragraph, referring to preparation of the booklet by the Secretary.

(4) In the last sentence of the foreword, "a lending institution" may be added after "local consumer affairs agency."

(5) In the "Advance disclosure" section, the third sentence of the second paragraph may be deleted.

(6) In the section, "2. Settlement attorneys, escrow and closing agents," the second paragraph and first sentence of the third paragraph may be deleted.

(7) In section B6, in the paragraph entitled "c. Settlement Agent," the words "and location" may be deleted from the last sentence.

§ 82.6 Uniform Disclosure/Settlement Statement Form.

(a) *Use of Form.* HUD Form 1, "Disclosure/Settlement Statement," pages 1 and 2 of which, with instructions, are set forth in Appendix A to this part, and the third page of which, with instructions, is set forth in Appendix B to this part, shall be used as the advance disclosure statement under RESPA section 6 and § 82.7 of this Part, and as the settlement statement under RESPA section 4 and § 82.8 of this Part.

(b) *Printing and duplication of Form.* The Uniform Disclosure/Settlement Statement Form may be reproduced by lenders or others. Lenders are required to use the form, with the first two pages as prescribed by the Secretary and the third page as prescribed by the Federal Reserve Board. Only the following permissible changes and insertions may be made:

(1) In Block A, the lender or other company reproducing the form may insert its business name and/or logotype and may rearrange, but not delete, the other information which appears in Block A.

(2) In Block F, the name, address and other information regarding the lender may be printed, and a space or spaces may be printed for lender's loan number or similar information.

(3) The form may be printed separately to be used only as an advance disclosure form or to be used only as a form for settlement, in which cases the paragraph entitled "STATEMENT OF ACTUAL COSTS" and items 500 through 603 may be deleted from the form used for advance disclosure, and the paragraph entitled "ADVANCE DISCLOSURE OF COSTS" may be deleted from the form used for settlement.

(4) A statement may be printed at the end of the paragraph "ADVANCE DISCLOSURE OF COSTS", in any style or type of print, that advance disclosure of prorations of taxes and assessments is based upon the assumption that taxes and assessments are not delinquent. Such statement if printed on the form will then be stricken where advance disclosure is not based upon such assumption. See § 82.7(k).

(5) No changes in the size or type style of print or the layout of the first two pages of the form shall be made, except as follows: (A) The layout of the form may only be reset in type if such type style is approximately the same size and appearance, is easily readable, and the entire form layout is identical to the form as prescribed by HUD; and (B) where necessary to accommodate computer equipment, the first two pages of the form may be printed in a larger size of print and different type style and the distance between lines may be increased, but not decreased, but there shall be no other change in the layout and placement of information on the form. As to the third page, see Regulation Z, 12 CFR Part 226, and the Federal Reserve Board instructions in Appendix B.

(6) In the first two pages, items listed in the form not used locally or not used in connection with mortgages by the lender may be lined out in a manner so that they may still be read.

(7) In the first two pages, charges not listed which are made locally may be inserted in blank spaces in any style or type of print of similar size, but which is different from the style and type of print used in the balance of the form (to indicate items not listed nationwide).

(8) Signature lines and customary local recitals prior to signature lines may be added at the end of the second page or at the end of the third page.

(9) Additional blank space may be added above and/or below each page and the form may be printed on rolls, which may have sprocket holes e.g. for computer purposes. The pages may be printed on separate sheets or placed on the front and back of a single sheet, or one above the other on a single, continuous sheet.

(10) The form may be printed on light shades of tinted paper and may be printed in one or more colors of clearly legible inks.

(11) The form may be printed in multi-copy tear-out sets. Such sets or any other method for making copies may delete Block J, lines 100 through 303, from the seller's copy and Block K, lines 400 through 603, from the Borrower's copy.

(12) The form may be translated into any other language with the approval of the Secretary, but items of the Truth in Lending Statement required by law to be stated in English must be so stated.

(13) Any other deviation in pages 1 and 2 of the form is only permissible upon receipt of written approval of the Secretary. Any other deviation in the

page 3 Truth in Lending disclosure must be in accordance with requirements of the Board of Governors of the Federal Reserve System. See Regulation Z, 12 CFR 226.102 and form instructions in Appendix B to this Part. A request to the Secretary for approval must be submitted in writing to the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner, Room 6100, 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.

(c) *HUD-prescribed additions of items to form.* HUD reserves the right to direct the order and the manner in which additional items are added to the first two pages of the form or in which any other changes are made in the first two pages of the form for any locality, jurisdiction or area.

(d) *Additional sheet.* Where there is an unusually large number of insertions for which blank spaces in the first two pages of the form are not sufficient, an additional sheet for such items may be added to the form and referenced at the appropriate place or places in the form. Such additional sheets may be printed. The reverse side of the form may be used instead of an additional sheet.

#### § 32.7 Advance disclosure of settlement costs by lender.

(a) *Lender to provide.* As required by RESPA section 6, each lender making a home mortgage or assumption approval of a home mortgage shall make or cause to be made advance disclosure of settlement costs on HUD Form 1 in accordance with this section.

(b) *Timing of advance disclosure.* Except as provided in paragraphs (c) and (d) of this section, the lender shall place in the mail to or deliver to the borrower and the seller the advance disclosure statement (on HUD Form 1) at any time not later than 7 calendar days after the date of loan commitment. Advance disclosure may be made prior to loan commitment. Settlement shall not occur less than 15 calendar days after such mailing or 12 calendar days after such delivery. Where advance disclosure statements to different parties are mailed or delivered on different dates, the minimum period to settlement provided above shall be the latest date required with respect to any one disclosure statement. See paragraph (p) of this section regarding Truth in Lending disclosure.

