



**OLD REPUBLIC**  
National Title Insurance Company

100 South Ashley Drive, Suite 700  
Tampa, Florida 33602-5300

(813) 228-0555  
(800) 342-5957

Home Office: Minneapolis, Minnesota 55401-2499

## BULLETIN

### FLORIDA BULLETIN 98-12

TO: ALL OLD REPUBLIC AGENTS AND BRANCH OFFICES

FROM: LINDA M. HERNANDEZ  
STATE UNDERWRITER

DATE: OCTOBER 23, 1998

RE: CLOSING FEES ON THE HUD CLOSING STATEMENT

---

Recently, a number of lenders have requested that title agents either limit their closing fees to a set amount or co-mingle their closing fees with the risk rate premium. These requirements have been without explanation and created a regulatory risk to the unwary title agent.

In fact, these requests appear to be motivated by a recent change to the Federal Truth-in-Lending Act (TIL) that became effective October 1, 1998. *Section 226.4(a)(2)* of the new rule states:

Required closing agent. If the creditor requires the use of a closing agent, fees charged by the closing agent are included in the finance charge only if the creditor requires the particular service, requires the imposition of the charge, or retains a portion of the charge. Fees charged by a third-party closing agent may be otherwise excluded from the finance charge under *Sec. 226.4*. For example, a fee that would be paid in a comparable cash transaction may be excluded under *Sec. 226.4(a)*; a lump sum fee for real estate closing costs may be excluded under *Section 228.4(c)(7)*.

Whether or not these "closing fees" are to be included in the calculations for TIL disclosure purposes is the lenders' dilemma. Some will choose to include these fees while others may not.

The concern for title agents in Florida is the possible violation of Rule 4-186.003(13)(b), F. A. C. which states, "(b) Charges for related title services (title search, examination, and closing) shall be shown separately on the closing statement, and shall at a minimum, show title search charges, examination fees, and closing charges. The risk premium as defined by section 627.7711(2), Florida Statutes, and as provided in Section 627.780(1), Florida Statutes, shall be shown separately on the closing statement." (emphasis added) In other words, it is a violation of the Florida Administrative Code to include your closing fee with the risk rate premium.

We anticipate that it will be necessary for you to coordinate more closely with lenders concerning your fees so that they may properly prepare their Truth-in-Lending Disclosure. Should you have any questions regarding this matter, please do not hesitate to contact either Jim Russick or me.