

Updated Guidelines Regarding Escrow Fee Disclosures on the HUD-1

Excerpt from the Texas Department of Insurance Title Auditor's Handbook:

Escrow fees

The new RESPA regulations appear to require the title agent to show all fees related to handling the escrow funds and issuing the loan policy in one lump sum on line 1101. If the escrow fee charged to the buyer or borrower is retained by the title agency, the amount of the fee is not required by RESPA to be disclosed on the HUD-1.

TDI auditors, however, must be provided with information about exactly how much was charged for the title policy and how much was charged for the escrow fee so they can verify that the rate rules were applied correctly. Escrow fees charged to the buyer or borrower can also be disclosed on an addendum to the HUD-1. If an escrow fee is charged to the seller, the fee should be shown in the Seller's column on line 1102.

Attorney fees (frequently listed as document preparation fees)

When a consumer is billed for attorney fees, however, that charge needs to be identified, so that TDI auditors can compare the charged amount with the amount shown on the supporting invoice to check for overcharges. Attorney fees for document preparation charged to a borrower should be disclosed outside the column on a blank line in the 1100 series (1109 or higher). Attorney fees for document preparation charged to a seller should be charged in the seller's column on a blank line in the 1100 series (1109 or higher). Attorney fees related to work performed at the request of a lender do not need to be disclosed on the HUD-1 if the lender instructs the title agent not to disclose the fees.

Pass through fees

Since overcharging is not allowed on pass through expenses, all fees charged for pass through items must be clearly identified. As mentioned above, the new RESPA regulations appear to require the title agent to show all fees related to handling the settlement in one lump sum on line 1101. As with the escrow fee, TDI auditors must be provided with information about exactly how much was charged for each pass through item, so they can verify that there was no overcharging. Title agents should remember that the Basic Manual has the following instruction regarding pass-through expenses: "...it should be determined that these charges are actual expenses or reasonable estimates of charges that must be made prior to closing and not arbitrary or uniformly charged amounts for these items on all closing statements."

Guaranty Fees

The policy guaranty fee for the loan policy will also have to be included in the lump sum total shown on 1101. The policy guaranty fee on a loan policy should also be shown outside the column on a blank line in the 1100 series (1109 or higher). The policy guaranty fee for an owner's policy is shown as part of the cost of the policy on line 1103. A separate disclosure,

outside the column, must be made on line 1109 or higher (as required by Administrative Rule G-1), so TDI auditors can verify proper fee collection.

Premium splits

If a title agent is sharing a portion of the title insurance premium with an attorney or another title agency to pay for title services rendered, only the portion of the premium retained by the agent is shown outside the column on line 1107. The portion paid to the attorney or other title agent should be shown outside the column on a blank line in the 1100 series (1109 or higher).