*Example 1.* Loan Commitment is made July 2. Settlement is anticipated to occur within 60 days. Advance disclosure statement is delivered to one seller on July 5, mailed to a second seller on July 7 and mailed to borrower on July 9. Settlement may not be held prior to July 24 (15 days from, and not including, July 9). Advance disclosure is timely because it is made not later than July 9 (7 days from, and not including, July 2).

(c) *Timing where settlement is anticipated more than 60 days after loan*

*commitment.* Where as of the date of loan commitment, the date of settlement is anticipated by the lender, based upon information given to the lender, to occur more than 60 calendar days after the date of loan commitment, the lender may in its discretion mail or deliver the advance disclosure statement subsequent to the time prescribed in paragraph (b), but not later than 60 days prior to the anticipated date of settlement. Thereafter, if the lender is advised that the date of settlement is expected to occur still later, the lender may in its discretion mail or deliver the advance disclosure statement at any time not later than 60 calendar days prior to such revised anticipated date of settlement. If at any time subsequent to the date of loan commitment the lender is advised that the date of settlement is anticipated earlier than previously anticipated, lender shall mail or deliver the advance disclosure statement on or before 60 days prior to such revised anticipated date of settlement or, if such revised date is within 67 days of the date lender is advised of the revised anticipated date of settlement, lender shall mail or deliver the advance disclosure statement not later than 7 calendar days after being advised of such revised date of settlement. Nothing in this subsection (c) shall alter or affect the minimum periods between disclosure and settlement set forth in the third sentence of paragraph (b) of this section. See paragraph (p) of this section regarding Truth in Lending disclosure.

*Example 2.* Loan Commitment is made July 1 and settlement is anticipated to occur October 15. Lender may mail or deliver advance disclosure at any time on or before August 14 (60 days before, and not including, October 15). As of August 1, Lender has not yet made advance disclosure and is advised that settlement is anticipated November 15. Lender may mail or deliver advance disclosure statement any time on or before September 14. On September 1, Lender is advised that settlement is anticipated to occur November 1. Lender must mail or deliver advance disclosure statement on or before September 8.

(d) *Waiver of minimum period between advance disclosure and settlement.* The minimum period between advance disclosure and settlement provided in paragraph (b) may be reduced to 3 days from actual receipt of the advance disclosure statement by the borrower and the seller where settlement is held not later than 21 days after the date the loan application was made. Such reduction shall only be made where a copy of the following waiver form is voluntarily executed by each borrower and seller who has not been mailed or delivered the advance disclosure statement on or before the time limit specified in paragraph (b) of this section and is attached to the settlement statement. Such waiver does not waive any applicable right of rescission under the Truth in Lending Act; see Regulation Z, 12 CFR Part 226, for requirements applicable to waiver of right of rescission.

#### WAIVER TO REDUCE PERIOD BETWEEN ADVANCE DISCLOSURE AND SETTLEMENT

##### Identification of Transaction:

Borrower(s): \_\_\_\_\_  
 Seller(s): \_\_\_\_\_  
 Property: \_\_\_\_\_  
 Loan amount: \_\_\_\_\_  
 Lender: \_\_\_\_\_  
 Date of settlement: \_\_\_\_\_

I hereby acknowledge and affirm that I know that the Real Estate Settlement Procedures Act of 1974 requires the Lender to mail to me an advance itemized disclosure in writing of each charge arising in connection with this settlement not later than 15 calendar days prior to the date of settlement, or deliver such disclosure to me not later than 13 days prior to the date of settlement. I further understand that if the lender fails to provide the required disclosure I may recover from it \$500 or actual damages, whichever is greater, plus court costs and a reasonable attorney's fee as determined by the court.

Notwithstanding the above, I hereby waive the right to receive such disclosure 12 days or have it mailed 15 days prior to settlement and I further certify that:

(1) Application for this loan was made not more than 21 calendar days prior to settlement date and I have consented to settlement on that date; and

(2) I received the advance disclosure of settlement costs at least 3 days (excluding Saturdays, Sundays and holidays) prior to the date of settlement.

(3) I understand that I am not required to execute this waiver and may, instead, determine not to waive and to require the advance disclosure of settlement costs to be delivered to me 12 days before settlement or mailed to me 15 days before settlement; and

(4) I understand that if I sign this waiver in advance of the date of settlement, I may revoke this waiver at any time prior to the date of settlement.

Signature(s) Date

(e) *More than one lender.* Where two or more home mortgages are made with respect to the same sale or transfer of the mortgaged property, each lender may independently satisfy the advance disclosure requirements, or they may jointly satisfy the advance disclosure requirements. In either case, each lender shall be fully responsible to the borrower and seller to make the required disclosure.

(f) *Good faith estimates.* Where the exact amount of a charge required to be stated in the advance disclosure statement is not known, the lender may state a good faith estimate made by the lender, or an estimate obtained by the lender from a provider of settlement services which the lender reasonably believes is a good faith estimate. Each estimate must be stated as a specific figure, and not as a range of possible figures. The advance disclosure statement shall state an "(e)" after each figure which is an estimate.

