



May 2010

HUD General Counsel Posts Letter on Administrative Fees

In response to a June 2008 joint letter from NAR and Washington RESPA attorney Jay Varon, HUD General Counsel Helen R. Kanovski, provided informal answers to questions regarding what are often referred to as administrative fees or similarly named fees charged to consumers in real estate transactions. The January 22, 2010 letter discusses the ways to account for charges and circumstances where charges are appropriate or less appropriate. The letter notes that all charges to sellers and buyers must be disclosed on line 700 of the HUD-1 and that RESPA does not prescribe how an agent or broker determines the charge, noting it could be a flat fee, percentage, or combination of both. The letter concludes with the usual caveats that it does not provide protection from liability. Nevertheless, the letter does represent HUD's latest thinking on this issue and provides some reasonable parameters for agents and firms with regard to disclosing and charging fees or commissions. RESPA attorney Phil Schulman has written an article explaining how HUD's guidance affects REALTORS®.

Visit www.realtor.org/respa to read HUD's January 22, 2010 Letter and Phil Schulman's Article.

For more information, contact:

Scott Rinn - srinn@realtors.org or 1-202-383-7508

Marcia Salkin - msalkin@realtors.org or 1-202-383-1092

Kenneth Trepeta - ktrepeta@realtors.org or 1-202-383-1294

IRS to Expand Audits of Independent Contractor Status

The IRS has announced that it will expand its audits of small businesses during 2010. The purpose of the audits is to assess compliance with the payroll tax requirements that fall on employers and employees and also self-employment payroll tax rules that fall on independent contractors.

The IRS is assessing compliance; it is not targeting any particular industry. These expanded audits provide a useful reminder to broker/owners to assure that they have current documents setting out the required information. Occasionally broker/owners who have been lax in their record-keeping with respect to these written agreements have incurred significant penalties.

For more information, contact:

Linda Goold - lgoold@realtors.org or 1-202-383-1083

Samuel Whitfield - swhitfield@realtors.org or 1-202-383-1131

Lead-Based Paint Renovation Rule Compliance Guides for REALTORS®

On April 22, 2010, the EPA rule (www.epa.gov/lead/pubs/lscp-press.htm) requiring the use of lead-safe work practices became effective and firms performing renovation, repair, and painting projects that disturb lead-based paint in homes built before 1978 must be certified. Individual renovators must be trained by an EPA-accredited training provider, and the firms and renovators must follow specific work practices to prevent lead contamination. For more information on how this rule affects REALTORS®, view the following NAR Compliance Guide videos:

Lead Paint Renovation Rule Compliance Guide Overview

www.realtor.org/government_affairs/lead_paint_main

Lead Paint Renovation Rule Compliance Guide: Real Estate Agents and Brokers

www.realtor.org/government_affairs/lead_paint_realtors

Lead Paint Renovation Rule Compliance Guide: Real Estate Agents' and Brokers' Frequently Asked Questions

www.realtor.org/government_affairs/lead_paint_realtors_faq

Lead Paint Renovation Rule Compliance Guide: Property Managers

www.realtor.org/government_affairs/lead_paint_property_managers

Lead Paint Compliance Guide: Property Managers Frequently Asked Questions

www.realtor.org/government_affairs/lead_paint_property_managers_faq

Protect Yourself and Your Clients from Financial Crimes and Report Fraud

President Obama's Financial Fraud Enforcement Task Force has launched www.stopfraud.gov. This site was developed to help consumers learn how to protect themselves from fraud and how to report it when it occurs.

In addition, the U.S. Department of Housing and Urban Development, in partnership with the Loan Modification Scam Prevention Network, recently announced the launch of www.PreventLoanScams.org. The Loan Modification Scam Prevention Network, a national coalition of public and private enterprises, is led by the Lawyers' Committee for Civil Rights Under Law. Fannie Mae, Freddie Mac, the Homeownership Preservation Foundation, and NeighborWorks America assist the Lawyers' Committee in leading the coalition's fight against loan modification scams.

The network developed PreventLoanScams.org to provide homeowners with a single destination to report alleged scammers. Complaints filed online are added to a national complaint database and forwarded to the appropriate law enforcement agencies for review.

HUD Press Release:

http://portal.hud.gov/portal/page/portal/HUD/press/press_releases_media_advisories/2010/HUDNo.10-039?utm_source=twitterfeed&utm_medium=twitter

To report a suspected scam in Arizona:

www.preventloanscams.org/states?id=0003#Report%20A%20Scam

Arizona Financial Fraud Enforcement Task Force

The Financial Fraud Enforcement Task Force was established to investigate and prosecute financial crimes. The task force which includes representatives from a number of federal agencies, regulatory authorities, state and local law enforcement, will also work to fight discriminatory activity in the lending and financial markets.

Terry Goddard and Eric Holder Pledge Aggressive Fight against Mortgage Fraud

www.azag.gov/press_releases/march/2010/Press%20Release%20-%20Mortgage%20Fraud%20Summit%203-2010.html

Attorney General Holder, Financial Fraud Enforcement Task Force Announce New Funding Distribution for Enforcement Efforts at Mortgage Fraud Summit in Phoenix

www.justice.gov/opa/pr/2010/March/10-opa-316.html

NAR Field Guide to Mortgage Fraud

www.realtor.org/library/library/fq330

Fraud Scheme Red Flags

www.efanniemae.com/utility/legal/pdf/fraudschchar.pdf

www.efanniemae.com/utility/legal/pdf/fraudstats/fraudupdate0310.pdf

Protecting Your Client's Financial Information

With recent high-profile data security breaches, which involved the misuse of millions of customers'

personal information, protecting consumers' information is a serious issue for businesses. Is your office taking the appropriate precautions to safeguard the personal information of your clients? The following links are provided to help you make sure that you are.

Legal Requirements to Prevent Identity Theft - by K. Michelle Lind

www.aaronline.com/documents/IDTheft.aspx

5 Ways to Keep Your Client Data Secure

www.realtor.org/rmolaw_and_ethics/articles/2010/1004_law_identitytheft

Sample Broker Privacy Policy

www.aaronline.com/Documents/broker-privacy-policy.aspx

EDUCATION

June 24 - 25, 2010 - *rCRMS: Mastering the Residential Resale Transaction*

www.aaronline.com/hosteddocuments/crmsjune2010classflyer.pdf

August 12, 2010 - *Broker/Manager Risk Management Conference*

Details available at www.aaronline.com in a few weeks

WEBINARS

Short Sale Seller Advisory

Commissioner's Welcome - www.aaronline.com/video/ComissionersMessage.wmv

Webinar on the Advisory - www.aaronline.com/video/Short_Sale_Seller_Advisory_Webinar.wmv

Legal Hotline

Hot Tips - http://takeaction.realtoractioncenter.com/ct/1d_byHS1BLe3/

SOCIAL MEDIA

5 Risks of Social Media - Michael Thiel, NAR associate counsel

www.realtor.org/rmolaw_and_ethics/articles/2010/1004_law_socialmedia

Short Sales Ethics: 6 Temptations to Avoid

www.realtor.org/rmolaw_and_ethics/articles/2010/1004_law_shortsalesethics