

RESPA Reform Round 2 – Understanding the Details of HUD’s Revised Proposed Rule

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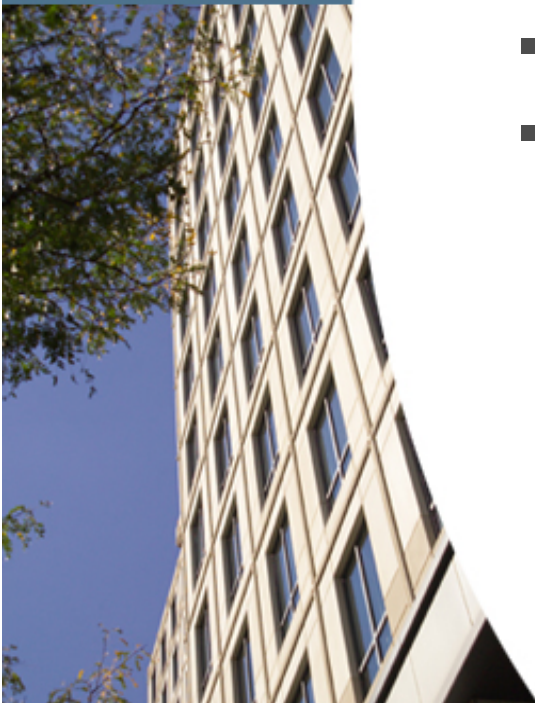


GFE Application



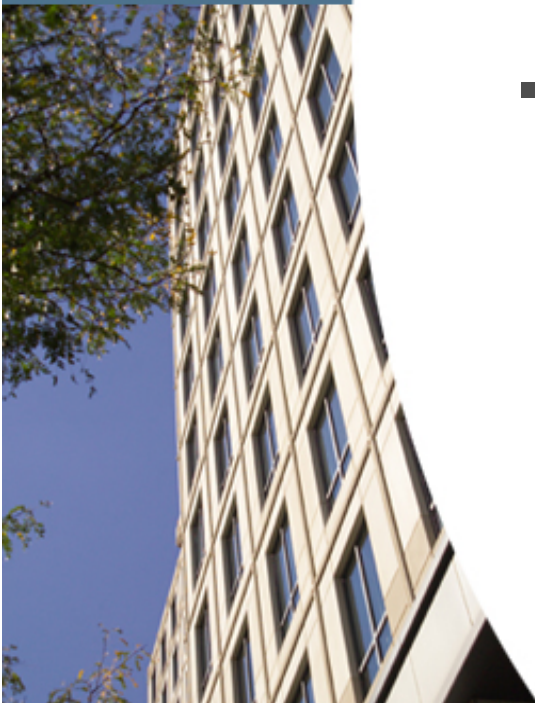
- New concept:
 - Triggers need for a loan originator to provide a GFE within 3 business days.
 - Not an application for a federally related mortgage loan.
 - Presents TILA, ECOA and HMDA issues.
- Definition: A written or oral submission to a loan originator by a prospective borrower to obtain a GFE for a specific loan product.
 - Specific property must be stated or identified.
- Loan originator: A lender or a mortgage broker.

GFE Application



- GFE applicant can be required to provide only:
 - Name.
 - SSN.
 - Monthly income.
 - Property address.
 - Best estimate of property value.
 - Loan amount sought.
- Need to add authorization to obtain a credit report.
- GFE applicant can be charged a fee limited to the cost of providing the GFE, including the cost of an initial credit report.
 - No appraisal or other fee permitted.

GFE—Key Changes



- GFE is expanded to a 4 page document.
- It appears that before a loan application is submitted:
 - Most estimated charges must remain available for at least 10 business days.
 - The interest rate and certain other GFE items must be available until the date set by the originator.
- It appears that, subject to tolerances and exceptions, once an actual loan application is submitted:
 - Non-interest rate-dependent charges are fixed “until closing.”
 - Interest rate-dependent items are tied to lock.

GFE—Terms Availability, Pre Loan App.