(g) *Charges to be disclosed.* The advance disclosure statement shall state the amount or estimated amount of the charges to be imposed upon the borrower and the seller shall set forth in the Uniform Disclosure/Settlement Statement (HUD Form 1) lines 700 through 1400 and all similar charges to be paid by borrower and seller which are not listed in



said lines 700 through 1400, except as provided in paragraph (h) of this section regarding hazard insurance, paragraph (i) of this section regarding attorney's fees, and paragraph (j) of this section regarding inspection charges and other charges. Blocks J and K shall be completed; adjustments may be made in accordance with paragraph (k) of this section. At the lender's option, lender may delete Block J from the disclosure to the seller. At the lender's option, lender may omit Block K from the disclosure statement to the borrower.

(h) *Exception to advance disclosure of hazard insurance charges.* The charges for hazard insurance binder or policy covering the mortgaged property are not required to be stated in the advance disclosure statement where the borrower independently obtains his own hazard insurance binder or policy, whether or not the lender requires such binder or policy to be obtained for settlement, provided that the binder or policy has not been obtained by, and the carrier or insurance broker or agent has not been selected for the borrower by, any of the following persons: The lender; an agent or representative of the lender or independent contractor originating the home mortgage in the name of the lender; the real estate agent or broker; or the person selected to conduct the settlement.

(i) *Exception to advance disclosure of attorney's fees.* Fees or estimated fees to be paid by borrower to borrower's attorney or by seller to seller's attorney are not required to be stated in the advance disclosure statement where such attorney is not retained to perform the title search or other services required by the lender and the borrower or seller, as the case may be, independently elects to be represented by an attorney and independently selects the particular attorney. Attorney's fees or estimates thereof are, however, required to be stated in the following cases:

(1) Fees to be paid by the borrower for an attorney representing the lender, the seller or any other person;

(2) Fees to be paid by the seller for an attorney representing the lender, the borrower or any other person;

(3) Fees to be paid by the borrower or the seller for an attorney representing the borrower or seller, respectively, if the borrower or seller is required by the lender or his agent or representative or independent contractor originating the home mortgage in the name of the lender to be represented by counsel;

(4) Fees to be paid by the borrower or the seller for an attorney representing the borrower or seller, respectively, if the lender or his agent or representative or independent contractor originating the home mortgage in the name of the lender selects the attorney. For purposes of this paragraph (i) (4), the lender or such other person is not considered to select the attorney if he merely recommends a list of at least three attorneys and does not require the borrower to select an attorney from such list.

(j) *Exception to advance disclosure for charges for certain other services independently procured by borrower or seller.* Charges or estimates thereof for services not required by the lender or his agent or representative or independent contractor originating the home mortgage for the lender are not required to be stated in the advance disclosure statement where the borrower or seller independently elects to obtain such services and independently selects the provider of such services.

(k) *Disclosure of adjustments for taxes and assessments.* Lender may make the disclosure of adjustments for taxes and assessments based upon the assumption that no taxes and assessments are delinquent, in lieu of determining from the appropriate records whether delinquencies exist. Where lender makes disclosure based upon such assumption, lender shall place in Block C a statement that advance disclosure of prorations of taxes and assessments is based upon the assumption that taxes and assessments are not delinquent. See § 82.6(b) (4) regarding the printing of such a statement.

(l) *Single disclosure.* Where subsequent to mailing or delivering the advance disclosure statement, changes in anticipated charges come to the attention of the lender no additional or revised advance disclosure statement is required to be provided. The lender may in its discretion, but is not required to, provide updated or corrected amounts to a party the lender understands will pay the charges in question or all parties by letter or otherwise.

(m) *Record-keeping.* Lender shall retain a copy of the advance disclosure statement required to be prepared pursuant to RESPA section 6 for 2 years, except that in the event lender disposes of its interest in the Home Mortgage and does not service the home mortgage, lender may permit its copy of the advance disclosure statement to be delivered to the owner or servicer of the home mortgage as part of the transfer of the loan file. A copy of the advance disclosure statement may be required to be submitted to the Secretary and/or to other Federal agencies. Nothing in this Part alters, amends or in any way reduces the separate record keeping requirements of Regulation Z of the Federal Reserve Board. See 12 CFR 226.6(l).

(n) *Damages.* As provided in RESPA section 6(b), a lender which fails to provide the prospective borrower(s) or seller(s) with the required advance disclosure shall be liable to such borrower(s) or to such seller(s), as the case may be, in an amount equal to actual damages or \$500 to all borrowers and \$500 to all sellers, whichever is greater, and in the event a court action is filed and judgment is obtained against the lender, court costs and a reasonable attorney's fee as determined by the court, provided that: (1) A lender shall not be liable under RESPA for mailing or delivering the disclosure statement later than the time limits established in this section, if within the time limits estab-

lished by the third sentence of paragraph (b).

(2) A lender shall not be liable under RESPA for a violation which was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures adopted to avoid such an error.

(3) In order to show actual damages under RESPA, the borrower(s) or the seller(s) seeking damages above \$500 must establish on the particular facts of the case that had the required disclosure been made, the borrower(s) or the seller(s) would have obtained settlement services costing at least \$500 less than those he or she actually paid.

(4) Loss based upon seller's claimed loss of a sale, borrower's claim that he was unable to purchase due to lender's failure to make proper disclosure, borrower's claim that he would have purchased a different property, or damages other than described in paragraph (M) (3) of this section may not be the basis for a claim under RESPA for actual damages in excess of \$500.

(o) *No Fee for Preparation of Advance Disclosure Statement.* See § 82.10.

