

Table of Contents

TABLE OF CONTENTS	2
SECTION 1 GENERAL.....	4
1.1 STATEMENT OF PURPOSE.....	4
1.2 OBJECTIVE.....	4
1.3 STATE LAW AND AGENCY GUIDELINES	4
SECTION 2 SUMMARY.....	5
2.1 COVERAGE	5
SECTION 3 REQUIREMENTS.....	6
3.1 APPLICATIONS AND ORIGATION OF MORTGAGE LOANS.....	6
3.1.1 <i>Special information booklet at time of loan application</i>	6
3.1.2 <i>Good Faith Estimate</i>	6
3.1.3 <i>Servicing Disclosure Statement</i>	9
3.1.4 <i>HUD-1 or HUD-1A Settlement Statements</i>	9
3.2 PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES.....	11
3.3 AFFILIATED BUSINESS ARRANGEMENTS	11
3.4 ESCROW ACCOUNTS.....	11
3.4.1 <i>Initial Escrow Account Statement</i>	12
3.4.2 <i>Annual Escrow Account Analysis</i>	12
3.4.3 <i>Annual Escrow Account Statement</i>	13
3.4.4 <i>Short-Year Statements</i>	14
3.4.5 <i>Timely Escrow Payments</i>	14
3.4.6 <i>Treatment of Escrow Account Balances</i>	14
3.5 HOMEOWNERSHIP COUNSELING	14
3.6 MORTGAGE SERVICING	15
3.6.1 <i>General Disclosure Requirements</i>	15
3.6.2 <i>Borrower Payments During Transfer of Servicing</i>	17
3.6.3 <i>Timely Escrow Payments and Treatment of Escrow Account Balances</i>	17
3.6.4 <i>Error Resolution</i>	17
3.6.5 <i>Requests for Information</i>	19
3.6.6 <i>Force-Placed Insurance</i>	20
3.6.7 <i>Policies and Procedures</i>	24
3.6.8 <i>Early Intervention</i>	25
3.6.9 <i>Continuity of Contact</i>	28
3.6.10 <i>Loss Mitigation</i>	29
3.6.11 <i>Small Servicer Requirements</i>	36
SECTION 4 ORIGATION COMPLIANCE	38
4.1 INITIAL DISCLOSURES	38
4.2 REVISED GOOD FAITH ESTIMATE.....	39
4.3 UNIFORM SETTLEMENT STATEMENT FORM (HUD-1 AND HUD-1A).....	39
4.4 INITIAL ESCROW ACCOUNT STATEMENT	40
SECTION 5 SERVICING COMPLIANCE	41
5.1 ESCROW ADMINISTRATION.....	41
5.1.1 <i>Timely Escrow Payments</i>	41
5.1.1 <i>Annual Escrow Account Analysis</i>	41
5.1.2 <i>Escrow Account Statements</i>	42
5.1.3 <i>Refund of Escrow Balance After Payoff</i>	43

5.2	SERVICING TRANSFERS.....	43
5.3	ERROR RESOLUTION.....	43
5.4	INFORMATION REQUESTS	44
5.5	FORCE-PLACED INSURANCE	45
5.5.1	<i>Force-Placed Insurance Renewal.....</i>	45
5.5.2	<i>Force-Placed Insurance Cancelation.....</i>	45
5.6	EARLY INTERVENTION	46
5.7	CONTINUITY OF CONTACT.....	47
5.8	LOSS MITIGATION	47
5.8.1	<i>Loss Mitigation Denial.....</i>	49
5.8.2	<i>Borrower's Loss Mitigation Appeal</i>	49
5.8.3	<i>Duplicate Requests.....</i>	49
5.8.4	<i>Servicing Transfers.....</i>	49
5.8.5	<i>Foreclosure Prohibitions</i>	50
5.8.6	<i>Homeowner Assistance Fund.....</i>	51
5.9	SUCCESSORS IN INTEREST	51
5.9.1	<i>Loss Mitigation Applications from Potential Successors in Interest.....</i>	52
SECTION 6 RECORD RETENTION		53
6.1	ORIGINATION RECORD RETENTION	53
6.2	SERVICING RECORD RETENTION	53
APPENDIX 1	DEFINITIONS.....	54
APPENDIX 2	EXHIBITS.....	58
APPENDIX 3	BEST PRACTICES.....	59
APPENDIX 4	REFERENCE LIST	60

Sample

Section 2 Summary

The Real Estate Settlement Procedures Act of 1974 requires lenders, mortgage brokers, or servicers of home loans to provide [borrowers](#) with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process. The act also prohibits specific practices, such as kickbacks, and places limitations upon the use of escrow accounts.

