

An Overview of Federal Real Estate Regulations: What is RESPA and TILA?

by Isaac Benmergui, Esq on April 25, 2014



Aside from sounding like something out of an obscure anime show, RESPA and TILA would be something many lawyers of real estate law would know well – The *Real Estate Settlement Procedures Act* and the *Truth in Lending Act*. Here we're along the same theme as many of the most recent posts here: guidelines. They must be followed. For something as serious as the real estate market, it's clear that procedures are key, with monitoring of best practices among lenders and other real estate professionals. RESPA and TILA were, in fact, enacted all the way back in 1974 and 1968 respectively. They each had one common purpose: settlement costs needed to be sufficiently conveyed with proper elimination of kickbacks and referral fees. And why is that?

Think of closing costs and such expenses. Would homeowners have to pay up that additional money after ensuring proper approval? In all fairness, no. That's why referral fees and kickbacks are now, and have been, considered illegal. RESPA, in fact, even prohibits all sorts of service exchanges. That means lenders, title agents and other practitioners can't simply "trade services" to cut their own costs down.

In the end, the prospective homeowner shells out the more money to make up for the loss of revenue entitled to the very core of the transaction: the builder, the developer. The fact, though, is this – the law has to communicate such affiliations and arrangements clearly. It's purely for informational reasons. TILA focuses on lenders as well, appropriately mandating disclosure of all terms and costs in layman's language. Additionally, consumers do have the right cancel transactions if necessary, for any reason specifically involving dispute resolution.

With the Consumer Financial Protection Board enforcing RESPA and the Federal Reserve ensuring TILA is properly enforced, we have a dual statute of the highest regard in the real estate industry. Penalties for breaking either or both of these laws can go as astronomical as \$10K and prison for an entire year. That's nothing to scoff at.

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