

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9.

Note: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320/8(b)(3) appears at the end of the instructions. The certification is to be made with reference to those regulatory provisions as set forth in the instructions.

The following is a summary of the topics, regarding the proposed collections of information that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It uses plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention periods for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of the information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, or mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to collected (see note in item 19 of the instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of these provisions, identify the item below and explain the reason in item 18 of the Supporting Statement.

| | |
|---|-------|
| Signature of Program Official: X Kevin B. Perkins, Director, Organizational Policy, Planning and Analysis Division, HROA | Date: |
| Signature of Senior Officer or Designee: X Lillian Deitzer, Departmental Reports Management Officer Office of Investment Strategies, Policy, and Management, Office of the Chief Information Officer | Date: |

Supporting Statement for Paperwork Reduction Act Submissions

Real Estate Settlement Procedures Act Disclosures OMB Control No. 2502-0265 (Forms HUD-1 and HUD-1A)

A. Justification

1. The information collection, which consists of third party disclosures needed to inform homebuyers about the settlement process, is being submitted by the Department of Housing and Urban Development for extension of a currently approved collection. Currently, certain disclosures are required by the Real Estate Settlement Procedures Act (RESPA) of 1974 amended by Section 461 of the Housing and Urban-Rural Recovery Act of 1983 (HURRA), and other various amendments. The statute is found at 12 U.S.C. 2601 *et seq.* and the implementing regulations at 24 CFR 3500. Required disclosures include: the Good Faith Estimate, Special Information Booklet, RESPA-Section 6 Model Disclosure and Acknowledgement of Probable Transfer of Loan Servicing, and the HUD-1 Settlement Statement. Other disclosures may be required under certain circumstances and include: the Initial Escrow Account Statement, Annual Escrow Account Statement, Affiliated Business Disclosure, and a Consumer Disclosure for Voluntary Escrow Account Payments.

Real Estate Settlement Procedures Act (Regulation X);
Escrow Accounting Procedures

Final Rule

Federal Register Vol. 60 No.31 Feb. 15, 1995

Real Estate Settlement Procedures Act (Regulation X);

Escrow Accounting Procedures: Correcting Amendment and Clarifications

Final Rule

Federal Register Vol. 60 No.89 May 9, 1995

Real Estate Settlement Procedures Act;

Streamlining Final Rule

Final Rule

Federal Register Vol. 61 No.59 Mar. 26, 1996

Amendments to Regulation X, Real Estate Settlement Procedures Act;

Withdrawal of Employer-Employee and Computer Loan Origination Systems (CLOS) Exemptions

Final Rule

Federal Register Vol. 61 No.222 Nov. 15, 1996

Amendments to Real Estate Settlement Procedures Act;

Exemption for Employer Payments to Employees Who Make Like-Provider Referrals and Other Amendments

Proposed Rule

Federal Register Vol. 62 No. 90 May 9, 1997

Amendments to Real Estate Settlement Procedures Act Regulation (Regulation X);

Escrow Accounting Procedures

Final Rule

Federal Register Vol. 63 No. 13 Jan. 21, 1998

Real Estate Settlement Procedures Act (RESPA);

Regarding Lender Payments to Mortgage Brokers

Statement of Policy 1999-1

Federal Register Mar. 1, 1999

Real Estate Settlement Procedures Act (RESPA);
Clarification Regarding Lender Payments to Mortgage Brokers
Statement of Policy 2001-1
Federal Register Oct. 18, 2001

Real Estate Settlement Procedures Act (RESPA);
Simplifying and Improving the Process of Obtaining Mortgages to Reduce Settlement Costs to Consumers
Proposed Rule
Federal Register July 29, 2002

Further explanations of RESPA, including statutory and regulatory documentation, is available through HUD's web page at http://www.hud.gov/offices/hsg/sfh/res/respa_hm.cfm and <http://www.hud.gov/offices/hsg/sfh/res/respamor.cfm>