- 10 business day availability items:
 - Rule refers to settlement charge estimates, except for the rate-dependent origination charges or credit and daily interest.
 - GFE refers to all settlement charges, except “some” loan origination charges.
 - Preamble refers to GFE terms, except for the rate, “some” rate-related origination charges, daily interest and monthly payment.
- Date set by originator items:
 - Rule refers to rate-dependent origination charges or credit and daily interest.
 - GFE refers to the rate, “some” loan origination charges and monthly payment.
 - Preamble refers to the rate, “some” originator charges, daily interest and monthly payment.

GFE—Terms Availability, Pre Loan App.



- To allow a consumer to shop before submitting a loan application, it appears the intent is that:
 - The settlement charges in the GFE must remain available for 10 business days, except for the following charges:
 - Charge/credit for rate chosen.
 - Adjusted origination charges.
 - Daily interest.
 - The following items in the GFE must remain available until the date set by the loan originator:
 - Interest rate.
 - Charge/credit for rate chosen.
 - Adjusted origination charges.
 - Daily interest.
 - Monthly payment.

GFE—Terms Availability, Post Loan App.



- It appears that once a loan application is submitted, subject to tolerances and exceptions:
 - The following items are tied to the rate lock:
 - Interest rate.
 - Charge/credit for rate chosen.
 - Adjusted origination charges.
 - Daily interest.
 - Monthly payment.
 - Except for settlement charges tied to the rate lock, all other settlement charges must be available until the settlement deadline specified in the GFE.
- How are the terms availability timeframes disclosed in the GFE?

GFE—Terms Availability, Dates




- GFE Important Dates section provides:
 - The interest rate for this GFE is available until _____. After that date, some of your Loan Origination Charges and the monthly payment amount shown can change until you lock your interest rate.
 - The estimate for all other settlement charges is available until _____.
 - If you proceed with this loan, you must go to settlement in _____ days. You must lock the interest rate at least _____ days before settlement.
- There is no distinction between pre and post loan application terms availability timeframes.

GFE—Tolerances



- Tolerances would apply to certain charges absent “unforeseeable circumstances” or an exception.
- 0% tolerance:
 - Loan originator(s) service charge.
 - If rate locked:
 - Charge or credit for rate chosen.
 - Adjusted origination charge.
 - Government recording and transfer charges.
 - Tolerance applies to sum of government charges.

GFE—Tolerances

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- 10% tolerance:
 - Lender-required services if borrower does not select provider.
 - Rule refers to selection by lender.
 - Instructions and preamble refer to selection by loan originator.
 - Lender-required services and optional owner's title, if borrower selects a loan originator-identified provider.
 - If borrower can shop, loan originator must provide list of providers.
 - Tolerance applies to total of charges.
 - Broker issue.
 - No variance limit: All other charges.
 - HUD solicits comment on adding a cure provision.

GFE—Tolerances



- If loan originator cannot meet the tolerances because of “unforeseeable circumstances,” the originator must:
 - Notify borrower within 3 business days.
 - Provide new GFE with revised charges.
 - Document the “unforeseeable circumstances” that resulted in the increased costs.
 - “Charge the borrower only the amount of the increased costs.”
 - Retain documentation for 3 years after settlement.

