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**Minnesota Department of Commerce
New RESPA Rules and Minnesota FAQs
August 17, 2010**

The following frequently asked questions (FAQs) are being distributed in keeping with the Minnesota Department of Commerce's (DOC) role in monitoring compliance with Minnesota insurance law and RESPA Regulations. The DOC, after discussion and agreement with HUD, provide the following "FAQS" concerning the production of the new HUD forms to help clarify, and assist in ensuring compliance with the new RESPA Regulations. Please take time to review these FAQs with your staff and implement any changes appropriate in order to maintain compliance with the laws and regulations. The Department welcomes any questions or comments in regard to these procedures:

- 1) Q: Can I charge the "seller's" portion of the search and examination fee on line 1101 in the seller's column?

A: When asked, HUD's response states that the search and examination fees are considered "Title Services" and "must remain in Block 4 of the GFE and in Line 1101 of the HUD-1 in the borrower's column." Therefore any portion of the search and examination fees which are attributable to the seller must be given as a credit from the seller to the buyer on the front page of the HUD-1.

- 2) Q: Can I charge "sellers" portion of the closing fee on the seller's side of line 1101?

A: Per a HUD representative "if it is customary for the seller to be charged a separate fee for the settlement/closing, it may be listed in line 1102 in the seller's column."

- 3) Q: Am I allowed to itemize, within the 1100 series, the fees which make up my "Title Services" charge on line 1101?

A: HUD's FAQ and Appendix A to Part 3500 of RESPA state that this type of itemization should only occur when a third party service provider has completed the service to be itemized. For instance, if an agent has purchased a search product from a third party the fee should be itemized on a blank line within the 1100 series. The fee can be no more than the actual amount paid to the third party for the service unless the agent utilized the average charge formula provided in the rule. (See RESPA Rule Section 3500.8) An exception to the rule, per a HUD representative, is where a state law or governmental loan program require itemization of these services.

- 4) Q: If an agency has purchased a Search and paid for it from operating funds prior to closing how should they collect for it on the HUD statement?

A: If an agent has paid a third party service provider for a bona fide title service prior to closing the fee can be collected on the HUD to reimburse the agent. The fee should be included in the Title Services on line 1101 and itemized outside the column payable to "HYZ Title Agency for ABC Abstracting."