

(i) If any of the following terms is set forth in an advertisement:

(A) The amount or percentage of any down payment,

(B) The number of payments or period of repayment,

(C) The amount of any payment, or

(D) The amount of any finance charge,

(ii) The advertisement must also state:

(A) The amount or percentage of down payment,

(B) The terms of repayment, and

(C) The *annual percentage rate*, using that term.

[48 FR 4, Jan. 3, 1983, as amended at 60 FR 55123, Oct. 27, 1995; 67 FR 78328, Dec. 24, 2002]

§§ 1940.402–1940.405 [Reserved]

§ 1940.406 Real estate settlement procedures.

(a) *General.* This section provides the instructions for compliance with the Real Estate Settlement Procedures Act (RESPA), as amended, and Regulation X of the Department of Housing and Urban Development.

(b) *Scope.* (1) This section applies to loans and credit sales, including Section 502 Rural Housing, 1-4 family Rural Rental Housing, 1-4 family Labor Housing, and Farm Ownership involving tracts of less than 25 acres, whether made to an individual, corporation, partnership, association or other entity, which meet the following requirements:

(i) The proceeds of the loan or the credit extended are used in whole or in part to finance the purchase and transfer of title of the property to be mortgaged by the borrower, and

(ii) The loan or credit sale is secured by a first lien covering real estate on which is located a structure designed principally for the occupancy of from 1-4 families, or on which a structure designed principally for the occupancy of from 1-4 families is to be constructed using proceeds of the loan.

(2) Exempt transactions include:

(i) Loans for repairs, improvements, or refinancing if the proceeds are not used to finance the purchase of the property.

(ii) Loans to finance the construction of a 1-4 family structure if the tract of

land is already owned by the applicant/borrower.

(iii) Assumptions or transfers.

(c) *Action required.* (1) The information booklet entitled "Settlement Costs" will either be given to the applicant at the time the completed application is received, or mailed to the applicant no later than three (3) business days after receipt of the application in the County Office.

(i) Form FmHA or its successor agency under Public Law 103-354 440-58, "Estimate of Settlement Costs," is to be used to provide a "good faith" statement of estimated closing costs. Form FmHA or its successor agency under Public Law 103-354 440-58 will be completed by the County Supervisor and mailed or delivered to the applicant with the Settlement Costs booklet. Costs will vary between geographic areas; therefore, information supplied on this form must be based upon (A) the County Supervisor's best estimate of charges the borrower will pay for each service in connection with the transaction, or (B) a range of charges at which such service is available to the borrower from all providers in the area.

(ii) Form FmHA or its successor agency under Public Law 103-354 440-58 does not replace Truth in Lending forms. Appropriate forms listed in §1940.401 will be used for Truth in Lending purposes.

(2) Form FmHA or its successor agency under Public Law 103-354 1940-59, "Settlement Statement," will be completed as indicated in the form and FMI by the designated attorney or title company for all transactions described in paragraph (b) of this section. The purpose of this form is to provide a uniform settlement statement prescribed by RESPA.

(i) During the business day immediately preceding the date of settlement, the closing agent, if requested by the applicant, must permit the applicant to inspect the settlement statement, completed for those items which are then known to the closing agent.

(ii) A copy will be given to both the borrower and seller at the time of closing or settlement or will be mailed as soon as practicable if the borrower or seller are not present at closing.