

PROVIDENT BANK MORTGAGE  
RESPA REFORM  
Effective January 1, 2010

## **RESPA OVERVIEW**

The goal of RESPA Reform is to provide consumers with the information needed to readily understand loan terms and total settlement costs. In doing so, RESPA dictates the use of a new Good Faith Estimate (GFE) and HUD-1 Settlement Statement forms. The result is that consumers will be better informed, and able to shop for the best loan and settlement services needed to complete a transaction. A good faith estimate can only be modified under specified circumstances, thereby ensuring that borrowers are made aware in advance of all final costs.

The following are some general concepts associated with RESPA Reform:

- Changes are effective for mortgage loans with an application date on, or after January 1, 2010.
- New Forms – Good Faith Estimate (GFE) and HUD-1 Settlement Statement
- New HUD Settlement Cost Booklet – Shopping for Your Home Loan
- Disclosure of Yield Spread Premium as a credit to customer.
- Elimination of 1% origination fee cap on FHA loans.
- Tolerances between the GFE and HUD for certain borrower charges.

## **FORM Requirements**

- All loans with applications taken on, or after, January 1, 2010, require the NEW GFE and NEW HUD-1 forms.
- If a GFE is issued on the old form prior to January 1, 2010, then the old HUD-1 form must be used even if closing will occur after January 1, 2010.
- The date on the initial application will be used to support use of the new, or old, GFE form. If the initial application is not provided, the date on the initial credit report will be used.

## **GFE - Requirement Triggers**

A GFE must be issued when the originator receives an “application” OR **six** minimum pieces of information sufficient to complete an application including:

Borrower’s Name  
Social Security Number  
Property Address  
Monthly Income  
House Value or Best Estimate  
Amount of Loan

Note: It is important to know that a GFE is now a binding document. Applications for Pre-Approvals are not considered “applications” under RESPA because of the absence of an identified property. **A GFE should not be issued until a property has been identified.** Loan Originators should use alternative forms to display possible settlement costs at the pre-approval stage.

### **GFE Delivery - Timing**

The loan originator must provide the GFE to the applicant by hand delivery, placing it in the mail, or if applicant agrees, by fax or email, within three business days after an application is received. The GFE is not required if the application is denied, or withdrawn, before three business days have passed.

### **GFE Delivery – Information Relied Upon**

If a GFE is issued, the originator is presumed to have received, and relied upon, the minimum 6 pieces of information in preparing the GFE. The originator is also presumed to have relied upon any credit report obtained prior to preparing the GFE.

### **GFE Delivery – Fee Restrictions & Other Particulars**

- GFE and TIL must be received by the borrower prior to collection of fees beyond the cost of the credit report. Additionally, under RESPA, the borrower must also express an intention to proceed with the loan covered by the GFE.
- Borrowers are not required to provide data to verify information before the GFE is issued.
- All fees typically charged to the borrower, regardless of who pays, must be listed on the GFE.

### **GFE Delivery - BINDING GFE**

The initial GFE distributed by any loan originator in a transaction becomes the binding GFE. The fees indicated on the GFE binding, unless specified Changed Circumstances occur.

- If there is a change circumstance, a loan originator can only change the information related to the change circumstance.
- Costs related to Origination Charges (Block 1 on GFE) can only change if the loan amount or the overall loan program changes.
- It is critical that all settlement charges are disclosed upfront.
- Settlement Charges must be accurate within certain tolerances when compared to the final signed HUD-1.

If the borrower does not express an intent to continue with the application within 10 business days, the loan originator is no longer bound by the GFE.

## **GFE Delivery - Settlement Service Providers**

A written list of Settlement Service Providers (SSP) must be given to the consumer when a loan originator permits a borrower to shop for third-party settlement services indicated in Blocks 4, 5 or 6 of the GFE. Each block specifies different types of services:

- Block 4 – Title Service and Lender’s Title Insurance
- Block 5 – Owner’s Title Insurance
- Block 6 –Required services that the borrower can shop for – These charges are for other services that are required to complete your settlement (such as: lender required termite reports, septic certifications and well reports).

Other Considerations:

- The borrower is not required to select a provider from the list.
- If the borrower selects a service provider from the list, the lender is subject to certain fee tolerances.
- If the borrower selects a service provider not on the list, the lender is not subject to tolerances.
- The SSP List must be on a separate sheet of paper.
- The SSP List must be provided at the time of the initial GFE, or revised GFE.

