



IMPORTANT TDI COMPLIANCE UPDATE!

In response to inquiries from several TLTA members, we have been working closely with the Texas Department of Insurance (TDI) over the last few months to address two regulatory compliance issues – one dealing with appropriate HUD disclosures and the other with statistical reporting codes. Special thanks to **Janet Minke**, Alliant National Title Insurance Company, who spent many volunteer hours working with us to identify the issues and help find resolution and for contributing the updated RESPA guidance below.

We are pleased to report that we now have clear guidance from TDI on both of these items. We urge you to read this updated compliance information, to share it with all appropriate personnel in your office and to adjust your operations as appropriate.

Updated Statistical Codes Should Be Used

It was brought to our attention several months ago that the statistical code chart needed to be updated to reflect recent rule and form changes. TLTA staff discussed this with the title division and data services department at TDI and as a result, they developed and have provided us with updated information which you can [view and download here](#). These proposed amendments will be formally adopted in the next rule hearing, but in the meantime, TDI Title Division Deputy Commissioner Rob Carter has verified that they can be used and relied upon for statistical reporting compliance. Proper statistical reporting is critical to our rate hearing process, so we urge you to make sure you are using the right codes so that the data used to set our future premium rates is accurate.

Updated Guidelines Regarding Escrow Fee Disclosure

TLTA also worked with TDI to update HUD Guidelines in the Title Auditor's Notebook, which you may [view here](#). TDI has changed its position on how the buyer/borrower's escrow fee (included in the charge on Line 1101) should be disclosed when the fee is retained by the Settlement Agent. In the previous guidelines, agents were instructed to disclose the buyer/borrower's portion of the escrow fee outside the column on Line 1102, even when retained by the Settlement Agent. In response to queries from the HUD compliance division, TDI no longer requires the disclosure on Line 1102. Instead, the agent may show the escrow fee either on an Addendum to the HUD-1 or in some manner in the file that will allow an auditor to know how much of the fee collected on Line 1101 was for an escrow fee.

As a reminder, RESPA requires disclosure of fees paid to "third parties." So, if the buyer/borrower's escrow fee is paid to a party other than the settlement agent identified on Page 1, the amount of the fee and name of payee should be disclosed – outside the column – on Line 1102.

The seller's portion of the escrow continues to be collected from the Seller on Line 1102. TDI continues to emphasize that auditors must be able to determine the components of the lump sum Title Services charge to the borrower on Line 1101 of the HUD-1 in order to verify that charges have not been marked up, that rate rules have been properly applied and that adequate supporting documentation is in the escrow file. The information may be provided to an auditor either on an Addendum to the HUD-1 or by including a "worksheet" or "fee sheet" or "revenue report" or something similar in the file.

As a reminder, RESPA regulations in general prohibit itemization of fees included in the borrower's Line 1101 charge unless the fee is paid to a "third party" from the escrow. A third party is identified as someone other than the lender or settlement agent. So, if the title agent collects a "courier fee" as part of the Line 1101 charge and the fee is not paid directly to the courier company from escrow, it should not be shown on the HUD-1 as a separate line item (outside the column) in the 1100 series.

Title Policy Guaranty Fees (collected from the buyer/borrower on Lines 1101 and 1103) should be disclosed as paid to a third party – the Guaranty Association - outside the column on an additional line in the 1100 series.

RESPA regulations – as well as TDI regulations – require disclosure of any portion of the title premium paid to a party other than the title agent. As a result, any premium split should be disclosed outside the column on an additional line in the 1100 series.

TDI also addressed the issue of itemization of document preparation fees for loan documents by saying that if a title agent receives instructions from a lender not to disclose these fees, the agent may follow the lender's instructions. Document preparation fees related to title matters continue to be included in Line 1101 if paid by the borrower and should be itemized outside the column on an additional line in the 1100 series. If paid by the seller, document preparation fees should be collected on an additional line in the 1100 series.