(p) *Truth in Lending disclosure.* The third page of the Uniform Disclosure/Settlement Statement, Appendix B to this part, setting forth the Truth in Lending disclosure, shall be completed and provided in accordance with the Truth in Lending Act, Regulation Z of the Federal Reserve Board, 12 CFR Part 226, and any other Federal Reserve Board requirements. Where Regulation Z establishes a time limit for the making of such Truth in Lending disclosure which is earlier than the applicable time limit under paragraphs (b), (c) and (d) of this section for the making of advance disclosure, the Truth in Lending disclosure must be made at the time required by Regulation Z. In such cases, the first two pages of the Uniform Disclosure/Settlement Statement, HUD Form 1, may be mailed or delivered subsequently, but within the applicable time limits established in this part, and the third page Truth in Lending disclosure is not required to be given a second time when pages 1 and 2 are mailed or delivered.

#### § 82.8 Uniform Settlement Statement.

(a) *Use of HUD Form 1.* As required by RESPA section 4, the Uniform Settlement/Disclosure Statement, HUD Form 1, shall be used as the settlement statement for every Home Mortgage settlement transaction involving a purchase or transfer of a mortgaged property for every home mortgage settlement pursuant to an assumption approval.

(b) *Charges to be stated.* The Uniform Disclosure/Settlement Statement, HUD Form 1, shall be completed to itemize all charges imposed upon the borrower and the seller in connection with the settlement, other than charges exempted from advance disclosure under § 82.7 (h), (i) and (j) and which borrower or seller contract to pay for separately outside of the settlement. The person pre-

paring the settlement statement is not required to supply the information in Block J in the copy supplied to the seller, nor to supply the information in Block K to the borrower.

(c) **Delivery.** The settlement statement shall be delivered or mailed to the borrower and the seller on the date of settlement or as soon thereafter as practicable, and in any case not later than 3 days after the date of settlement.

(d) **Recordkeeping.** Lender shall retain a copy of each settlement statement required to be prepared pursuant to RESPA section 4 for 2 years, except that in the event lender disposes of its interest in the home mortgage and does not service the home mortgage, lender may permit its copy of the settlement statement to be delivered to the owner or servicer of the home mortgage as part of the transfer of the loan file. Nothing in this part alters, amends or in any way reduces the separate recordkeeping requirements of Regulation Z of the Federal Reserve Board. See 12 CFR 226.6(i). A copy of the settlement statement may be required to be submitted to the Secretary and/or other Federal agencies.

### § 32.9 Mailing.

The provisions of this part requiring or permitting mailing of advance disclosure statements, Special Information Booklets or settlement statements shall be deemed to be satisfied by placing the document in the mail (whether or not received by the addressee) addressed to the address 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 person conducting the 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.

### § 32.10 No fee.

As provided in RESPA section 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 or on account of the preparation and distribution required by RESPA of the statement or statements required by RESPA section 4 (Settlement Statement), RESPA section 6 (Advance Disclosure) or by the Truth in Lending Act.

### § 32.11 Relation to State laws.

RESPA section 18(a) provides:

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.

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.

**Effective date.** These regulations are effective as of June 20, 1975.

CARLA H. HILLS,  
Secretary of Housing and Urban  
Development.

A. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		B. TYPE OF LOAN	
DISCLOSURE SETTLEMENT STATEMENT		1. <input type="checkbox"/> FHA 2. <input type="checkbox"/> FARM 3. <input type="checkbox"/> CONV. UNINS.	
		4. <input type="checkbox"/> VA 5. <input type="checkbox"/> CONV. INS.	
		6. FILE NUMBER	7. LOAN NUMBER
If the Truth-in-Lending Act applies to this transaction, a Truth-in-Lending statement is attached on page 3 of this form.		8. MORTG. INS. CASE NO.	
C. NOTE: This form is furnished to you prior to settlement to give you information about your settlement costs, and again after settlement to show the actual costs you have paid. The present copy of the form is:			
<p>• <b>ADVANCE DISCLOSURE OF COSTS.</b> Some items are estimated, and are marked "(e)". Some amounts may change if the settlement is held on a date other than the date estimated below. The preparer of this form is not responsible for errors or changes in amounts furnished by others.</p> <p>• <b>STATEMENT OF ACTUAL COSTS.</b> Amounts paid to and by the settlement agent are shown. Items marked "(p.u.o.)" were paid outside the closing; they are shown here for informational purposes and are not included in totals.</p>			
D. NAME OF BORROWER	E. SELLER	F. LENDER	
G. PROPERTY LOCATION	H. SETTLEMENT AGENT	I. DATES	
	PLACE OF SETTLEMENT	LOAN COMMITMENT	ADVANCE DISCLOSURE
		SETTLEMENT	DATE OF PROVISIONS IF DIFFERENT FROM SETTLEMENT
J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
101. GROSS AMOUNT DUE FROM BORROWER		400. GROSS AMOUNT DUE TO SELLER	
101. Contract sales price		401. Contract sales price	
102. Personal property		402. Personal property	
103. Settlement charges to borrower (from line 100, Section J.)		403.	
104.		404.	
105.		Adjustments for items paid by seller in advance:	
Adjustments for items paid by seller in advance:		405. City/town taxes to	
105. City/town taxes to		406. County taxes to	
107. County taxes to		407. Assessments to	
108. Assessments to		408. to	
109. to		409. to	
110. to		410. to	
111. to		411. to	
112. to		420. GROSS AMOUNT DUE TO SELLER	
120. GROSS AMOUNT DUE FROM BORROWER		NOTE: The following 500 and 600 series sections are not required to be completed when this form is used for advance disclosure of settlement costs prior to settlement.	
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER		500. REDUCTIONS IN AMOUNT DUE TO SELLER	
201. Deposit or earnest money		501. Payoff of first mortgage loan	
202. Principal amount of new loan(s)		502. Payoff of second mortgage loan	
203. Existing loan(s) taken subject to		503. Settlement charges to seller (from line 1400, Section J.)	
204.		504. Existing loan(s) taken subject to	
205.		505.	
Credits to borrower for items unpaid by seller		506.	
206. City/town taxes to		507.	
207. County taxes to		508.	
208. Assessments to		509.	
209. to		Credits to borrower for items unpaid by seller	
210. to		510. City/town taxes to	
211. to		511. County taxes to	
212. to		512. Assessments to	
213. to		513. to	
214. to		514. to	
215. to		515. to	
TOTAL AMOUNTS PAID BY OR IN BEHALF OF BORROWER		520. TOTAL REDUCTIONS IN AMOUNT DUE TO SELLER	
300. CASH AT SETTLEMENT REQUIRED FROM OR PAYABLE TO BORROWER		600. CASH TO SELLER FROM SETTLEMENT	
301. Gross amount due from borrower (from line 120)		601. Gross amount due to seller (from line 420)	
302. Less amounts paid by or in behalf of borrower (from line 230)		602. Less total reductions in amount due to seller (from line 520)	
303. CASH REQUIRED FROM OR PAYABLE TO BORROWER		603. CASH TO SELLER FROM SETTLEMENT	