2.1 Coverage

The Real Estate Settlement Procedures Act (RESPA or Regulation X) is applicable to all [federally related mortgage loans](#).

The following transactions are exempt from coverage:

- A loan primarily for business, commercial or agricultural purposes
- A temporary loan, such as a construction loan

The exemption does not apply if the loan is used as, or may be converted to, permanent financing by the same financial institution or is used to finance transfer of title to the first user of the property. If the lender issues a commitment for permanent financing, the construction loan is a covered loan.

- “Bridge” or “swing” loans

Any construction loan with a term of two years or more is a covered loan unless it is made to a bona fide contractor.

- A loan secured by vacant or unimproved property where no proceeds of the loan will be used to construct a one-to-four family residential structure

If the proceeds will be used to locate a manufactured home or construct a structure within two years from the date of settlement, the loan is a covered loan.

- An assumption unless the mortgage instruments require lender approval for the assumption and the lender approves the assumption
- A conversion of a loan to different terms which are consistent with provisions of the original mortgage instrument, as long as a new note is not required, even if the lender charges an additional fee for the conversion
- A bona fide transfer of a loan obligation in the secondary market

[Mortgage servicing](#) requirements apply to any mortgage loan.

Section 3 Requirements

3.1 Applications and Origination of Mortgage Loans

3.1.1 Special information booklet at time of loan application

The lender must provide a copy of the special information booklet entitled “Your Home Loan Toolkit” to a person from whom the lender receives, or for whom the lender prepares, a written application for a federally related mortgage loan. When two or more persons apply together for a loan, the lender is in compliance if the lender provides a copy of the booklet to one of the persons applying.

The lender must provide the special information booklet by delivering it or placing it in the mail to the [borrower](#) not later than three [business days](#) after the application is received or prepared.

The special information booklet does not have to be provided for the following transactions:

- Refinances
- Close-end subordinate lien loans
- Reverse mortgages
- Any other federally related mortgage loan whose purpose is not the purchase of a 1- to 4-family residential property

In the case of a federally related mortgage loan involving an open-ended credit plan, a lender or mortgage broker that provides the borrower with a copy of the brochure entitled “When Your Home is On the Line: What You Should Know About Home Equity Lines of Credit,” or any successor brochure issued by the Consumer Financial Protection Bureau (CFPB), is deemed to be in compliance with this section.

3.1.2 Good Faith Estimate

In a closed-end reverse mortgage transaction, not later than three business days after a lender receives an application, or information sufficient to complete an application, the lender must provide the borrower with a [Good Faith Estimate \(GFE\)](#).

The estimate of the charges and terms for all settlement services must be available for at least 10 business days from when the GFE is provided, but it may remain available longer, if the lender extends the period of availability.

Tolerance Category	Fees Included
Charges That Cannot Increase	<ul style="list-style-type: none"> • Origination charge, including processing and underwriting fees • Credit or charge for the interest rate chosen while the interest rate is locked • Adjusted origination charge while the interest rate is locked • State/local property transfer taxes
Charges That in Total Cannot Increase More Than 10 Percent	<ul style="list-style-type: none"> • Lender required settlement services, where the lender selects the third-party settlement service provider • Lender required services, title services, required title insurance and owner's title insurance when the borrower selects a third-party provider identified by the lender • Government recording charges
Charges That Can Increase	<ul style="list-style-type: none"> • Lender required services where the borrower selects his own third-party provider • Title services, lender's title insurance, and owner's title insurance when the borrower selects his own provider • Initial escrow deposit • Daily interest charges • Homeowner's insurance

3.1.2.4 Identification of Third-Party Settlement Service Providers

When the lender permits a borrower to shop for one or more required third-party settlement services and select the settlement service provider for such required services, the lender must list in the relevant block on page 2 of the GFE the settlement service and the estimated charge to be paid to the provider of each required service. In addition, the lender must provide the borrower with a written list of settlement service providers for those required services on a separate sheet of paper at the time the GFE is provided.

3.1.2.5 Binding GFE and Changed Circumstances

The lender is bound, within the tolerances provided, to the settlement charges and terms listed on the GFE provided to the borrower, unless a new GFE is provided prior to settlement.

