

GUIDE TO CLOSING COSTS

RESPA Disclosures

One of the purposes of RESPA is to help consumers become better shoppers for settlement services. RESPA requires that borrowers receive disclosures at various times. Some disclosures spell out the costs associated with the settlement, outline lender servicing and escrow account practices and describe business relationships between settlement service providers.

Good Faith Estimate of Settlement Costs. RESPA requires that, when you apply for a loan, the lender or mortgage broker give you a Good Faith Estimate of settlement service charges you will likely have to pay. If you do not get this Good Faith Estimate when you apply, the lender or mortgage broker must mail or deliver it to you within the next three business days.

Be aware that the amounts listed on the Good Faith Estimate are only estimates. Actual costs may vary. Changing market conditions can affect prices. Remember that the lender's estimate is not a guarantee. Keep your Good Faith Estimate so you can compare it with the final settlement costs and ask the lender questions about any changes.

Servicing Disclosure Statement. RESPA requires the lender or mortgage broker to tell you in writing, when you apply for a loan or within the next three business days, whether it expects that someone else will be servicing your loan (collecting your payments).

Affiliated Business Arrangements. Sometimes, several businesses that offer settlement services are owned or controlled by a common corporate parent. These businesses are known as "affiliates." When a lender, real estate broker, or other participant in your settlement refers you to an affiliate for a settlement service (such as when a real estate broker refers you to a mortgage broker affiliate), RESPA requires the referring party to give you an Affiliated Business Arrangement Disclosure. This form will remind you that you are generally not required, with certain exceptions, to use the affiliate and are free to shop for other providers.

HUD-1 Settlement Statement. One business day before the settlement, you have the right to inspect the HUD-1 Settlement Statement. This statement itemizes the services provided to you and the fees charged to you. This form is filled out by the settlement agent who will conduct the settlement. Be sure you have the name, address, and telephone number of the settlement agent if you wish to inspect this form. The fully completed HUD-1 Settlement Statement generally must be delivered or mailed to you at or before the settlement. In cases where there is no settlement meeting, the escrow agent will mail you the HUD-1 after settlement, and you have no right to inspect it one day before settlement.

Escrow Account Operation & Disclosures. Your lender may require you to establish an escrow or impound account to insure that your taxes and insurance premiums are paid on time. If so, you will probably have to pay an initial amount at the settlement to start the account and an additional amount with each month's regular payment. Your escrow account payments may include a "cushion" or an extra amount to ensure that the lender has enough money to make the payments when due. RESPA limits the amount of the cushion to a maximum of two months of escrow payments.

At the settlement or within the next 45 days, the person servicing your loan must give you an initial escrow account statement. That form will show all of the payments which are expected to be deposited into the escrow account and all of the disbursements which are expected to be made from the escrow account during the year ahead. Your lender or servicer will review the escrow account annually and send you a disclosure each year which shows the prior year's activity and any adjustments necessary in the escrow payments that you will make in the forthcoming year.

RESPA Protection Against Illegal Referral Fees

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.