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L. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS	PAID FROM SELLER'S FUNDS
700. SALES/BROKER'S COMMISSION based on price \$	8.5		
701. Total commission paid by seller	(12)		
Division of commission as follows:			
702. \$	to		
703. \$	to		
704.			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination fee %			
802. Loan Discount %	(14)	(15)	
803. Appraisal Fee to		(15)	
804. Credit Report to	(16)	(17)	
805. Lender's inspection fee		(18)	
806. Mortgage insurance application fee to	(18)	(19)	
807. Assumption/refinancing fee			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest from	to \$	18yr (20)	(21)
902. Mortgage insurance premium for	mo. to		
903. Hazard insurance premium for	yrs. to	(22)	
904.	yrs. to		
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR:			
1001. Hazard insurance	mo. \$5 / mo.		
1002. Mortgage insurance	mo. \$5 / mo.		
1003. City property taxes	mo. \$5 / mo.		
1004. County property taxes	mo. \$5 / mo.		
1005. Annual assessments	mo. \$5 / mo.		
1006.	mo. \$5 / mo.		
1007.	mo. \$5 / mo.		
1008.	mo. \$5 / mo.		
1100. TITLE CHARGES:			
1101. Settlement or closing fee to		(24)	
1102. Abstract or title search to			(25)
1103. Title examination to			
1104. Title insurance binder to			
1105. Document preparation to			
1106. Notary fees to		(26)	
1107. Attorney's Fees to			(27)
(includes above items No. 1-1106)			
1108. Title insurance to			(28)
(includes above items No. 1-1107)			
1109. Lender's coverage \$			
1110. Owner's coverage \$			
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording fees: Deed \$	Mortgage \$	Releases \$	
1202. City/county tax/stamps: Deed \$	Mortgage \$		
1203. State tax/stamps: Deed \$	Mortgage \$		
1204.			
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey to		(30)	(31)
1302. Pest inspection to			
1303.			
1304.			
1305.			
1400. TOTAL SETTLEMENT CHARGES (entered on lines 103 and 513, Sections J and K)			

NOTE: Under certain circumstances the borrower and seller may be permitted to waive the 12-day period which must normally occur between advance disclosure and settlement. In the event such a waiver is made, copies of the statements of waiver, executed as provided in the regulations of the Department of Housing and Urban Development, shall be attached to and made a part of this form when the form is used as a settlement statement.

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# INSTRUCTIONS FOR COMPLETING UNIFORM DISCLOSURE/SETTLEMENT STATEMENT (HUD FORM 1)

The following are instructions for completing the first 2 pages of the Uniform Disclosure/Settlement Statement, HUD Form 1, required under Sections 4 and 6 of the Real Estate Settlement Procedures Act of 1974 (Public Law 93-533) and the Regulations thereto issued by the U.S. Department of Housing and Urban Development called Regulation X (24 CFR Part 82). This form is to be used to provide an advance disclosure of costs prior to settlement, and as a uniform statement of actual costs and adjustments

to be given to the parties in connection with the settlement. The Instructions for completion 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. To determine if the Uniform Disclosure/Settlement Statement is legally required to be used in a particular mortgage loan transaction, refer to Regulation X of the Department of Housing and Urban Development (24 CFR Part 82). There is no objection to the use of the form in transactions in which its use is not legally required.

The Truth-in-Lending Statement prepared by the Federal Reserve Board for real

estate transactions is a part of the Uniform Disclosure/Settlement Statement. It is the third page of the Uniform Disclosure/Settlement Form and must be completed in all cases in which the Truth in Lending Act applies to the transaction. For specific instructions on Truth-in-Lending disclosure requirements under the Real Estate Settlement Procedures Act, refer to the Instructions of the Federal Reserve Board, which appear in Appendix B to HUD's Regulation X (24 CFR Part 82).

The disclosure in advance of settlement is the responsibility of the lender. The Act recognizes that the precise amount of every individual charge to be assessed at settlement will not always be known at the time of advance disclosure. The Act provides: "In the event the exact amount of any such charge is not available, a good faith estimate of such charge may be provided." As provided in Regulation X, the advance disclosure statement shall state an "(e)" after each figure which is an estimate. Each estimate must be stated as a specific figure, and not as a range of possible figures.