2. These third party disclosures are required by statute and regulations. Settlement providers make these disclosures to homebuyers, and in some cases, sellers, pursuant to transactions involving Federally related mortgages. Disclosures are not submitted to the Federal Government.
 - Good Faith Estimate (GFE). Lenders must give borrowers an estimate of the settlement costs that the borrower is likely to incur in connection with settlement (see Section 5 (c) of RESPA).
 - Special Information Booklet. Homebuyers receive this disclosure regarding the nature and costs of real estate settlement services (see Section 5(d) of RESPA).
 - RESPA-Section 6 Model Disclosure and Acknowledgement of Probable Transfer of Loan Servicing, Servicing Disclosures. Lender must give the borrower a disclosure at application that the servicing of the mortgage loan may be transferred and another notice when the loan is transferred (Section 941 of the Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625 amended Section 6 of RESPA). RESPA was amended in 1996 to allow a streamlined disclosure, however, the Department has not finalized regulations pursuant to allow this change.
 - HUD-1/HUD-1A - Uniform Settlement Statement. Buyers and sellers receive a statement of actual charges and disbursements pursuant to the settlement (see Section 4(a) of RESPA).
 - Escrow Disclosures. An initial escrow account statement is provided to borrowers at the settlement of a Federally related mortgage loan, and an annual statement is provided to borrowers showing the previous year's activities in the escrow account. The lender may ask the borrower to voluntarily contribute additional funds if the charge will substantially rise in the second year; a disclosure must be signed by the borrower. Section 924 of the Cranston-Gonzalez Affordable Housing Act of 1990 (P. L. 101-625, approved November 28, 1990), amended Section 10 of the Real Estate Settlement Procedures Act of 1974 (RESPA, U.S.C. 2609 (c)). Regulations allowing voluntary collection of additional funds were published January 21, 1998, FR-3236.
 - Affiliated Business Arrangement Disclosure (formerly Controlled Business Arrangement). This disclosure is required when a settlement service provider refers a borrower to an affiliated provider. Section 461 of the Housing and Urban-Rural Recovery Act of 1983 added an exemption under Section 8 of RESPA for affiliated business arrangements (AfBAs) as long as certain requirements were met. The implementing regulations at 24 CFR 3500.15, require that a disclosure be given when a settlement service provider refers a borrower to another settlement service provider, when an AfBA exists. Proposed revisions to these regulations were published in the *Federal Register* on June 7, 1996 and August 12, 1996. The Department published final regulations on November 15, 1996 (effective January 14, 1997), which implement Section 2103c of the Act.
3. These third party disclosures may be submitted to consumers electronically. Additionally, many disclosures are computer generated. The HUD-1 and HUD-1A are available on the RESPA web site and private companies offer software programs which generate the HUD-1. Except for the HUD-1 and HUD-1A, settlement providers are free to develop forms that are tailored to their individual procedures and needs. Lenders/brokers may use a computer generated program to estimate costs reported on the GFE for specific settlement services. Approximately 20,000 lenders generate an estimated 13,200,000 loan applications which would require a GFE. It is estimated that at least 50% of the GFEs are now generated by computer. Many servicers are using integrated computer systems for billing, recordkeeping, and generating escrow statements. Software manufacturers continue to market improved versions of these systems.

4. The only disclosure containing partial duplication is the annual escrow account statement. To reduce duplication, servicers may adapt HUD-required information to comply with IRS reporting requirements regarding escrow account items, such as taxes. Furthermore, the rule allows servicers to report a "short year" in the first annual statement so that HUD-required annual statements can be issued coincident with IRS forms. In open-end lines of credit, the GFE and HUD-1 are not required when certain truth-in-lending disclosures are given.
5. The collection of this information does not impact small businesses.
6. This information is not submitted to the Federal Government. These third-party disclosures are required by statute, 12 U.S.C. 2601 *et seq.* and regulations. The burdens on respondents are the minimum necessary to comply with the statute, and to assist borrowers in comparison shopping for loans and tracking escrow funds.
7. Information is not reported to HUD. Respondents are required to keep records (HUD-1, HUD-1A, escrow disclosures) for five years. Information may be requested from providers as part of an investigation. There is a three-year statute of limitations for the Secretary to bring an action under Sections 6, 8 and 9. RESPA does not provide for a statute of limitations for escrow disclosures. The Inspector General recommended a five year record retention to limit the paperwork burden.
8. This information collection was published in the *Federal Register* to solicit comments from the public in accordance with 5 CFR 1320.8(d). The announcement was published in the *Federal Register* on June 29, 2006 (Vol 71, No. 125, page 37087). Two comments were received. One comment was received from the National Association of Mortgage Brokers (NAMB) requesting that the Department consider a proposed one page Good Faith Estimate that mirrors the HUD-1 and that would fully disclose the role of the loan originator in the mortgage transaction. This comment pertains to RESPA reform and will not be addressed in this submission. It has been directed to the appropriate office at HUD. In July and August 2005, HUD held informal meetings (roundtables) with representatives of the industry, including lenders, mortgage brokers, real estate brokers and agents, title companies, appraisers, other settlement service providers, as well as consumer groups. The purpose of the meetings was to listen to individual views, allow participants to exchange views, and gather information on possible changes to HUD's RESPA regulations.

The second comment was received from a title industry professional requesting that settlement providers' charges or range of charges more accurately reflect actual costs when disclosed on the Affiliated Business Arrangement (AfBa) Disclosure form. The commenter suggested requiring that each charge correspond to a line item. The commenter further suggested that the consumer be provided additional educational material or a consumer warning regarding affiliated business arrangements, concurrently with the AfBA disclosure. The current regulations do not require that additional disclosures be given to consumers. The Department believes the current AfBA disclosure is adequate as it explains the relationships between the providers, informs the consumer that the referred provider is not required, with certain exceptions, and that the consumer is free to shop for other providers. When the Department revises the settlement costs booklet, it will consider whether further information regarding affiliated business arrangements should be included.