GFE Changes—What's Unforeseeable



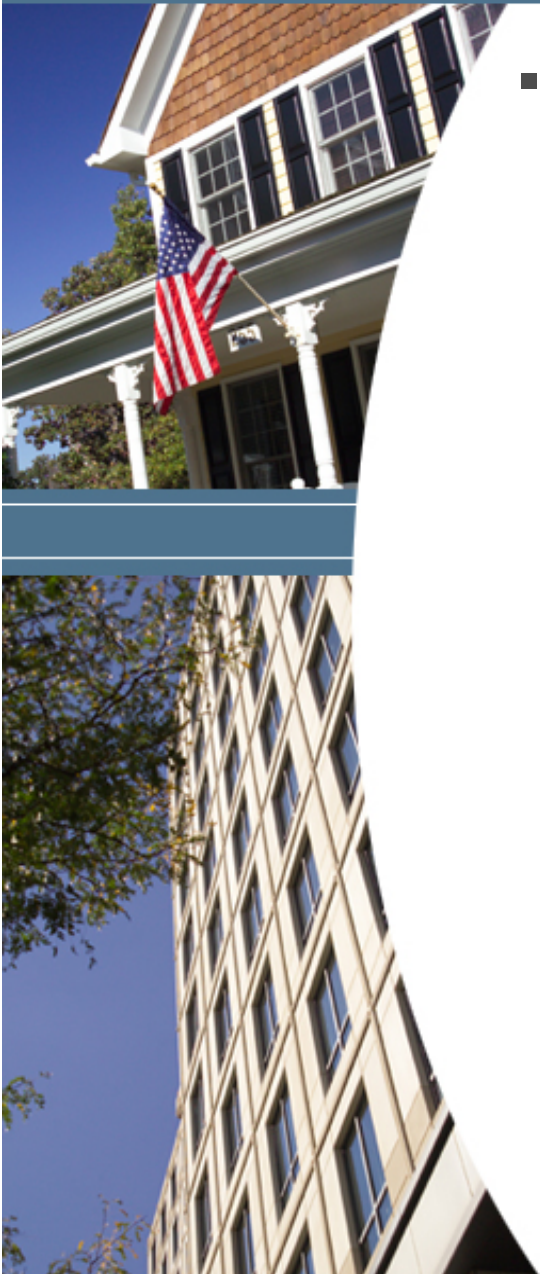
- For purposes of the tolerances, and also for purposes of the exceptions, “unforeseeable circumstances” is defined as:
- Acts of God, war, disaster or other emergency making it impossible or impractical for loan originator to complete the transaction.
- Circumstances that the loan originator could not reasonably foresee that are particular to the transaction and that result in increased costs, such as a second appraisal or flood insurance.
 - Market fluctuations do not qualify.

GFE—Exceptions



- If an exception applies, charges can change without regard to tolerances. Exceptions:
- Final underwriting or “unforeseeable circumstances” result in a borrower eligibility change for the specific loan terms identified in GFE.
- Borrower requests changes to loan covered by GFE that affect settlement charges or loan terms.
- New home with closing in more than 60 days.
 - Loan originator can initially provide a clear and conspicuous, separate disclosure that it will provide an updated GFE.
 - Must provide updated GFE no later than 60 days before closing.
 - No timeframe regarding settlement date specified in other cases.

GFE—Exceptions



- If final underwriting or “unforeseeable circumstances” result in a borrower eligibility change for the specific loan terms identified in GFE:
 - Notify borrower within 1 business day of decision to reject loan.
 - Reject loan?
 - If another loan is made available, provide a revised GFE.
 - Document reasons for the revised GFE.
 - Retain documentation for 3 years after settlement.

GFE—Exceptions



- If borrower requests changes to the loan covered by a GFE that affect settlement charges or loan terms:
 - Loan originator no longer bound by GFE.
 - Notify borrower within 1 business day of decision to reject loan.
 - Reject loan?
 - If another loan is made available, provide a revised GFE.
 - Document reasons for the revised GFE.
 - Retain documentation for 3 years after settlement.

GFE Contents—Dates and Loan Details



- Important Dates:
 - As noted previously, the GFE provides for the insertion of various important dates regarding the availability of terms, but does not distinguish between pre and post loan application terms availability timeframes.
- Loan Details:
 - Initial balance.
 - Initial rate.
 - Loan term.
 - Initial payment (P&I plus MI).
 - Lock period.



GFE Contents—Loan Details



- Loan Details (continued):
 - If rate can rise. If so, provide maximum rate.
 - If balance can rise. If so, provide maximum dollar amount.
 - If payment can rise. If so, provide maximum dollar amount.
 - If there is a prepayment penalty. If so, provide maximum dollar amount.
 - If there is a balloon payment. If so, provide dollar amount and due in X years.
 - If monthly escrow payment for property taxes and possibly other items required.
- HUD-1 also will address loan details.