## 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, electrostatic copier copies, or other clearly legible copies. Refer to Regulation X regarding rules applicable to printing of the form.

Where there is an unusually large number of insertions for which blank spaces in the first two pages of the form are not sufficient, an additional sheet for such items may be added to the form and referenced at the appropriate place or places in the form. Such additional sheets may be printed. The reverse side of the form may be used instead of an additional sheet.

## 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, or other firm 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.

**Section C.** Check the appropriate box indicating whether the particular copy of the form being completed is for advance disclosure purposes or is a statement of actual costs and disbursements at or after settlement. As provided in Regulation X, in preparing the advance disclosure statement, the Lender may make the disclosure of adjustments for taxes and assessments based upon the assumption that no taxes and assessments are delinquent, in lieu of determining from the appropriate records whether delinquencies exist. Where Lender makes disclosure based upon such assumption, Lender shall place in Block C a statement that advance disclosure of prorations of taxes and assessments is based upon the assumption that taxes and assessments are not delinquent. Under Regulation X, Lender is permitted to print such a statement in Block C; where the statement is printed in the form, it is to be stricken where not applicable.

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



**Section F and H.** Fill in the name and address of the lender and the settlement agent. If, at the time of advance disclosure, the settlement agent has not yet been selected, the advance disclosure form should have "not known" entered in Section H.

**Section G.** The street address of the security property, if any, 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 I.** Fill in these dates to the extent they are known. If advance disclosure is made before commitment, an estimated commitment date should be inserted and marked "(e)". If the settlement date is not firm at the time of advance disclosure, an estimated settlement date should be inserted and marked "(e)". If the prorations of taxes, insurance, etc., are to be made as of a date different than the settlement date, indicate the date of prorations on the last line in this section.

**Section J. Summary of Borrower's Transaction.** The Borrower may be given a copy of the form (in case of both advance disclosure and settlement) which does not contain the information filled in under "Summary of Seller's Transaction" (Block 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, would be entered here.

**Lines 106 through 112** are for items which the seller had paid in advance, and for which the buyer must therefore reimburse the seller. On the advance disclosure statement the exact date for prorations will not usually be known, and these amounts will therefore be estimates. Examples of items for which adjustments are 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. See Instruction for Block C above regarding advance disclosure of taxes and assessments on the assumption that no taxes and assessments are delinquent. 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; FUD 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 other lien.

**Lines 204 and 205** 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, or when a tenant in the property has not yet paid his rent for a period of time prior to the settlement, and which the buyer will collect. 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 505-509.

**Lines 206 through 212** 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. See Instruction to Block C above regarding advance disclosure of taxes and assessments on the assumption that no taxes and assessments are delinquent. Other examples in-

clude 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. As with lines 106 to 112, these amounts will normally be only estimates on the advance disclosure statement.

**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 (in case of both advance disclosure and settlement) which does not contain the information filled in under "Summary of Borrower's Transaction" (Block J, Series 100, 200, and 300 items).

Instructions for the use of lines 106-112, above, apply also to lines 405 to 411.

As the note on the form indicates, it is not necessary to complete lines 500 through 603 when the form is used for advance disclosure. The reason is that information about payoff figures on existing liens must normally come from a title search and payoff letters from other lenders, and is therefore often not available at the time of advance disclosure. There is, however, no objection to the completion of these sections at the time of advance disclosure if the lender so desires.

**Line 504** is used if the purchaser is assuming or taking title subject to existing liens which are to be deducted from sales price.

**Lines 505 through 509** may be used to list additional liens which must be paid off through 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 repairs the seller is obligated to make or 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.

If the seller's real estate broker has received and held 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 one of lines 505-509, thus reducing the amount to be paid to the seller by the settlement agent by that amount.

Instructions for the use of lines 510 through 515 are the same as those for lines 206 to 212, above.

**Section L. Settlement Charges. General:** 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.

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

**Line 701.** The dollar amount of the total commission paid by the seller is entered here. A single entry is made, regardless of whether compensation will be paid to one agent or split among several agents.

**Lines 702-703** 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. Only the total commission is to be shown in the borrower's or seller's columns.

**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.

**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 1302-1305.

**Line 806** should be used for a VA appraisal fee, FHA application fee (which covers the cost of appraisal by 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 if a fee is charged by the Lender for agreeing to an assumption or transfer subject to an existing indebtedness.

**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.

**Line 1000.** This section is used for amounts collected by the Lender 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.

**Line 1100.** In many jurisdictions the same person (e.g., an attorney or a title insurance company) performs several of the services listed in this section, and makes a single undifferentiated charge for so doing. In such cases, enter the overall fee on line 1107, (for attorneys) or line 1108 (for title companies), and enter on the line provided the item numbers of the services listed which are covered in the overall fee. In such cases no amounts should be entered for the individual items which are covered by overall fees.

**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 (e.g., 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 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.

**Lines 1111-1113.** These lines are for 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 line 1107 and other attorneys' fees, if required to be stated under Regulation X, 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 by Regulation X to be stated. 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 503, respectively, in Sections J and K.

#### ATTACHMENT OF WAIVER FORM

The waiver or waivers reducing the period between disclosure and settlement (if any are executed by the parties) are a part of the form when it is used as a settlement statement, and should be attached to the form.