9. There are no payments or gifts to respondents.
10. There are no assurances of confidentiality provided to respondents.
11. There is no information of a sensitive nature being requested.

12. Estimated Number of Respondents, Responses and Burden Hours Per Annum

| Information Collection | Number of Respondents | Frequency of Response | Responses per Annum | Burden Hour per Response | Annual Burden Hours | Hourly Cost | Annual Cost |
|-----------------------------------|-----------------------|-----------------------|---------------------|--------------------------|---------------------|-------------|----------------------|
| Information Booklet/GFE | 20,000 | 660 | 13,200,000 | 0.10 | 1,320,000 | \$20.00 | \$26,400,000 |
| Servicing Disclosure | 20,000 | 660 | 13,200,000 | 0.03 | 396,000 | 10.00 | 3,960,000 |
| Transfer Disclosure | 20,000 | 3,000 | 60,000,000 | 0.03 | 1,800,000 | 10.00 | 18,000,000 |
| HUD-1 or HUD-1A | 20,000 | 660 | 13,200,000 | 0.25 | 3,300,000 | 30.00 | 99,000,000 |
| Initial Escrow | 2,000 | 5,148 | 10,296,000 | 0.08 | 823,680 | *0.00 | 0 |
| Annual Escrow | 2,000 | 21,050 | 42,200,000 | 0.08 | 3,368,000 | *20.00 | 67,360,000 |
| Voluntary Escrow Account Payments | 2,000 | 600 | 1,200,000 | 0.08 | 99,600 | 20.00 | 1,920,000 |
| AfBA | 10,000 | 135 | 1,350,000 | 0.10 | 135,000 | 20.00 | 2,700,000 |
| TOTALS | | | 154,646,000 | | 11,238,680 | | \$219,340,000 |

* Cost of initial escrow is included in the annual escrow cost of \$20.00, which also includes staff time, mailing cost, and equipment.

Explanation of Burden:

Good Faith Estimate and Special Information Bulletin

- Minimum Burden hours are assigned to the Bulletin since lenders merely “hand” it to prospective borrowers. According to most lenders it takes approximately 15 minutes to complete a GFE manually, but an estimated 60 percent of lenders are now using computers. HUD assigns an estimated burden of 6 minutes.

Initial Servicing Disclosure

- Approximately 13,200,000 loans that require a disclosure are closed per year.

Servicing/Transfer Disclosures

- The transferor and transferee may send this disclosure jointly. About 60 million transfers of servicing rights are affected every year. HUD estimates that approximately 10 percent of the 60 million transfers receive a single disclosure.

HUD-1/HUD-1A

- Approximately 13,200,000 loans close per year; each requires a HUD-1/HUD-1A.

Initial Escrow Account Statement

- Approximately 78 percent of the 13,200,000 loans carry escrow accounts requiring an initial statement (13.2 million loans x .78 = 10,296,000 responses).

Consumer Disclosure for Voluntary Escrow Account Payments

- The Department estimates that 1,200,000 borrowers will voluntarily contribute additional escrow funds into accounts. Servicers may collect additional funds as long as borrowers agree to do so through a disclosure.

Annual Escrow Account Statement

- Thirty-seven million mortgages carry escrow accounts. It is estimated that 15 percent of these mortgages change servicers each year requiring a new annual escrow account statement. Thirty-seven million escrowed mortgages plus 5.55 million (15 percent of 37 million) change servicers each year, which equals to approximately 42,200,000 responses. Actual responses per respondent will vary according to the number of escrowed mortgages serviced by each respondent.

Affiliated Business Arrangement Disclosure

- An estimated 4.516 percent of all home sales transactions will involve an affiliated relationship (2005 sales transactions 9,300,000 x .04516 = 419,988). An additional 10 percent of all loan applications will require an AfBA

disclosure (9.3 million x .10 = 930,000). The Department estimates the total AfBA disclosures to be 1,350,000 annually.

13. There are no additional costs to respondents.
14. There are no costs to the government except for a small cost associated with keeping the Special Information Booklet and the HUD-1 or HUD-1A up-to-date. These are third party disclosures that are not reported to the government.
15. The Department is adjusting the previous estimate of 11 million loans a year to 13,200,000 loans a year, resulting in increased burden hours. The adjustment is based on research conducted through the Federal National Mortgage Association (FNMA), a housing Government Sponsored Enterprise (GSE).
16. The results of the information collection will not be published.
17. HUD is seeking approval to not display the expiration date on the forms HUD-1 and HUD-1A because of the very large volume that is generated. The forms are not only required by RESPA but are used for virtually all one-to-four family residential transactions and have become a standard instrument for settlement procedures throughout the industry.
18. There are no other exceptions to the certification statement identified in item 19 of the OMB 83-I than what is stated in item 17 above.

B. Collections of Information Employing Statistical Methods

The collection of information does not employ statistical methods.