

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

[Docket No. R-76-394]

PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT

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 The RESPA Amendments repealed the original requirements of advance disclosure (section 6), the disclosure of the previous selling price (section 7) and the Truth-in-Lending provisions of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

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 These regulations are now superseded by the following Regulation X effective June 30, 1976.

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

Over 240 comments were received and the Department is now issuing a final rule which adopt various changes to the proposed regulations. These changes are set forth hereinafter. Most of these changes are in response to comment, however the Department is making certain other modifications at its own initiative. Of the technical changes being made hereby, of principal note is the recodification of these RESPA regulations under 24 CFR Chapter XX. In the time since the first RESPA regulations were issued, the Department has established a new Assistant Secretary for Consumer Affairs and Regulatory Functions to whom responsibility for the program has been delegated, 41 FR 19365. Since parts 0-199 are reserved under Subtitle VIII to the use of the Secretary, these RESPA regulations should properly now be incorporated in Chapter XX and are therefore being recodified in that Chapter as Part 3500.

SUMMARY OF RESPA PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

tlement Statement as soon as practicable after settlement.

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

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

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

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

Sec.	Authority, scope and purpose.
3500.1	Definitions.
3500.2	No delegation of authority to HUD field offices.
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3500.7 Good Faith Estimates of Settlement Services.
3500.8 Use of Uniform Settlement Statement Form.
3500.9 Printing and duplication of Uniform Settlement Statement form.
3500.10 One day advance inspection of Uniform Settlement Statement; delivery.
3500.11 Mailing.
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3500.13 Relation to state laws.
3500.14 Prohibitions against kickbacks and unearned fees.

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

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

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

§ 3500.1 Authority, scope and purpose.

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

§ 3500.2 Definitions.

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

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

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

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

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

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

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

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

any territory or possession of the United States.

§ 3500.3 No delegation of authority to HUD Field Offices.

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

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

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

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

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

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

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

§ 3500.5 Coverage of RESPA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 3500.6 Special Information Booklet at time of loan application.

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

(b) *Printing and duplication.* The Secretary may from time to time revise the Special Information Booklet. The Special Information Booklet may be printed or reproduced in any form, provided that no change is made, other than as provided under subsection (c) below. The Special Information Booklet may not be made a part of a larger document for purposes of distribution under RESPA and this section. Any color, size and quality of paper, type of print, and method of reproduction may be used so long as the booklet is clearly legible and easily readable.

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

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

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

§ 3500.7 Good faith estimates of settlement services.

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

(b) *Good Faith Estimate.* The Lender shall provide a good faith estimate, as a dollar amount or range, of each charge for a settlement service which the borrower is likely to incur. Each such good faith estimate must bear a reasonable relationship to the charge a borrower is likely to be required to pay at settlement, and must be based upon experience in the locality or area in which the Mortgaged Property is located.

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

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

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

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

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

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

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

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

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

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

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

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

§ 3500.8 Use of Uniform Settlement Statement Form.

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

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

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

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

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

§ 3500.9 Printing and duplication of Uniform Settlement Statement Form.

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

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

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

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

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

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

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

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

(7) Signature lines may be added.

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

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

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

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

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

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

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

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

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

§ 3500.11 Mailing.

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

§ 3500.12 No fee.

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

§ 3500.13 Relation to State laws.

Section 18 of RESPA provides:

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