#### EXHIBIT B

Federal Truth-in-Lending Statement  
(As part of Disclosure/Settlement Statement)

**I. A.** Cash price (contract sales price) \$ \_\_\_\_\_

1. Less any cash downpayment \$ \_\_\_\_\_

2. Less any trade-in \$ \_\_\_\_\_

3. Total downpayment \$ \_\_\_\_\_

**B.** Equals unpaid balance of cash price \$ \_\_\_\_\_

**C.** Plus any other amounts financed:

1. Property insurance premiums \$ \_\_\_\_\_

2. \_\_\_\_\_ \$ \_\_\_\_\_

3. Total other amounts financed \$ \_\_\_\_\_

**D.** Equals unpaid balance \$ \_\_\_\_\_

**E.** Less any prepaid finance charges:

1. Origination fee or points paid by borrower \$ \_\_\_\_\_

2. Loan discount or points paid by seller \$ \_\_\_\_\_

3. Interest from (specify date) to (specify date) \$ \_\_\_\_\_

4. Mortgage guaranty insurance \$ \_\_\_\_\_

5. \_\_\_\_\_ \$ \_\_\_\_\_

6. Total prepaid finance charge \$ \_\_\_\_\_

**F.** Equals amount financed \$ \_\_\_\_\_

**II.** The FINANCE CHARGE consists of

**A.** Interest (simple annual rate of \_\_\_\_\_ %) \$ \_\_\_\_\_

**B.** Total prepaid finance charge (I. E. 6.) \$ \_\_\_\_\_

**C.** \_\_\_\_\_ \$ \_\_\_\_\_

**D.** Total FINANCE CHARGE \$ \_\_\_\_\_

**III. A.** The ANNUAL PERCENTAGE RATE on the amount financed is \_\_\_\_\_ %

**B.** If the contract includes a provision for variation in the interest rate, describe \_\_\_\_\_

**IV.** The repayment terms are: \_\_\_\_\_

**V.** The finance charge begins to accrue on \_\_\_\_\_ (specify date)

**VI.** In the event of late payments, charges may be assessed as follows: \_\_\_\_\_

**VII.** (Use either A or B as appropriate)

**A.** Conditions and penalties for prepaying this obligation are \_\_\_\_\_

**B.** Identification of method of rebate of unearned finance charge is \_\_\_\_\_

**VIII.** Insurance taken in connection with this obligation: \_\_\_\_\_

**IX.** The security for this obligation is \_\_\_\_\_

\* Indicates a date, rate or amount that is estimated and may be subject to change.

#### INSTRUCTIONS FOR FEDERAL TRUTH IN LENDING STATEMENT<sup>1</sup>

This form is the Federal Truth in Lending disclosure portion of the Disclosure/Settlement Statement to be provided by the Department of Housing and Urban Development in connection with the Real Estate Settlement Procedures Act (Pub. L. 93-533).

This form is intended to provide a flexible, minimum disclosure standard in satisfaction of the Truth in Lending (Regulation Z) requirements of the Real Estate Settlement Procedures Act. This form is designed to accommodate those Truth in Lending disclosures which are most common to real estate purchase transactions. However, the form is not comprehensive of all credit charges or terms that may be incident to any particular federally related mortgage loan. When a given transaction includes less common terms, such as balloon payments, for which no specific provision is made on the form, these terms will also need to be disclosed and identified on the form.

To maintain the form as a standardized disclosure mechanism while still providing creditors with flexibility, certain changes to the form may be necessary. As long as the applicable Truth in Lending disclosure requirements are met:

(a) Disclosures provided on the form which are not applicable to a given transaction may be deleted. For example, the finance charge disclosures (Item II) need not be made in the case of a purchase money first mortgage on a dwelling.

(b) Disclosures and language more pertinent to a specific charge or term may be substituted for those presently included. For example, in Item VIIA, if no charge will be assessed in the event of prepayment of a loan on which interest is computed on the unpaid principal balance, a statement to that effect may be substituted.

(c) Additional space and/or disclosures may be provided where necessary to satisfy the requirements of Regulation Z. For example, additional space may be provided for disclosures in Item IV; other charges, such as continuing premiums for mortgage guaranty insurance, may be added under Item II.

This form is designed as a disclosure for both loan and credit sale transactions and should be used regardless of whether a given transaction may be characterized as a loan or credit sale (§§ 226.8(d), 226.8(c) and 226.8(d)). The form contains certain disclosure provisions which are required in credit sales disclosures under Truth in Lending but not required in loan disclosures. Lenders who choose to make only those disclosures required in connection with loans under Regulation Z may delete the additional disclosures related to the credit sales. Also a certain amount of deviation may be necessary in more complicated transactions, such as in the case of permanent financing following the maturity of a home construction loan.

This form is intended to be used solely for the disclosures required under the Federal Truth in Lending Act. Except with respect to rescindable transactions, as noted below, all Truth in Lending disclosures made in compliance with the Real Estate Settlement Procedures Act shall be made on one

<sup>1</sup>NOTE: These instructions are intended to assist in the completion of the Truth in Lending Statement, and except to the extent to which Regulation Z is interpreted to accommodate the Real Estate Settlement Procedures Act, the instructions are in no way intended to supersede or supplement the provisions of Regulation Z. All sectional references in the instructions are to Regulation Z (12 CFR 226).

side of a single sheet regardless of any differing Regulation Z requirements. For example, in spite of the provisions of § 226.8 (a) (1), for the purposes of satisfying the requirements of the Real Estate Settlement Procedures Act, promissory notes or other contractual obligations shall not be included on the Truth in Lending disclosure form. Similarly, in spite of § 226.6(c) (2), the Truth in Lending form to be used in connection with the Real Estate Settlement Procedures Act may not include inconsistent State disclosure requirements.

