

WHAT IS RESPA?

RESPA - The Real Estate Settlement Procedures Act (12 U.S.C. 2601) which, together with Regulation X promulgated pursuant to the Act, regulate real estate transfers involving a "federally related mortgage loan" by requiring, among other things, certain disclosures to borrowers.

A SUMMARY OF SECTION 8 OF RESPA

Section 8 of RESPA Prohibits:

Any person in a residential real estate transaction that is financed from giving or receiving ANYTHING OF VALUE (and we mean anything), pursuant to an AGREEMENT OR UNDERSTANDING (it does not have to be formal), for the REFERRAL (this includes actions that influence the selection of a provider) of any SETTLEMENT SERVICE (title, mortgage, casualty insurance, escrow, etc.) except that the following items and arrangements are exempt or permitted:

- (1) payments for the FAIR VALUE of GOODS or SERVICES actually RENDERED (not counting the value of any referral)
 - includes services of title agency, but remember rules on "core services;"
- (2) normal, promotional or educational expenditures (not conditional on the referral of business or calculated to defray another provider's cost of doing business);
- (3) payments pursuant to the EMPLOYER/EMPLOYEE EXEMPTION;
- (4) consumer rebates;
- (5) AFFILIATED BUSINESS ARRANGEMENTS (including joint ventures) provided that:
 - the DISCLOSURE rules are followed;
 - the consumer is NOT REQUIRED TO USE the provider referred;
 - the only thing of value to be obtained from the arrangement (other than payments otherwise permitted -- (numbers (1)-(4) above) is a bona fide RETURN ON AN OWNERSHIP INTEREST (e.g., dividends) or franchise interest (royalties); and-- the JOINT VENTURE GUIDELINES are followed (i.e., the arrangement involves a real entity with sufficient capital, real employees performing significant and necessary services and whose profits are subject to real business risk).

CONSEQUENCES OF A RESPA VIOLATION

Section 8, paragraph b of RESPA states:

Any person who violates RESPA "shall be fined not more than \$10,000.00 or imprisoned for not more than one year, or both." Any persons involved in a violation are also jointly and severally liable to the person charged for settlement service for an amount equal to three times the amount of any charge paid for such settlement service.

Section 9, paragraph b states:

Anyone who violates this provision is liable to the buyer in an amount equal to three times the charge for title insurance or other damages received.

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