

HUD news release

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MARTINEZ MOVES TO PROTECT HOMEBUYERS; CALLS FOR SIMPLIFIED MORTGAGE PROCESS

WASHINGTON - Housing Secretary Mel Martinez took several bold steps today towards significant reform and simplification of the homebuying process. Martinez called for full, upfront disclosure and explanation of all fees that buyers pay at settlement. He is issuing a mortgagee letter to all FHA lenders encouraging full disclosure at the beginning of the process, and also issuing a policy statement for clarification and guidance on home buying fees.

"At closing, too many American families sit down at the settlement table and discover unexpected fees that can add thousands of dollars to the cost of their loan," explained Martinez "They are not told who is getting their money, or what services they are receiving in return. Because this is thrust upon the buyers at the last moment, they have no opportunity to determine whether these extra costs are at all reasonable."

Martinez will push for nothing less than full disclosure to empower homebuyers to shop for the best mortgage and make the best decision for their families.

The consumer-oriented reforms Martinez is pursuing include:

Full, upfront disclosure of all costs associated with obtaining a home loan in understandable terms prior to the payment of non-refundable fees.

Full disclosure would be a description of the specific services to be performed by the broker, a statement of whether the broker is acting as an agent for the borrower, and the amount of the total compensation to the broker, including any yield spread premium paid by a lender. In addition, HUD believes that the broker should explain the various loan options. The borrower should be informed that he or she may pay higher upfront costs for a mortgage with a lower interest rate, or conversely pay a higher interest rate in return for lower upfront costs. In the latter case, the broker may be receiving a yield-spread premium.

Clarification of Yield Spread Premiums - payments made by lenders for loans with higher interest rates. It has always been HUD's position that yield spread premiums serve an important purpose in the housing market. Many potential home buyers do not have the cash to pay the upfront costs of buying a home, including the settlement costs such as appraisal fees, title insurance, the fee charged by a mortgage broker for doing the paperwork, and similar costs.

Yield spread premiums help these potential homebuyers become homeowners by letting them pay less at the time of settlement, and pay a higher interest rate and monthly payment over the life of the mortgage. The broker pays the upfront costs instead, and then recoups these costs by

selling the mortgage to an investor at a higher price, reflecting the higher interest rate. The price difference is the yield spread premium. Yield spread premiums are a legitimate tool to help families become homeowners. Yield spread premiums can also be abused; a broker may persuade the homebuyer to accept a higher interest rate without enjoying lower upfront costs. The lender or broker pockets the yield-spread premium, and the homebuyer is worse off. HUD's statement of policy says that yield spread premiums are legal if the broker actually performs services for the homebuyer, and if the total compensation the broker receives is reasonably related to the total value of the services the broker performs. Disclosure is especially important when borrowers may be paying yield-spread premiums. Borrowers should know as early as possible what their settlement costs will be, so that they can shop for the best option.

Clarification of current HUD policy that states that consumer payments are not legal if they are overcharges, or if no service is provided. HUD is restating and clarifying its policy that excessive and unreasonable fees are illegal under RESPA because they are unreasonable and not a payment for a bona fide service.

This has been HUD's position since RESPA was enacted in 1974, and HUD has stated it a number of times, including a formal rule in 1992. HUD's policy statement makes clear that it is illegal for a lender to mark up a charge when it is making a payment to another settlement service provider, unless it provides value to the homebuyer in the process, or when a lender splits an unearned fee with another settlement service provider, or when no work is done for the fee.

This prohibition protects homebuyers from paying unreasonable fees for the services they need, and thus helps them become homeowners.

The new policy will make clear that it is illegal for a settlement service provider to mark-up fees when it is making a payment to another settlement service provider, unless it provides additional value to the homebuyer in the process, or when a provider does no work for the fee and charges an unreasonable amount.

Expansion of RESPA enforcement. Last year, HUD fielded more than 900 RESPA-related complaints, approximately one-third involving kickbacks and other questionable payments. HUD is dedicating additional resources to support RESPA enforcement. This includes a new \$1.25 million contract to investigate RESPA complaints and for additional personnel to handle cases, and enhanced RESPA enforcement coordination between HUD and the major Federal banking regulators (Federal Deposit Insurance Corporation, Comptroller of the Currency, National Credit Union Administration, Office of Thrift Supervision and the Federal Reserve).

Martinez met with members of the mortgage industry and consumer advocates before deciding upon the initiatives.

"While there is general agreement with the mortgage industry and among consumer advocates that some changes are in order, we realize these initiatives may be met by some resistance," said Martinez. "The important thing to remember is the security, flexibility and understanding these initiatives provide to home buyers. When you are committing to the biggest financial expenditure of your life, you should know all the costs upfront."