Charges under § 226.4(b) need not be itemized on this form, provided they are itemized and disclosed on the settlement cost portion of the combined form.

In the event that a given transaction subject to the Real Estate Settlement Procedures Act is rescindable under provisions of § 226.9 of Regulation Z, two copies of a notice of the right of rescission (§ 226.9(b)) shall be given separately from the prescribed form to each borrower who has the right to rescind.

Bona fide estimates may be made in connection with dates or charges for which exact dollar amounts or rates are unknown at the time of advance disclosure (§ 226.6(f)). When estimates are used, they should be suitably designated as such, for example, by asterisks placed next to the estimated information.

The Real Estate Settlement Procedures Act requires that Truth in Lending disclosures be made at least 12 days before settlement and again on the day of settlement. While two separate disclosures are required, in those instances where no material change occurs in the information required to be disclosed, a copy of the initial disclosure form may be used in satisfaction of the disclosure requirement on the day of settlement.

Creditors in using the prescribed form may delete the numbering system provided; the numbers used on the form are included solely to aid in relating pertinent instructions. However, in deleting the numbers or in making any other adjustments to the form, creditors should be guided by the requirements of § 226.8(a) to the effect that Truth in Lending disclosures be made clearly, conspicuously, and in meaningful sequence. Creditors may also add signatures, dates, and acknowledgements to the form.

#### Item I

Item I.A. is provided to show the cash price (contract sales price) which should equate to the amount shown on line 101 of the settlement cost disclosure portion of the combined form (§ 226.8(c) (1)).

Items I.A.1. and I.A.2. are provided to show any cash downpayment or trade-in. Item I.A.3. is provided to show the total amount of any downpayments (§ 226.8(c) (2)).

Item I.B. is provided to show the unpaid balance of the cash price which should equal I.A. minus I.A.3. (§ 226.8(c) (3)).

Item I.C. is provided to show other items which are financed as part of the credit transaction. For example, property damage insurance premiums under I.C.1. are included in the amount financed, if they are financed as part of the credit transaction and the other conditions of § 226.4(a) (6) are met. The blank line I.C.2. is intended to include similar items, which are financed, such as those listed in § 226.4 (b) or (e). Item I.C.3. is provided to show a total of other amounts financed (§ 226.8(c) (4)).

Item I.D. is provided to show the unpaid balance (the sum of Item I.B. and I.C.) (§ 226.8(c) (5)).

Item I.E. is intended to show prepaid finance charges and the total prepaid finance charges (§§ 226.4(a)/226.8(d) (2)/226.8(e) (1)).

Item I.E.1. is provided to show the origination fee or points paid directly by the borrower, such as the one point permitted in VA transactions.

Item I.E.2. is provided to show those loan discounts or points paid by the seller when they are part of the finance charge (§ 226.406).

Item I.E.3. is provided to show the prepayment of any accruing interest charge on the contract until the first payment is due. The blank spaces are provided to show the dates for which such interest accrues. (The dates and amounts disclosed may frequently need to be estimated.)

Item I.E.4. is provided to show the payment of mortgage guaranty insurance premiums, such as for FHA or private mortgage guaranty insurers, accruing prior to the first regular payment.

Item I.F. is provided to show the amount financed: the difference between item I.D. and I.E. (§§ 226.8(c) (7)/226.8(d) (1)).

#### Item II

This item is provided to show the components of the finance charge, such as prepaid finance charges, and continuing premiums for mortgage guaranty insurance, as well as to show the total amount of the finance charge (§§ 226.4(a)/226.8(d) (3)). Item II.A. provides the optional disclosure of the contract rate of interest as an additional item where such interest is computed by the application of a simple annual rate.

#### Item III

Item III.A. is provided to show the annual percentage rate as determined in accordance with § 226.5(b). Item III.B. is provided to show any variable interest rate provisions (§ 226.810).

#### Item IV

This item is provided to show the repayment terms (§ 226.8(b) (3)).

#### Item V

This item is provided to show the date on which the finance charge begins to accrue only if that date differs from the date of the transaction (§ 226.8(b) (1)).

#### Item VI

This item is provided for the disclosure of any amount or method of computing the amount of any default, delinquency, or similar charges payable in the event of late payments (§§ 226.4(c)/226.8(b) (4)).

#### Item VII

This item is provided for the disclosure of the consequences of prepayment of the mortgage obligation; either (A) or (B) should be used, as applicable.

Item VII.A. is provided for the disclosure of conditions or penalties charged in the event of prepayment of a loan on which interest is computed on the unpaid principal balance (§ 226.8(b) (6)). Should there be no penalty for prepayment, a statement to that effect may be substituted.

Item VII.B. is provided to identify the method of rebate of unearned finance charges in the event of prepayment in full of installment obligations which include precomputed finance charges. If no rebate will be made, a statement to that effect must be included (§ 226.8(b) (7)).

#### Item VIII

This item is provided for the disclosure of insurance written in connection with the obligation, such as property damage insurance (to be disclosed in accordance with § 226.4(a) (6)), credit life, accident, or disability insurance (to be disclosed in accordance with § 226.4(a) (5)), and vendor's single interest insurance (to be disclosed in accordance with § 226.404).

#### Item IX

This item is provided to show any security interests taken in connection with the transaction (§ 226.2(z) and § 226.8(b) (5)).

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