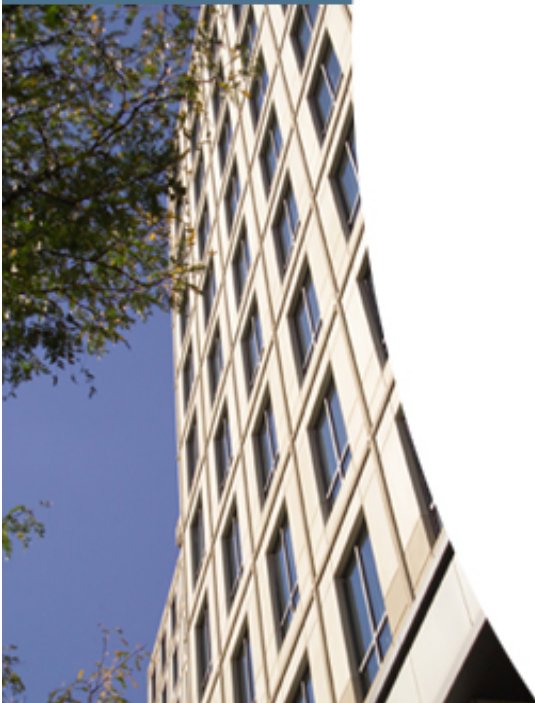
GFE Contents—Estimated Charges



- Page 1:
 - Line A: Adjusted origination charges.
 - Sum of service charge for loan originator(s) and charge or credit based on rate chosen from Page 2.
 - Can be positive or negative.
 - Line B: Total of all other charges from Page 2.
 - Sum of Lines A and B.

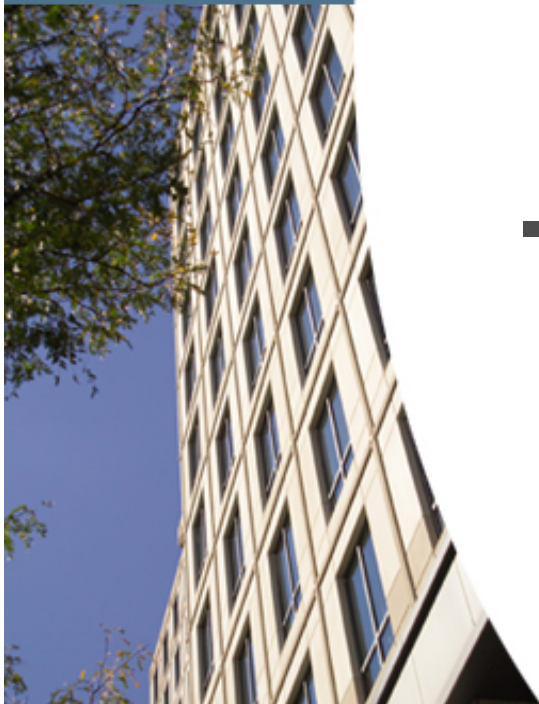
- Page 2:
 - Details of Lines A and B.

GFE Contents—Line A Details



- Block 1, Our Service Charge:
 - Loan originator(s) charges, except any Block 2 item.
 - 0% tolerance applies.
 - “Our” charge issue.
- Block 2, Your Credit or Charge for the Specific Interest Rate Chosen (points):
 - Credit would reduce up front charges.
 - Charge would produce lower rate.
 - Credit and charge cannot occur together.
 - Can elect to include credit or charge in Block 1, and so indicate.

GFE Contents—Line A Details



- Calculation of Block 2, Your Credit or Charge for the Specific Interest Rate Chosen (points), with a broker:
- GFE instructions to Block 2 provide:
 - If amount paid to broker exceeds loan amount, there is a credit to the borrower and it is entered as a negative amount.
 - If the loan amount exceeds the amount paid to broker, there is a charge to the borrower and it is entered as a positive amount.
- Mortgage broker to be defined as a person or entity that renders origination services in a table funded or intermediary transaction.

GFE Contents—Line B Details



- Third party charges, escrow deposits and daily interest charges are set forth Blocks 3 to 10.
- Block 3: Charges for third party services required and selected by lender, excluding title services.
 - Lender/loan originator issue.
 - Both individual and total charges disclosed.
 - 10% bucket tolerance.
- Block 4: Charges for required third party title services and lender's title insurance.
 - Whether selected by loan originator or borrower.
 - 10% bucket tolerance if borrower selects provider identified by loan originator.
 - Provider list requirement, if shopping allowed.