## **GFE – Tolerances**

GFE Tolerances are a key focus of the rule. They are intended to provide accuracy, clarity, and to encourage and enable easier consumer shopping for loan origination and settlement services. To accomplish this, the new rule places restrictions on lenders, in terms of how, and when, fees disclosed on the GFE may change.

Changes in settlement charges between the final GFE and HUD-1 are defined in three categories:

### Charges that cannot increase at Settlement – Zero Tolerance

- Origination Charges.
- Discount or premium points (YSP) for a specific interest rate selected on locked loans.
- Adjusted Origination Charges (after the interest rate is locked).
- Transfer Taxes.

### Charges that cannot increase by more than 10% at settlement

- Required Settlement Services the loan originator selects (such as credit and appraisal services).

- Title Services/Lender’s Title Insurance and Owner’s Title Insurance – if selected by the lender, or if the borrower uses a company identified on the SSP list.
- Required Settlement Services that the borrower selects from the SSP list (such as pest inspections).
- Government recording charges.

Charges that can increase at Settlement – No Tolerance

- Required Settlement Services that the borrower can select, if the borrower selects a service provider not listed on the SSP list.
- Title Services/Lender’s Title Insurance and Owner’s Title Insurance, if the borrower selects a service provider not on the SSP list.
- Initial deposit for borrower’s escrow account.
- Daily interest charges.
- Homeowner’s insurance.

**GFE – Change of Circumstance**

Changed Circumstance Defined:

- Acts of God, war, disaster, or other emergency.
- Changed, or inaccurate, information provided by borrower after issuance of GFE (e.g. credit quality, loan amount, property value, or other information).
- New information particular to the borrower, or transaction, that was not relied on in providing the GFE (e.g. rate, loan term, overall program change or adding or removing borrower(s)).
- Other circumstances particular to the borrower or transaction (e.g. required flood insurance, lender required inspections).

A lock event (locking the rate or expiration of the lock), or a change in the loan structure requested by the borrower, is considered a change of circumstance and subject to the re-disclosure restrictions indicated below.

**GFE – Items that may be considered changed circumstances:**

- New information not collected at application, but not the six required items as described previously.
- A review of information collected, but not relied on in issuing GFE.
- Changed or inaccurate information – such as loan program, credit quality, loan amount, income, or changes tied to floating interest rate (except loan originator’s origination charge).
- Parties are added to, or removed from, title; or the property is moved into, or out of, a trust.
- Property use has changed from an owner-occupied to a rental property.

- It is determined that an additional service or inspection is needed (such as an additional pest, structural or other inspection, upgraded appraisal, certification, survey or other requirement).

**GFE – Changed Circumstance/Re-Disclosure Restrictions**

- If a changed circumstance occurs, only those fees affected by the changed circumstance may change.
- If a changed circumstance occurs, the loan originator must re-disclose within three business days after receipt of the information regarding the changed circumstance, or the ability to re-disclose (and change a fee) is lost.
- When going from a float to a lock, if pricing changes due to a changed circumstance, or a borrower requested change, only the interest rate dependant charges, and terms may change. This includes only those charges, or credits, in Block 2 which will, in turn, impact the “Adjusted Origination Charges”.
- Block 1 fees **CANNOT** change, even with a changed circumstance.  
**Exception:** If the loan amount changes and a portion of the “Origination Charge” is a percentage of the loan amount or the overall loan program changes.
- Important Dates Sections – must be updated to reflect any new information.
- Documentation related to the change circumstance, and fee change, must be retained by the Lender for a minimum of three years.

**Completing the GFE - Important Dates:**

- The “interest rate” and “other settlement charges” dates are independent of each other.
- At lock, an updated GFE must be issued with the “Important Dates” sections updated. Line 4 may contain N/A at this point.

Important dates	1. The interest rate for this GFE is available through <input type="text" value="January 1, 2010"/> . After this time, the interest rate, some of your loan Origination Charges, and the monthly payment shown below can change until you lock your interest rate.
<b>FLOAT</b> →	2. This estimate for all other settlement charges is available through <input type="text" value="January 15, 2010"/>
	3. After you lock your interest rate, you must go to settlement within <input type="text" value="30"/> days (your rate lock period) to receive the locked interest rate.
	4. You must lock the interest rate at least <input type="text" value="15"/> days before settlement.

