



# State of New York Mortgage Agency

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By E-mail

October 27, 2010

**RE: Lender Letter - RESPA Guidelines for SONYMA Down Payment Assistance Loans**

Dear Participating Lenders:

On October 6th, HUD released a notice exempting, among other things, certain down payment and closing cost assistance products from Sections 4 and 5 of the Real Estate Settlement Procedures Act ("RESPA") requirements. The notice is entitled "*Exemptions From Coverage Under Sections 4 and 5 of RESPA For Certain Subordinate Loans Provided by Assistance Programs for Low- and Moderate-Income People*", and relates to Section 5(c) [preparation of the Good Faith Estimate ("GFE")] and Section 4 [preparation of the HUD-1 Settlement Statement ("HUD-1")]. Specifically, the notice stated that if eligible subordinate liens met all six (6) of the listed characteristics, the requirement of a GFE and HUD-1 would be waived. This notice can be accessed at: <http://www.hud.gov/offices/hsg/rmra/res/exemption.pdf>.

Because the State of New York Mortgage Agency ("SONYMA") funds its Down Payment Assistance Loan ("DPAL") with proceeds from tax-exempt mortgage revenue bonds, DPALs qualify for this exemption. However, Item "E. Settlement Cost" of the notice states (as one of six eligibility characteristics) that if the second mortgage settlement charges exceed one percent (1%) of the down payment assistance loan amount, the loan is NOT exempt from the RESPA requirements.

SONYMA believes that due to the one percent (1%) settlement cost requirement, most DPALs will not be exempt from RESPA requirements since the combined cost of the recording fee and the New York State mortgage tax for the DPAL will likely exceed one percent (1%) of the second mortgage loan amount. Therefore, lenders must prepare a GFE and HUD-1 for the DPAL when the costs exceed one percent (1%).

However, in those instances where the DPAL loan expense is less than one percent (1%), it is not necessary for the lender to prepare the GFE and HUD-1 for the DPAL.

If you should have questions concerning the information that is provided in this bulletin, please feel free to contact Susan Pline at 212-872-0391 or by email at [spline@nyshcr.org](mailto:spline@nyshcr.org).

Sincerely,

A handwritten signature in black ink, appearing to read "George M. Leocata".

George M. Leocata  
Senior Vice President  
Single Family Programs