

**QUICK REFERENCE GUIDE TO DISCLOSURES
REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 (RESPA)
AND REGULATION X (24 C.F.R. PART 3500)**

Type of Disclosure ⁽¹⁾ § of Reg. X	Circumstances When Required	Method and Timing of Disclosure	Party Responsible for Disclosure	Content and Rules of Disclosure	Form of Disclosure
<p>Good Faith Estimate (GFE)</p> <p>§ 3500.7</p>	<p>Required to be given to all applicants for federally related mortgage loans when an application or "Information sufficient to complete an application" is received.</p> <p>"Application" is defined in §3500.2(b), and may be either in writing or electronically submitted, including a written record of an oral application.</p> <p>GFE not required if application is denied or withdrawn before the end of the 3-business day period, or if the loan originator does not have available a loan for which the applicant is eligible.</p> <p>GFE not required for open-end lines of credit (HELOCs) receiving Reg. Z disclosures under 12 C.F.R. §226.5(b).</p>	<p>By hand delivery OF GFE at application or placing it in the mail to the loan applicant not later than 3 business days after application, or information sufficient to complete an application, is received, or, if applicant agrees, by fax, e-mail, or other electronic means.</p> <p>If mailed, the GFE is presumed received 3 calendar days after mailing, not including Sundays and legal public holidays set out in 5 U.S.C. 6103(a).</p> <p>Until GFE is received by the applicant, no fee may be charged to applicant (except for a fee limited to the cost of a credit report).</p> <p>If a revised GFE is provided for a permitted reason set out in §3500.7(f)(1) and (2), it must be provided by the loan originator within 3 business days after receiving sufficient information to establish "changed circumstances" or after receiving the borrower's request for changes to the loan.</p> <p>In transactions to finance new home purchases where loan closing is anticipated to occur more than 60 days after providing a GFE, a revised GFE may be issued at any time up to 60 days before settlement if the original GFE contains a clear and conspicuous disclosure that such a revised GFE may be issued.</p>	<p>Lender must provide applicant GFE, <i>except</i>, if application is received or prepared by mortgage broker, either the lender or the mortgage broker must provide disclosure within the 3-business day period. Lender is responsible for ascertaining whether GFE has been provided and, if so, is not required to provide an additional GFE disclosure.</p> <p>Lender or broker may collect from the applicant any information it requires in addition to the minimum information required to constitute an application as defined in §3500.2(b), but is not permitted, as a condition to providing a GFE, to require that applicant submit supplemental documentation to verify the information provided on the application.</p>	<p>Contains a summary of key loan terms and an estimate of all charges, as a dollar amount, that the borrower is likely to incur at settlement (i.e., closing costs) and that will be itemized on the HUD-1 or HUD-1A settlement statement, and related information based upon common practice and experience in the locality of the mortgaged property.</p> <p>Estimates of charges, within permitted tolerances for accuracy, and terms listed on the GFE are binding on the lender or mortgage broker for a period stipulated in the GFE of at least 10 business days during which the applicant may shop for loan services among competing loan originators. Tolerances are set out in §3500.7(e). However, unless and until the applicant "locks" an offered interest rate, the interest rate and charges dependent on the interest rate are not binding. A revised GFE must be provided if the applicant later locks the interest rate and the rate and rate dependent charges become binding.</p> <p>If the applicant does not express intent to continue with the application within the 10-business-day period, the loan originator is no longer bound by the GFE. However, if the applicant elects to continue with the application within that period, the loan originator is bound, within permitted tolerances, by the charges and terms listed on the GFE, unless a revised GFE is provided to the applicant before closing for a permitted reason.</p> <p>A new GFE is permitted only if there are (i) "changed circumstances," as defined in §3500.2, affecting settlement costs or the applicant's eligibility for the loan, or (ii) borrower-requested changes to the loan that change the settlement costs or terms of the loan. If a revised GFE is permitted, it must be provided by the loan originator within 3 business days after receiving sufficient information to establish the "changed circumstances" or after receiving the borrower's request for changes to the loan. The reason</p>	<p>Required 3-page standardized form of GFE is set out in Appendix C to Reg. X. Loan originators must complete the form in accordance with the detailed instructions in Appendix C and requirements of §3500.7.</p>