Important dates	1. The interest rate for this GFE is available through <input type="text" value="January 14, 2010"/> . After this time, the interest rate, some of your loan Origination Charges, and the monthly payment shown below can change until you lock your interest rate.
<b>LOCK</b> →	2. This estimate for all other settlement charges is available through <input type="text" value="January 15, 2010"/>
	3. After you lock your interest rate, you must go to settlement within <input type="text" value="30"/> days (your rate lock period) to receive the locked interest rate.
	4. You must lock the interest rate at least <input type="text" value="N/A"/> days before settlement.

**Completing the GFE – Disclosing Fees**

**Block 1 - Our Origination Charge**

1. Our origination charge This charge is for getting this loan for you.	
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Block 1- contains all lender OR lender and mortgage broker origination points, processing fees and administrative fees.

- Note for Wholesale transactions: Block 1 represents the total of all fees paid to the Lender and Broker. The total in this box will represent the maximum broker fee from the MBFA **plus** Lender Origination Fees.

The amount in Block 1 caps the total origination fees. Block one fees cannot change, even with a changed circumstance – except if the loan amount changes, and a portion of the origination charge is a percentage of the total loan amount, **OR** the overall loan program changes.

### Completing the GFE – Disclosing Fees

#### Block 2 - Your Credit or charge (points) for the interest rate chosen

<p><b>Box 1</b> →</p> <p><b>Box 2</b> →</p> <p><b>Box 3</b> →</p>	<p><b>2. Your credit or charge (points) for the specific interest rate chosen</b></p> <p><input type="checkbox"/> The credit or charge for the interest rate of [ ] % is included in "Our origination charge." (See item 1 above.)</p> <p><input type="checkbox"/> You receive a credit of \$ [ ] for this interest rate of [ ] %. This credit reduces your settlement charges.</p> <p><input type="checkbox"/> You pay a charge of \$ [ ] for this interest rate of [ ] %. This charge (points) increases your total settlement charges. The tradeoff table on page 3 shows that you can change your total settlement charges by choosing a different interest rate for this loan.</p>	
<p><b>A</b> Your Adjusted Origination Charges</p>		\$ [ ]

- Box 1 is only checked by lender (retail transactions) if no additional charges or credits apply
- Box 2: Contains lender credits to the borrower to cover origination and/or other fees.
- Box 3 – any market discount fee or points

Block 2 is subject to zero tolerance while the interest rate is locked and remains the same - any credit can not decrease, and any charge can not increase – unless the interest rate changes. An increase in the credit amount is allowed.

If the lock expires the rate will be extended, and the price of the extension would be deducted from the borrower’s credit, or added to the borrower’s charge.

### Completing the GFE – Disclosing Fees

#### Blocks 3-11 – Your Charges for All Other Settlement Fees

All fees typically charged to borrowers regardless of who pays must be listed on GFE.

- Exception: Owners title, even if typically paid by the seller, must be disclosed on the GFE in Block 5.
- Fees disclosed, but paid by others are still bound by tolerances.

**Block 3 – Required Services that we select**

This block includes all third party settlement services selected by the broker/lender. The type of service, and charge, is entered. These, and other services from blocks 4, 5 and 6, (where provider was chosen from the SSP list), and block 7, are subject to a 10% tolerance in aggregate, (i.e. individual fee increases can not increase the total fee amount by more than 10%).

**Block 4 – Title Services and Lender’s Title Insurance**

- Must list at least one service provider on the SSP list if the borrower is allowed to shop.
- Subject to 10% aggregate tolerance if listed service provider is chosen.
- Not subject to tolerance if listed service provide is not chosen.

**Block 5 – Owners Title Insurance**

- Must list at least one service provider on the SSP list if the borrower is allowed to shop.
- Subject to 10% aggregate tolerance if listed service provider is chosen.
- Not subject to tolerance if listed service provide is not chosen.

**Block 6 – Required Services that borrower can shop for**

- Must list at least one service provider on the SSP list.
- Subject to 10% aggregate tolerance if listed service provider is chosen.
- Not subject to tolerance if listed service provide is not chosen.

**Block 7- Government Recording Charges**

- 10% aggregate tolerance

**Block 8- Transfer Taxes**

- Zero Tolerance

**Block 9 – Initial deposit for your escrow account**

- Must be disclosed but not subject to tolerance

**Block 10 – Daily interest charges**

- Must be disclosed but not subject to tolerance

**Block 11 – Homeowners Insurance** (also used for Flood Insurance)

- Must be disclosed but not subject to tolerance

Comparison Final GFE to Final HUD-1 Settlement Statement on separate document.