If a [changed circumstance](#) will result in charges at settlement exceeding the tolerances for those charges, the lender may provide a revised GFE to the borrower within three

3.4.4 Short-Year Statements

Short-year statements can be issued to end the escrow account computation year and establish the beginning date of a new computation year. Short-year statements may be provided upon the transfer of servicing and are required upon loan payoff. The statement is due to the borrower within 60 calendar days after receiving the pay-off funds.

3.4.5 Timely Escrow Payments

The servicer must pay escrow disbursements by the disbursement date. In calculating the disbursement date, the servicer must use a date on or before the deadline to avoid a penalty and may make annual lump sum payments to take advantage of a discount.

A servicer may not purchase force-placed insurance unless it is unable to disburse funds from the borrower's escrow account to maintain the borrower's hazard insurance. A servicer is unable to disburse funds only if the servicer has a reasonable basis to believe that either the borrower's property is vacant, or the borrower's hazard insurance has terminated for reasons other than non-payment. A servicer is not unable to disburse funds from the borrower's escrow account solely because the account is deficient.

If a servicer advances funds to an escrow account to ensure that the borrower's hazard insurance premium charges are paid in a timely manner, a servicer may seek repayment from the borrower for the funds the servicer advanced, unless otherwise prohibited by applicable law.

3.4.6 Treatment of Escrow Account Balances

Generally, the servicer must return any amounts remaining in escrow within the servicer's control within 20 days (excluding legal public holidays, Saturdays, and Sundays) after the borrower pays the mortgage loan in full, unless the borrower and servicer agree to credit the remaining funds towards an escrow account for certain new mortgage loans. The rule does not prohibit servicers from netting any funds remaining in an escrow account against the outstanding balance of the borrower's mortgage loan.

3.5 Homeownership Counseling

The lender must provide a borrower with a clear and conspicuous written list of homeownership counseling services in the loan borrower's location, no later than three business days after a lender, mortgage broker, or dealer receives an application or information sufficient to complete an application. The list is available on a website maintained by the CFPB, or from data made available by the CFPB or HUD.

Lenders must make sure that the list of homeownership counseling services was obtained no earlier than 30 calendar days before they provide it to the borrower.

3.6.2 Borrower Payments During Transfer of Servicing

During the 60-day period beginning on the date of transfer, no late fee or other penalty can be imposed on a borrower who has made a timely payment to the transferor servicer (former servicer). Additionally, if the transferor servicer receives any incorrect payments on or after the effective date of the transfer, the transferor servicer must either transfer the payment to the transferee servicer (new servicer) or return the payment and inform the payor of the proper recipient of the payment.

3.6.3 Timely Escrow Payments and Treatment of Escrow Account Balances

Refer to [Escrow Accounts](#) in this guide for complete requirements.

3.6.4 Error Resolution

Upon receipt of a written notice from the borrower that asserts an error and that includes the name of the borrower, information that enables the servicer to identify the borrower's mortgage loan account, and the error the borrower believes has occurred, the servicer must take all the following actions:

- Provide to the borrower a written response acknowledging receipt of the notice of error within five days (excluding legal public holidays, Saturdays, and Sundays)
- Conduct a reasonable investigation of the asserted error

As a part of its investigation of the asserted error, the servicer may request supporting documentation from the borrower, but the servicer must conduct a reasonable investigation even if the borrower does not provide supporting documentation.

- Respond to the notice of error within one of the following time frames, as applicable:
 - Within 30 days (excluding legal public holidays, Saturdays, and Sundays)

A servicer may extend this period by an additional 15 days (excluding legal public holidays, Saturdays, and Sundays) if, prior to the expiration of the original 30-day period, the servicer notifies the borrower in writing of the extension and the reasons for it.

- Within seven days (excluding legal public holidays, Saturdays, and Sundays) if the alleged error is a failure to provide an accurate payoff balance amount
- By the earlier of 30 days (excluding legal public holidays, Saturdays, and Sundays) or the date of a foreclosure sale if the error involves either of the following:
 - Making the first notice or filing for a judicial or non-judicial foreclosure process before the time periods allowed
 - Moving for foreclosure judgment or order of sale or conducting a foreclosure sale

3.6.6.5 Fee Limitations

All charges that a servicer assesses on a borrower related to force-placed insurance must be bona fide and reasonable, except for charges subject to state regulation and charges authorized by the Flood Disaster Protection Act of 1973. A bona fide and reasonable charge is one that is reasonably related to the servicer's cost of providing the service and is not otherwise prohibited by law.