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				justifying providing a new GFE must be documented and records of the documentation retained for at least 3 years after settlement.	
Special Information Booklet (SIB) § 3500.6	Required to be given to any person for whom the lender prepares or from whom the lender receives a written application for a federally-related mortgage loan <i>except</i> for (i) refinancing, (ii) closed-end subordinate lien, and (iii) reverse mortgage transactions. The Federal Reserve Brochure, <i>When Your Home Is On the Line: What You Should Know About Home Equity Lines of Credit</i> may be substituted for the SIB for open-ended credit plans covered by RESPA.	By delivering booklet or placing it in mail to the loan applicant not later than 3 business days after the application is received or prepared. A copy of the booklet must be provided to only one applicant when 2, or more, persons apply together for a loan. If application for mortgage credit is denied or withdrawn before the end of the 3-business-day period, the booklet need not be provided.	Lender must provide booklet, <i>except</i> if a borrower uses a mortgage broker, the broker must distribute the booklet within the 3-business-day period (to assure that the applicant receives the special information booklet at the earliest possible date) and the lender need not do so.	Preprinted information in booklet form intended to help loan applicants who are purchasing homes to better understand the nature and costs of settlement services. Prepared by the Secretary of HUD pursuant to authority under RESPA Section 5. Note: HUD has announced its intent to publish a revised booklet incorporating amendments to Reg. X published in its Final Rule at 73 .F.R. 68,204 (November 17, 2008). A current version of the SIB may be accessed and downloaded at http://www.fhasecure.gov/offices/hsg/ramh/res/sfhrestc.cfm .	Preprinted booklet last revised June, 1997, [HUD-398-H(4)] entitled <i>Buying Your Home – Settlement Costs and Helpful Information</i> (which may be customized with lender's name and logo), obtained from HUD or published by lenders after advance approval by HUD.
HUD-1 or HUD-1A Settlement Statement (HUD-1) § 3500.8 §3500.9 §3500.10	HUD-1 required to be used in every settlement involving a federally-related mortgage loan in which there is a borrower and a seller. For transactions in which there is no seller, such as refinancing or subordinate lien loans, either the HUD-1 (utilizing the borrower's side only) <i>or</i> the HUD-1A may be used. Neither the HUD-1 nor HUD-1A is required to be used for exempted open-end lines of credit (home equity loans) covered by the Truth in Lending Act and Regulation Z.	By delivering a completed settlement statement at or before the loan settlement <i>unless</i> (i) waived by the borrower no later than at settlement by executing a written waiver; or (ii) exempt, when the borrower or borrower's agent does not attend settlement, or the settlement agent does not conduct a meeting of the parties for settlement. (In either which case the settlement statement must be delivered or mailed to the borrower, seller and lender as soon as practicable after settlement.) The borrower is entitled to inspect the HUD-1 or HUD-1A Settlement Statement (completed to the extent of those items then known to the settlement agent) during the business day immediately preceding the date of settlement.	The settlement agent who conducts the closing is responsible for preparing and delivering the HUD-1 or HUD-1A to the borrower, seller and lender in accordance with the instructions set out in Appendix A to Regulation X. The lender or mortgage broker must transmit to the settlement agent all information necessary to complete the disclosure form.	Contains (i) an itemization of the actual settlement charges paid by the borrower and seller in Section L of the HUD-1 (or by the borrower in Section L of the HUD-1A); (ii) a summary of the borrower's transaction, including any adjustments or credits to which borrower is entitled, in Section J of the HUD-1; (iii) a summary of the seller's transaction in Section K of the HUD-1, when applicable; and (iv) a summary of key loan terms and a comparison in a side-by-side format of actual amounts charged to the borrower at settlement, including all loan originator compensation, with estimates for all such charges on the Good Faith Estimate (GFE) disclosure. Certain of the actual HUD-1 charges to the borrower may not exceed GFE estimates by more than permitted tolerances unless the excess is reimbursed to the borrower at or within 30 days after settlement. See §3500.7(e). Generally, the settlement agent must separately itemize each third-party charge paid by the borrower and seller, but special rules apply to the disclosure of (i) loan origination charges, (which include the sum of charges by the lender and any mortgage broker and administrative and processing services performed by or on behalf of either, as adjusted for charges or credits related to the contract interest rate chosen by the borrower and charged on the	Required standardized 3-page form of HUD-1 and HUD-1A set out in Appendix A to Regulation X. Settlement agents must complete the HUD-1 or HUD-1A in accordance with detailed instructions set out in Appendix A and §3500.8(b) of Reg. X and information transmitted by loan originator. Certain permissible changes may be made to the format of standardized forms as set out in §3500.9(a)(5).

