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respa protection against illegal referral fees

Disclaimer

RESPA was enacted because Congress felt that consumers needed protection from "... unnecessarily high settlement charges caused by certain abusive practices that have developed in some areas of the country." Some of the practices Congress was concerned about are discussed below. Most professionals in the settlement business provide good service and do not engage in these practices.

Prohibited Fees. It is illegal under RESPA for anyone to pay or receive a fee, kickback or anything of value because they agree to refer settlement service business to a particular person or organization. For example, your mortgage lender may not pay your real estate broker \$250 for referring you to the lender. It is also illegal for anyone to accept a fee or part of a fee for services if that person has not actually performed settlement services for the fee. For example, a lender may not add to a third party's fee, such as an appraisal fee, and keep the difference.

Permitted Payments. RESPA does not prevent title companies, mortgage brokers, appraisers, attorneys, settlement/closing agents and others, who actually perform a service in connection with the mortgage loan or the settlement, from being paid for the reasonable value of their work. If a participant in your settlement appears to be taking a fee without having done any work, you should advise that person or company of the RESPA referral fee prohibitions. You may also speak with your attorney or complain to a regulator listed in the Appendix to this Booklet.

Penalties. It is a crime for someone to pay or receive an illegal referral fee. The penalty can be a fine, imprisonment or both. You may be entitled to recover three times the amount of the charge for any settlement service by bringing a private lawsuit. If you are successful, the court may also award you court costs and your attorney's fees.

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