

Title Talk...



OCTOBER 2009

H.B. Wilkinson Title Company

HBW



HUD Announces Posting of Frequently Asked Questions on New RESPA Rule

U.S. Department of Housing and Urban Development Assistant Secretary for Housing-Federal Housing Commissioner David Stevens today announced the release of frequently asked question (FAQs) concerning implementation of the new Real Estate Settlement Procedures Act (RESPA) rule. The FAQs were compiled from questions received from the industry since the publication of the rule. Following are a few of the FAQs. For a complete published list, please visit www.alta.org/images/PDF/HUD_Guidance.pdf

Q: When does the new RESPA Rule take effect?

A: The November 2008 RESPA Rule was effective January 16, 2009. Implementation of the

Provision	Implementation Date
Average Charge (optional)	January 16, 2009
Servicing Disclosure Statement	January 16, 2009
Other technical changes	January 16, 2009
New GFE	January 1, 2010
New HUD-1/HUD-1A (for all transactions in which the new GFE is used)	January 1, 2010
Tolerances	January 1, 2010
Elimination of FHA Cap On Origination Fees	January 1, 2010

Q: Can a loan originator e-mail a GFE to a borrower?

A: Yes; as long as the borrower consents and the other specific requirements for consumer disclosures under the Electronic Signatures in Global and National Commerce Act (ESIGN) are met, a loan originator may e-mail, fax, or send by other electronic means the GFE (and other RESPA disclosures, such as the HUD-1/1A). See section 101(c) of ESIGN, 15 U.S.C. § 7001(c); also see 24 CFR § 3500.23. The loan originator may also continue to deliver the GFE to the borrower by hand delivery or by placing it in the mail, as provided by RESPA.

Q: The term monthly is used throughout the GFE and HUD-1 forms. The requirements stated in terms of monthly do not work well for loans on which payments are not made monthly (e.g., are made biweekly or quarterly). In such transactions, can an appropriate payment period be substituted whenever requirements on the forms are stated in terms of monthly?

A: No, the GFE and HUD-1 are prescribed forms. The instructions for the GFE provide that the standardized form is the required form. HUD's regulations provide that language and terms used on the HUD-1 may not be changed, except in limited circumstances which do not include changes to the standardized language (see 24 CFR § 3500.9). The intent of the standardized GFE and HUD-1 is to provide borrowers an easier means of comparing loan offers, and to determine that they are getting the loan at settlement that they were offered in the GFE. For loans with payment plans that are not monthly, the periodic payments should be converted to a monthly basis (e.g., payments for a biweekly plan with 26 payments per year would be multiplied by 26/12, quarterly payments would be divided by 3, etc.).



Please Be Aware of
the little ghosts and
goblins out
trick or treating!
Have a Safe & Happy
Halloween from all of
us at H.B. Wilkinson
Title Company!



Q: If I suspect someone is violating RESPA, is there a phone number I can call to make a complaint to HUD?

A: We encourage anyone that suspects someone is potentially violating RESPA to contact us. You may either call 1-202-708-0502 or you may send your complaint to:

Director, Office of RESPA and Interstate Land Sales
US Department of Housing and Urban Development Room 9154
451 7th Street, SW Washington, DC 20410

Q: What happens if a GFE is not provided to a borrower?

A: In a transaction involving a federally related mortgage, the loan originator is required to provide a GFE to the borrower. Failure to provide a GFE as required is a violation of Section 5 of RESPA.

Q: When will the use of the new GFE and HUD-1 forms be required?

A: The new GFE and HUD-1 forms must be used as of January 1, 2010. The new GFE and HUD-1 forms may be used before this date. Please note that if a loan originator issues a GFE on the new form, then the settlement agent must use the new HUD-1 form and the tolerances and other requirements in the revised RESPA regulations will apply.

Q: If a GFE is issued on the old form prior to January 1, 2010, and the loan will close after January 1, 2010, which HUD-1 form is to be completed by the settlement agent?

A: If a GFE is issued on the old form prior to January 1, 2010, then the old HUD-1 form must be used even if closing will occur after January 1, 2010. For GFEs issued on the old form, the loan originator has the option to reissue the GFE (with the same terms and charges) on the new form, in which case the settlement agent must complete the new HUD-1 form.

Q: When does a loan originator have to issue a GFE?