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				<p>loan), and (ii) title insurance underwriter and agency charges, including the sum of premiums and administrative and processing services related to the title services, including any escrow or closing fees. See Appendix A instructions for completing Lines 801-808 and 1101-1108, respectively, and sequentially numbered lines in the 800 and 1100 series.</p> <p>Any amount stated on the HUD-1 or HUD-1A as a charge for a settlement service may not exceed the amount actually received by the provider of that service (and may not be "marked up" by another provider). However, an "average charge" may be imposed for particular classes of transactions under restrictions set out in §3500.8(b)(2).</p>	
<p>Initial Escrow Account Disclosure Statement § 3500.17(g)</p>	<p>Required to be given if a lender establishes an escrow account, whether required or voluntary, in connection with any federally-related loan, for taxes, insurance premiums, or other charges affecting the secured property, either at loan settlement or after closing.</p>	<p>If lender establishes an escrow account as a condition of the loan, the initial escrow account statement must be delivered to the borrower at loan settlement or within 45 days after settlement.</p> <p>If a lender establishes an escrow account after closing, the statement must be delivered to the borrower within 45 days after the date of establishing the escrow account.</p> <p>If, after a transfer of servicing of the loan, the new servicer changes the monthly payment amount or the accounting method used by the old servicer, the new servicer must provide an initial escrow account statement within 60 days after the effective date of the servicing transfer.</p>	<p>Lender (either directly or through its settlement agent if given at closing or its servicing agent if given after closing) is responsible for delivering the statement to the borrower.</p>	<p>Contains statements of the (i) dollar amounts of the borrower's required initial deposit and monthly deposits for the ensuing 12-month computation year; (ii) the amount the lender or servicer selects as a cushion (not exceeding a 2-month cushion); the portion of the borrower's monthly payments to the lender that will be deposited into the escrow account; (iii) an itemization of the estimated property taxes, insurance premiums and other charges that the lender reasonably anticipates will be paid from the escrow account during the computation year; (iv) the amount and anticipated disbursement date for payment of each such item; and (v) a running trial balance for the account.</p> <p>Maximum amounts, including cushion, that the lender or servicer may require the borrower to deposit into the escrow account at loan settlement and monthly thereafter are substantively limited. Calculations of amounts "sufficient to pay" annual charges must use so-called "aggregate analysis," "Single-account analysis" and "pre-accrual" practices, as defined are prohibited. See §3500.17(c) and (d).</p>	<p>Prescribed format for initial escrow account disclosure statement and example are set out in HUD Public Guidance Documents, pursuant to § 3500.3 and approved as a permissible variation to the HUD-1 (disclosure may be either an addition to the HUD-1 or a separate statement).</p>

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<p>Annual Escrow Account Statement §3500.17(i)</p>	<p>Required for each escrow account maintained by a lender or servicer in connection with a federally related mortgage loan after the annual escrow account analysis.</p> <p>Servicers are exempt from the requirement to provide the annual disclosure if: (i) the borrower is more than 30 days delinquent when the annual escrow analysis is performed; (ii) the servicer has initiated a foreclosure action; and (iii) the borrower is in a bankruptcy proceeding. However, if the loan is subsequently reinstated or is otherwise brought current, the servicer must provide the borrower an account history since the last annual statement provided (which may be for a period longer than a year) within 90 days of the date the account becomes current.</p>	<p>Must be submitted to the borrower within 30 days after completion of the escrow account computation year (which is not necessarily a calendar year). May be delivered with other loan statements or materials, including the Substitute 1098 provided for federal income tax purposes.</p>	<p>Servicer of escrow account in connection with any federally related mortgage loan must submit the annual statement.</p>	<p>Contains (i) an account history, reflecting account activity during the past account computation year, and a projection of account activity for the next year; (ii) a clear itemization of the amount of current and past year's monthly mortgage payment and portion thereof deposited into the escrow account; (iii) the total amounts paid into the account and paid out of the account during the computation year for property taxes, insurance, and other charges; (iv) the account balance at the end of the computation year; (v) an explanation of how any shortage, surplus, or deficiency will be handled; and, if applicable, an explanation of why the targeted low balance in the account was not reached. See §3500.17(i).</p>	<p>Format and completed example for annual escrow account statement are set out in HUD Public Guidance Documents, pursuant to § 3500.3.</p>
<p>Servicing Transfer Disclosures § 3500.21</p> <p>• Servicing Disclosure Statement §3500.21(b)</p>	<p>Disclosure must be given to each person who applies for a "mortgage servicing loan," which is defined to mean a federally related mortgage loan secured by a first-lien. (Subordinate lien loans and open-end home equity lines of credit are excluded.)</p>	<p>Disclosure must be given to the applicant at the time that an application is submitted or within 3 business days after submission of the application. One copy may be given to co-applicants who reside at the same address; otherwise, a copy must be delivered to each applicant. Disclosure not required if within 3 business days after application applicant is denied credit. Disclosure may be delivered by hand, by placing it in the mail, or, if applicant agrees, by fax, e-mail, or other electronic means.</p>	<p>A lender, mortgage broker who anticipates using table funding, or a dealer who anticipates a first-lien dealer loan must provide the servicing disclosure statement.</p>	<p>Contains a statement indicating whether the servicing of the loan may be assigned, sold, or transferred to any other person at any time while the loan is outstanding. Alternatively, the disclosure may consist of a statement that (i) the lender, mortgage broker, or dealer will service the loan and does not intend to sell, transfer, or assign the servicing of the loan; (ii) the lender, mortgage broker or dealer intends to assign, sell, or transfer the servicing of the loan before the first payment is due; or, in all other instances, the servicing may be assigned, sold or transferred while the loan is outstanding.</p>	<p>A model format is set out as Appendix MS-1 to Reg. X. The specific language of the model format is not required to be used, and the form may be annotated with additional information that clarifies or enhances the model language</p>