GFE Contents—Line B Details



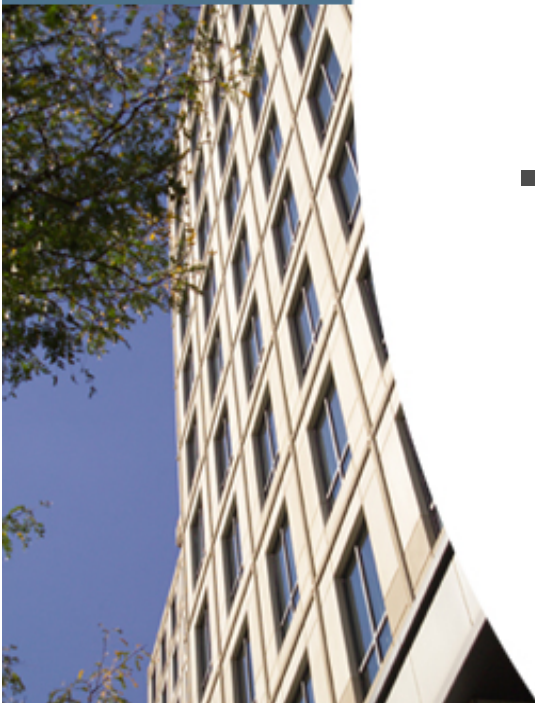
- Block 5: Charges for required services borrower can shop for.
 - Loan originator must provide a list of providers.
 - Both individual and total charges disclosed.
 - 10% bucket tolerance if borrower selects provider identified by loan originator.
- Block 6: Government recording and transfer charges.
 - Based on proposed loan amount and/or sales price and property address.
 - 0% tolerance applies to sum of the charges.
- Block 7: Reserves or escrow.
 - Not subject to either tolerance.



GFE Contents—Line B Details



- Block 8: Daily interest charges.
 - Based on proposed loan, loan amount and closing date.
 - Identify closing date, per day amount and number of days.
 - Not subject to either tolerance.
- Block 9: Homeowner's insurance.
 - Based on loan originator's requirements.
 - Not subject to either tolerance.
- Block 10: Optional owner's title insurance.
 - Loan originator must provide a list of providers.
 - 10% bucket tolerance, if borrower selects provider identified by loan originator.



GFE Contents—Other Items

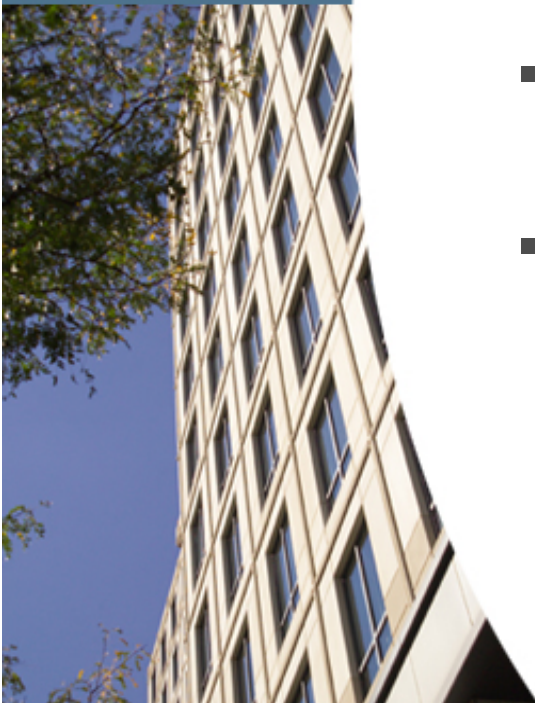


- Statement that “Only you can shop for the best loan for you.”
- Explanation of the charges subject to:
 - The 0% tolerance.
 - The 10% bucket tolerance.
 - No limit on variation.
- Trade-off table that compares the monthly payment and settlement charges for the subject loan to a loan with a lower interest rate and a higher interest rate (to the extent available).
 - ARM loan comparison based on initial rate.
- Loan originator must provide GFE for alternate loan if applicant requests.

GFE Contents—Other Items



- Information regarding the applicant’s responsibilities as a homeowner.
 - Originator must enter estimated property tax, homeowner’s, flood and other property protection insurance.
 - Blank for homeowner’s/condo fees.
 - Originator responsibility issue.
- Information regarding how to apply for the loan and the required fee.
- A discussion of how the applicant can obtain more information.



GFE Contents—Other Items



- A shopping “chart” that the applicant can complete to compare loans.
 - No originator action required.
- A statement that the lender can receive additional fees by selling the loan, and that this will not change the settlement charges.



RESPA Reform Round 2



Thank You.

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