

ITEMIZATION OF CREDITS AND TITLE SERVICE CHARGES

1. PURPOSE. This circular announces new requirements concerning closing costs. Effective for loan applications taken on or after October 1, 2010, lenders must include an itemization of (a) seller, lender, mortgage broker, or real estate agent/broker credits and (b) title service charges. Lenders are encouraged to combine the itemization of credits and title charges with the VA origination statement required by Circular 26-10-1.

2. DISCUSSION

a. Itemizing Credits: The Real Estate Settlement Procedures Act (RESPA) permits itemization of credits in the 200 series of lines on the HUD-1 Settlement Statement. However, if a party other than the borrower contributes to multiple borrower expenses, the credits will be shown on the first page of the HUD-1 Settlement Statement as a lump sum. When the credits are shown as a lump sum, itemization is required to enable VA reviewers to determine who paid what charges and to ensure veteran borrowers did not pay unallowable fees. Itemization can be accomplished by providing an attachment to the HUD-1. The attachment may be a lender-created addendum (note: “addendum” does not refer to a particular form, but just an “attachment”) or any standard addendum used by title companies. In lieu of a separate addendum, lenders may choose to expand on the origination statement shown in Exhibit A of Circular 26-10-01 dated January 7, 2010, by itemizing credits and title charges and noting who paid. To illustrate, veterans cannot be charged document preparation, an underwriting fee, and a settlement fee, when they are charged a one percent origination fee. There is, however, no prohibition against the seller, or other party, paying these fees. RESPA requirements for showing these fees in the borrower’s column must be followed although there should be a credit shown on the first page of the HUD-1. When the credit is a lump sum amount, it must be itemized as described herein.

b. Title services and lender’s title insurance: Lenders will now be required to provide a breakout of the charges shown on line 1101, Title services and lender’s title insurance, similar to the breakout required of line 801, Our origination charge, on the HUD-1. This will permit VA reviewers to ensure veterans have not been assessed unallowable fees. In particular, under existing regulations, veterans are not allowed to pay attorney fees, settlement fees or closing fees when a one percent origination fee is charged.

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c. Compliance with RESPA Requirements: Lenders are reminded they must continue to comply with RESPA requirements regarding completion of the Good Faith Estimate (GFE) and HUD-1. Please note, RESPA officials report there are no prohibitions to VA asking for the itemizations discussed in this circular.

3. EFFECTIVE DATE: We encourage lenders to abide by these requirements as soon as possible; however, they will be required to do so for all loan applications taken on or after October 1, 2010.

4. RESCISSION: This circular is rescinded October 1, 2012.

By Direction of the Under Secretary for Benefits

David J. Davis
Acting Director
Loan Guaranty Service

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