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<p>• Notice of Transfer Disclosure</p> <p>§3500.21 (d)</p>	<p>Disclosure required to be given to the borrower when servicing rights to a federally related loan are being assigned, sold, or transferred to another loan servicer.</p> <p>The terms "servicing" and "servicer" are defined in §3500.2 of Reg. X.</p> <p>Transfers of servicing are exempted from notice requirements when between affiliates, when between master servicers when the sub-servicer is unchanged; when resulting from mergers or acquisition of servicers or sub-servicers, or when an FHA-insured loan is assigned to that agency.</p>	<p>Disclosure must be given by the transferor (present servicer) to the borrower not less than 15 days before the effective date of the transfer and must be given by the transferee (new servicer) to the borrower not more than 15 days after the effective date of the transfer. "Effective Date" of transfer is the date on which the first monthly payment is due to the new servicer. Both notices may be given in a single disclosure if the 15-day timing period for delivery of the disclosure is satisfied. This disclosure timing requirement also may be satisfied by a joint notice of the transferor and transferee servicers at loan settlement.</p>	<p>Disclosure is responsibility of both transferor servicer (present servicer) and transferee servicer (new servicer), or the two jointly.</p>	<p>Must contain disclosure that loan servicing has been sold and information about the effective date, identity of present and new servicer, including the name and toll free number of each where inquiries may be directed; the date on which the transferor servicer will cease to accept payments and the transferee servicer will commence to accept payments on the loan; whether mortgage life or similar insurance is affected by transfer; a statement that the transfer of servicing does not affect any other term or conditions of the loan; and a statement about the borrower's rights in connection with complaint resolution when a borrower makes a "qualified written request" for information relating to the servicing of the loan. See §3500.21(e).</p>	<p>Sample language is set out as Appendix MS-2 to Reg. X. (Although minor modifications may be made, substance of sample language may not be omitted or substantially altered.) See §3500.21(d)(4)</p>
<p>Affiliated Business Arrangement Disclosure⁽²⁾</p> <p>§ 3500.15</p>	<p>Disclosure required when a person in a position to refer settlement service business refers the business to a settlement service provider with whom it has an affiliate relationship or a beneficial ownership interest of more than 1%.</p> <p>An "affiliate business arrangement" is defined by RESPA, 12 U.S.C.A. 2602(7), and "affiliate relationship" and other key terms are defined in 3500.15(c) of Reg. X.</p>	<p>Written disclosure in promulgated form on a separate piece of paper must be given to each person whose business is being referred. Disclosure must be provided no later than the time of referral (or, if the lender requires the use of a particular attorney, appraiser, or credit reporting agency, at the time of loan application). When a lender makes the referral to a borrower, the disclosure requirement may be satisfied at the time that the Good Faith Estimate disclosure under §3500.7(d) is provided.</p>	<p>The person (or entity) making the referral is responsible for preparing and delivering the disclosure.</p>	<p>Must contain statements specifying: (i) The nature of the relationship (explaining any ownership or financial interest) between the person (or entity) making the referral and the service provider to whom the settlement service is being referred; (ii) the estimated charge or range of charges generally made by the provider of the settlement service; and (iii) that the person whose business is being referred is not required to use the service provider (and that the person is "free to shop around" for the best services and rates that may be available from other service providers).</p> <p>"Required use" is defined in §3500.2 of Reg. X.</p>	<p>Required disclosure format is set out as Appendix D to Regulation X.</p>

ENDNOTES:

- (1) Source of authority is Regulation X [24 C.F.R. Part 3500] to the Real Estate Settlement Procedures Act of 1974 (RESPA) [12 U.S.C.A §§2601-2617], as amended by Final Rule of the Department of Housing and Urban Development (HUD) published in the Federal Register on November 17, 2008 at 73 F.R. 68,204.
- (2) Referrals of settlement services made to affiliates do not violate RESPA, Section 8, prohibitions against referral fees and kickbacks if 'safe harbor' conditions set out in 24 C.F.R. §3500.15 are satisfied, including the timely providing of the Affiliated Business Arrangement Disclosure Statement.