

Real Estate Settlement Procedures Act And The Consumer Financial Protection Bureau

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The Real Estate Settlement Procedures Act (RESPA) is a Federal law intended to insure that consumers are provided with helpful information about the cost of mortgage settlement and protected from unnecessarily high settlement charges caused by abusive practices. In addition, the [HUD-1 form](#) which provides home buyer's a statement of actual settlement costs, is designed to help consumers determine if actual closing costs are within established requirements.

Essentially, RESPA requires that consumers receive disclosures at various times in real estate transactions and outlaws kickbacks that increase the cost of settlement services. As such, RESPA is designed to help homebuyers be better shoppers in the home buying process.

As of July 21, 2011, RESPA is administered and enforced by the [Consumer Financial Protection Bureau](#) (CFPB), which was established by the Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). The broader mission of the CFPB is to give consumers the information they need to understand the terms of their agreements with financial companies, while working to make regulations and guidance clear and streamlined so providers of consumer financial products and services can follow the rules.

The mandate of the CFPB extends beyond home mortgages and related settlement services, also including credit card companies and other consumer financial products. In this quest, the CFPB:

1. Conducts rule-making, supervision, and enforcement for Federal consumer financial protection laws
2. Restricts unfair, deceptive, or abusive acts or practices
3. Takes consumer complaints
4. Promotes financial education
5. Researches consumer behavior
6. Monitors financial markets for new risks to consumers
7. Enforces laws that outlaw discrimination and other unfair treatment in consumer finance

Among other projects, the CFPB is currently working to combine the two main federal mortgage disclosures that consumers receive when they take out a home loan or refinance their existing

mortgage. These are the Truth in Lending Disclosure and the HUD-1 Settlement Statement, noted above. A single easier to read form is the goal, one which allows consumers to compare the terms and costs contained thereon to those received when a home loan is first applied for. This should make it easier for consumers to understand the information as part of the CFPB's "Know Before You Owe" initiative.

If problems arise, consumers may also submit mortgage related complaints to the CFPB on its website. Complaints may relate to the loan application process, including actions of a loan originator or mortgage broker, credit decisions and underwriting, the process of settlement and settlement costs, loan servicing and escrow accounts, as well as problems that arise when a consumer is unable to pay their mortgage. The latter category includes issues related to loan modification, collection or foreclosure.

Complaints about the settlement process and settlement costs relate directly to RESPA. It's worth noting that, according to the US Department of Housing and Urban Development [website](#), the most recent RESPA Rule includes a required, standardized Good Faith Estimate (GFE) to facilitate shopping among settlement service providers and to improve disclosure of settlement costs and interest rate related terms.

These efforts make clear that the Federal Government is at work to assist consumers with information and issues that arise at various stages of the home purchase and ownership process. Purchasing or refinancing a home is often a confusing experience that requires great patience and a good deal of faith placed in one's agent or broker with respect to process and paperwork.

RESPA and the CFPB can assist consumers in this effort.

Schein & Cai handles real estate disputes, including arbitration and litigation arising out of real estate transactions, agent and broker relationships and landlord/tenant matters.