

RESPA ROUNDUP

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GFE and HUD-1

I. HUD-1 Line 803 tolerance violation

Does zero tolerance for HUD-1 Line 803 (see “adjusted origination charges”; [24 CFR § 3500.7\(e\)\(1\)\(iii\)](#)) mean that loan originators must double the cure of a tolerance violation of Line 801 or Line 802 because each tolerance violation on those Lines also results in an increase in the Adjusted Origination Charge on Line 803?

No. Correcting a Line 801 or Line 802 tolerance violation will serve to correct a tolerance violation that stems from the calculation of Line 803.

Loan originators should carefully monitor their own charges to avoid tolerance violations. However, if the loan originator fails to correct Line 801, 802 or consequently Line 803 tolerance violations before settlement, the loan originator can effectuate a cure within 30 days by listing and describing a credit in either the 200 Series on Page 1 or in a blank line in the 800 Series on Page 2. Whether the cure is shown in the 200 Series or 800 Series, the settlement agent should include a notation of P.O.C.(lender), to indicate that the lender has made a payment of a specified amount to correct a potential tolerance violation.

Whether the cure is shown in the 200 Series on Page 1 or the 800 Series on Page 2, a cure to correct a tolerance violation on Lines 801 and/or 802 will serve to correct the tolerance violation on Line 803.

After the revised HUD-1 has been prepared by the settlement agent, the settlement agent must provide the revised HUD-1 to the borrower and lender, and, as appropriate, to the seller.

LINKS

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II. Credit report charges

The regulations provide that the only charge that a loan originator may impose on a potential borrower before issuing a GFE is a charge limited to the cost of a credit report (see 24 CFR §§ 3500.7(a)(4) and (b)(4) “...the [loan originator] may, at its option, charge a fee limited to the cost of a credit report”). Only after a loan applicant both receives a GFE and indicates an intention to proceed with the loan covered by the GFE may the loan originator collect fees beyond the cost of a credit report.

For example, if the loan originator’s cost for a credit report is an \$8.75 charge from a third party, the total amount that the loan originator can charge the borrower before the GFE is issued is \$8.75. In this case, the actual charge of the credit report listed on Line 805 of the HUD-1 is \$8.75.

Alternatively, pursuant to 24 CFR § 3500.8(b)(2), the loan originator’s cost for a credit report may also be calculated, charged, and disclosed on the GFE and HUD-1 as an average charge, as long as all of the requirements in 24 CFR § 3500.8(b)(2) are met. This section provides, in part: “The average charge for a settlement service shall be no more than the average amount paid for a settlement service by one settlement service provider to another settlement service provider on behalf of borrowers and sellers for a particular class of transactions involving federally related mortgage loans....”

III. Loan originator fails to issue GFE

If a loan originator fails to deliver a GFE in clear violation of [24 CFR § 3500.7\(a\) and \(b\)](#), the loan originator will have significant potential tolerance violations at settlement. See [RESPA § 3500.7\(e\)](#).

Where the loan originator has not provided the consumer with a GFE, when completing the HUD-1 comparison chart the loan originator’s instructions to the settlement agent must indicate that the settlement agent must fill in the GFE columns with \$0 and the HUD-1 columns with the actual charges from Page 2 of the HUD-1. If this results in one or more tolerance violations, the loan originator may cure the tolerance violation(s) by reimbursing the borrower the amount by which the tolerance was exceeded at settlement or within 30 calendar days after settlement.

As with other compliance areas, loan originators should adopt policies and procedures to ensure that GFEs are delivered timely, in accordance with the requirements of RESPA.

IV. 4506-T (Tax Transcript fees)

The fee for obtaining a tax transcript using IRS Form 4506-T, “Request for Transcript of Tax Return” is an administrative charge that is part of processing and underwriting that should be disclosed as part of Block 1, “Our Origination Charge,” on the GFE regardless of whether the charge is paid to a third party or directly to the IRS.

Contact Us

To contact us with RESPA questions, send an email to hsg-respa@hud.gov or call us at 202.708.0502.

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