



## VestedTitle Newsletter

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### HUD's Response to a Two Package Settlement Proposal

HUD Secretary Mel Martinez wants to save homebuyers and other borrowers money in transactions that are also much more transparent and with guaranteed closing costs. He has proposed a new rule to congress that promises the most sweeping reform of RESPA since 1974. The Single Package approach would lump all settlement services including lending, title, and closing into one guaranteed amount, which on the surface would sound good to paperwork and junk fee-weary consumers.

But some Realtors, homebuilders, title companies and closing companies are afraid that the Single Package approach, to be managed by lenders, will benefit lenders more than consumers. They propose instead a "Two Package" approach in which lenders' fees are put in one package, while title and closing fees are put in another. That way, consumers can shop for the best prices and terms for both.

But the "Two Package" approach also has another benefit – protecting the one-stop-shopping business model that many real estate brokers and homebuilders are trying to employ to stave off unprofitability. By offering real estate services, lending, and closing services, these brokers and builders claim they can offer consumers better service at fair rates in a one-stop-shopping environment.

If lenders are in control of a one-package closing, they allege, lenders could force volume price concessions from closers without passing along the true rates and savings to consumers.

Sue Johnson, spokesperson for the Real Estate Services Providers Council, Inc., explains, "We began debating this among our board of directors in 1996. Our large lender members laid it on our table. HUD's proposed rule was the lenders' original packaging proposal. The problem is that it allowed only mortgage lenders to offer these guaranteed packages."

That's why the National Association of Realtors (NAR), Realty Alliance, and other real estate-related organizations have been upset by the proposed lender-controlled "One Package" solution.

- Ancillary services are critical to the real estate industry's bottom line.
- Does the "One Package" approach show favoritism to the lending lobby?
- Not intentionally, says HUD, and it is considering all points of view.

Brian Sullivan, spokesperson for the HUD, says, "We have to take a step back, we don't know the direction the department will take, so for those that suggest that Secretary Martinez is pursuing any course is uninformed. We are in the process of refining the proposed rule, and exploring all the options. We aren't in a position to discuss any particulars. There are rumors going on, but I don't know what is being discussed right now."

### Random Thoughts

**What kind of summer was it and where are we going?**

Many of our clients are tired. They tell us they are "worn out" from the demands of their clients, lending institutions, real estate brokers, and other third parties (title agencies included.).

An unprecedented increase in the realty transfer fee and recording costs, compounded by confusion at all levels of government as to implementation had our heads spinning for July and August. A seemingly never ending flow of refinance closings where lenders are telling their customers not to pay closing costs was the icing on the cake.

When we started in this business two decades ago, there were seasons. You remember— early winter into the spring as parents tried to get their kids into the community so they would be eligible for school in the fall. Summer when things quieted down and you could take two complete weeks of vacation, in a row! The fall picked up again only to quiet down at Thanksgiving. And then the commercial transaction rush to get things done Christmas Week before the year end deadline made mince meat out of corporate books and records and sales of capital assets.

George Carlin says, "We've learned how to make a living, but not a life. We've added years to life, not life to years. We've been all the way to the moon and back, but have trouble crossing the street to meet a new neighbor.

We've conquered outer space but not inner space. We've done larger things, but not better things."

As hard as we focus on work, let's resolve to focus hard on the other side of life.

Explains Sullivan, "When we know the final rule, the next step in the rule-making process is we will transmit our revised rule to the Office of Management and Budget for review. And they can make changes, or bless it as is, or make moderate alterations, at which time we can go full steam ahead, and repropose certain elements seeking additional comment, but it is all dependent on what OMB says with regard to the proposal.

"Our economic analysis of the proposed rule is that in a typical year, Americans spend \$50 billion dollars on settlement costs and our proposal would save them up to \$10 billion a year. We are not setting price, but market influence has been lacking. The regulations are woefully out of date and the marketplace will bring pressure and that is a challenge to some people who want to protect their own compensation, but not to the exclusion of homeowners who buy and sell homes. Secretary Martinez wants to strike a balance between protecting the interests of millions of consumers and maintaining the competitive environment in the mortgage industry. He wants to get this right. The housing sector is too important to do anything less."

Sullivan bristles at real estate industry frustrations that the HUD is determined to favor the lending lobby.

"We have had countless meetings with anyone who wants to meet," says Sullivan. "We are trying to be considerate in this process in listening to everybody, and we are refining the rule to strike that balance and keep an open mind. To benefit large lenders simply is not our interest or to benefit some VS others. If you look at how things have gone, we have tried to get consumer groups and industry groups without HUD being involved to hammer it out and they can't, so past efforts have failed."

RESPA reform is a "third-rail" issue, but Secretary Martinez, when he took office, decided to get his hands it, says Sullivan.

"The rules of RESPA were enacted in 1974, and the mortgage settlement process is different now. Brokers originate 65 percent of mortgage loans, and in 1975 you couldn't find a mortgage broker. Now the settlement process is too complicated, unclear and expensive. When you buy a home, you shouldn't have to feel like you need to go home and take a shower."

NAR is on record with its concerns over the HUD proposal. "We encouraged HUD," says David Lereah, senior vice president of the NAR, "if it is committed to a guaranteed mortgage package model – to pursue a two-package option. If HUD's intent is to promote competition among packagers, the guaranteed proposal must be designed to allow anyone to package settlement services independent of the loan. If designed correctly, opportunities may be available for non-lender packagers, such as real estate brokers, title companies and others to provide additional choices for the consumer, which do not exist under the current proposal. Two packages are better than one and we believe would encourage greater market competition and reduce costs to consumers."

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Is there a topic you would like to see included in Title Topics? If so, contact Stephen Flatow at [sflatow@vested.com](mailto:sflatow@vested.com) or at 201-656-9220.

Do we have your E-mail address? To be added to our Vested list, please send a message to [sflatow@vested.com](mailto:sflatow@vested.com).