3.6.7 Policies and Procedures

Servicers must maintain policies and procedures reasonably designed to achieve certain servicing-related objectives and are subject to requirements regarding record retention and the ability to create servicing files.

Servicers may determine the specific policies and procedures they will adopt and the methods for implementing them considering the size, nature, and scope of the servicers' operations, including, for example, the volume and aggregate unpaid principal balance of mortgage loans serviced, the credit quality (including the default risk) of the mortgage loans serviced, and the servicer's history of consumer complaints.

At a minimum, servicers must maintain policies and procedures that are reasonably designed to accomplish all the following:

- Access and provide timely and accurate information, including all the following:
 - Disclosures,
 - Investigate and timely resolve complaints
 - Provide accurate and timely information and documents in response to information requests
 - Provide owner and assignees of mortgage loans upon request
 - Submit accurate and timely documents and filings for foreclosure processes
 - Identify, confirm, and facilitate communication with successors in interests
- Properly evaluate loss mitigation applications, including all the following:
 - Provide accurate information regarding loss mitigation options available
 - Identify specifically all loss mitigation options available to a borrower from the owner or assignee of the borrower's mortgage loan
 - Provide complete access to borrower records to the assigned loss mitigation personnel
 - Identify documents required to complete the loss mitigation application and communicate these items promptly with the borrower
 - Promptly identify and obtain documents or information not in the borrower's control necessary to determine which loss mitigation options, if any, to offer the borrower
- Facilitate oversight of, and compliance by, service providers

Section 4 Origination Compliance

4.1 Initial Disclosures

[Sample Client] must provide the following disclosures to the [borrower](#), generally, at application or within three [business days](#) of application unless otherwise noted below.

Disclosure	Requirement
Special Information Booklet	<ul style="list-style-type: none"> • Applicable to purchase transactions. • Entitled “Your home loan toolkit: a step by step guide.”
Good Faith Estimate (GFE)	<ul style="list-style-type: none"> • Applicable to closed-end reverse mortgages. • Honor the estimate of the charges and terms for all settlement services for at least 10 business days from when the GFE is provided, unless a valid changed circumstance occurs and a revised GFE is provided.
Settlement Service Provider List	<ul style="list-style-type: none"> • Must be provided if the borrower is permitted to shop for one or more required third-party settlement services and the borrower selects the settlement service provider for such required services. • Must be provided on a separate sheet of paper at the time the GFE or Loan Estimate (required under Regulation Z) is provided.
Affiliated Business Arrangements Disclosure	<ul style="list-style-type: none"> • Must be provided if there is an affiliate relationship or a direct or beneficial ownership interest of more than 1% in a provider of settlement services. • Must be provided at the time of loan application, or with the GFE or LE, or at the time of the referral.
Homeownership Counseling Organization List	<ul style="list-style-type: none"> • Excludes reverse mortgages or timeshare loans.

Section 5 Servicing Compliance

5.1 Escrow Administration

5.1.1 Timely Escrow Payments

[Sample Client] must pay escrow disbursements by the disbursement date. In calculating the disbursement date, [Sample Client] must use a date on or before the deadline to avoid a penalty and may make annual lump sum payments to take advantage of a discount.

5.1.1 Annual Escrow Account Analysis

[Sample Client] must conduct an escrow account analysis before submitting an annual escrow account statement to the borrower.

Escrow Surplus

If the escrow account analysis discloses a surplus and the borrower’s mortgage payment is current at the time of the escrow account analysis, [Sample Client] must within 30 calendar days from the date of the analysis take the following appropriate action:

- If the surplus is greater than or equal to \$50, refund the surplus to the borrower.
- If the surplus is less than \$50, refund such amount to the borrower or credit such amount against the next year’s escrow payments.

Escrow Shortage

If the shortage amount is...	May take one of the following actions...
Less than one month’s escrow payment	<ul style="list-style-type: none"> • Allow the shortage to exist and do nothing to change it • Require the borrower to repay the shortage amount within 30 calendar days • Require the borrower to repay the shortage amount in equal monthly payments over at least a 12-month period
More than or equal to one month’s escrow payment	<ul style="list-style-type: none"> • Allow the shortage to exist and do nothing to change it