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INFORMATIONAL MEMORANDUM

DATE: December 6, 2007 **Memorandum Ref #2007-91-2**

TO: All Approved Issuing Agents

FROM: Sheryl C. Hughes, President

SUBJECT: Clarification concerning HUD-1 and Settlement Statements Fee Recordation

This informational memorandum shall serve as a follow-up to original Memorandum Ref #2007-91 (attached) issued on September 6, 2007. Florida Department of Financial Services has offered additional clarification concerning the use of independent contractors and proper way to record various charges on the HUD-1 and Settlement Statements in Florida.

The definition in FS 627.7711 for *closing services* provides as follows:

627.7711 Definitions.—As used in this part, the term:

(1)(a) “Closing services” means services performed by a licensed title insurer, title insurance agent or agency, or attorney agent in the agent’s or agency’s capacity as such, including, but not limited to, preparing documents necessary to close the transaction, conducting the closing, or handling the disbursing of funds related to the closing in a real estate closing transaction in which a title insurance commitment or policy is to be issued.

If an agency engages an outside vendor to perform some of above named functions, the agency is still responsible for the acts of the vendor, just as if the service was performed by any agency employee. There should not be any separate charge on the HUD-1 for this service, regardless of the presence of an invoice, because the service comes under aforementioned *closing service* definition. Any charge or fee related to the closing should be charged as part of the agency’s *closing service* fee.

This does not preclude the agency from including a separate itemized accounting of the components of their *closing services* fee included on line 1101 of the HUD-1 form. This itemization should be a separate listing or breakout referenced in the Miscellaneous Section of the HUD-1 form; however, they would only be charged in on line “1101 Settlement or closing fee”.

If you have any questions and/or concerns, please do not hesitate to contact me at (407) 513-1900 ext. 7116.