A: A loan originator must issue a GFE no later than 3 business days after the loan originator receives an application or information sufficient to complete an application. Application is defined as the submission of a borrower's financial information in anticipation of a credit decision relating to a federally related mortgage loan, which shall include the following: (1) borrower's name; (2) borrower's monthly income; (3) borrower's social security number to obtain a credit report; (4) property address; (5) estimate of value of the property; (6) loan amount and (7) any other information deemed necessary by the loan originator.

For more information, please visit www.hud.gov/respa or email HUD's office at hsg-respa@hud.gov.

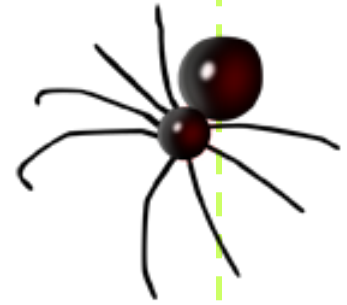
Disclaimer: FAQ's do not always coincide with the rule and should not take precedence over the rule itself.

**HAPPY
HALLOWEEN**

Employee Anniversaries

Karen Donna, Dixon ~ 2003

Julia Shinault, Oregon ~ 2007



H.B. Wilkinson Title Company will be closed on Monday, October 12th in observance of Columbus Day.

Good Funds Act

Effective January 1st, 2010, the Public Act 096-0645 GOOD FUNDS, provides that a title insurance company, title insurance agent, or independent escrowee shall not make disbursements in connection with any escrows, settlements, or closings out of a fiduciary trust account or accounts unless the funds in the aggregate amount of \$50,000 or greater received from any single party to the transaction are wired funds unconditionally held by and credited to the fiduciary trust account of the title insurance company, title insurance agent, or independent escrowee.

Provides that a title insurance company or title insurance agent shall not make disbursements in connection with any escrows, settlements, or closings out a fiduciary trust account or accounts unless the funds in the amount of less than \$50,000 received from and single party to the transaction are collected funds or good funds.

Source: First American Title Insurance Company Alert No. 2009-24



H.B. Wilkinson Title Company

Office Locations:

Carroll County

108 East Market Street
Mt. Carroll, IL 61053
1.815.244.9566 FAX 1.815.244.2731

Jo Daviess County

(Also servicing Dubuque County, Iowa)
321 North Bench Street
P.O. Box 215
Galena, IL 61036
1.815.777.3318 FAX 1.815.777.1754

Lee County

(Also servicing Bureau County)
218 South Ottawa Avenue
Dixon, IL 61021
1.815.284.1160 FAX 1.815.284.1165

Ogle County

(Also servicing DeKalb County)
203 South 5th Street
Oregon, IL 61061
1.815.732.7840 FAX 1.815.732.4761

Rock Island County

(Also servicing Henry & Mercer Counties
in Illinois & Scott County, Iowa)
322 16th Street
Rock Island, IL 61201
1.309.794.0518 FAX 1.309.794.0617

Stephenson County

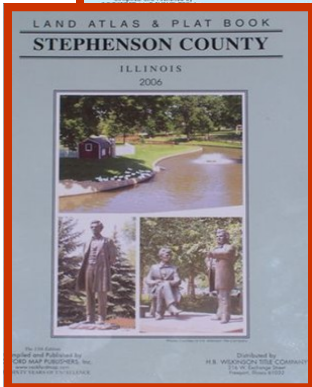
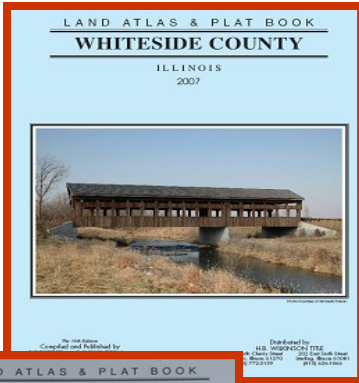
216 West Exchange Street
Freeport, IL 61032
1.815.232.2511 FAX 1.815.232.3798

Whiteside County

500 North Cherry Street
P.O. Box 310
Morrison, IL 61270
1.815.772.2159 FAX 1.815.772.4799

Winnebago County

(Also servicing Boone County)
7025 Rote Road, Suite 105
Rockford, IL 61107
1.815.229.1925 FAX 1.815.229.1924



Plat Books On Sale

Whiteside County: On sale at our Morrison, Sterling, Mt. Carroll, Dixon, and Rock Island offices.

Stephenson County: On sale at our Freeport, Galena, Mt. Carroll, and Oregon locations.

\$20.00

