

My Florida Home Book 1.7: Your Legal Rights¹

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Real Estate Settlement Procedures Act

The Real Estate Settlement Procedure Act (RESPA) requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures of the nature and costs of the real estate settlement (or closing) process.

Summary of Protections

Good Faith Estimate (GFE) of Settlement Cost

RESPA requires that the lender or mortgage broker give you a document called Good Faith Estimate (or GFE) that identifies the estimated settlement service charges (closing fees) you will likely have to pay within three business days of your loan application.

Servicing Disclosure Statement

RESPA requires the lender or mortgage broker to tell you in writing whether it expects that someone else will be collecting your payments within three business days of your loan application.

Affiliated Business Arrangement Disclosure

When a lender, real estate broker, or other participant in your settlement refers you to an affiliate for a settlement service, RESPA requires the referring party to give you an Affiliated Business Arrangement (or AfBA) Disclosure.

Inspection of HUD-1 Settlement Statement

RESPA protects your right to inspect the HUD-1 Settlement Statement one business day before actual closing, which itemizes all charges imposed on borrowers and sellers in connection with the settlement (closing). The fully completed HUD-1 Settlement Statement generally must be delivered or mailed to you at or before the settlement.

Escrow Account Operation and Disclosures

When you establish an escrow account, RESPA limits the reserve amount for property taxes and insurance that the lender can keep in escrow to a maximum of two months of escrow payments. At the closing or within the next 45 days, the person servicing your loan must give you an initial escrow account

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statement. Your lender or servicer will review the escrow account annually and send you a disclosure each year that shows the prior year's activity and any adjustments necessary in the escrow payments that you will make in the forthcoming year.

Report of Violations

If you think your rights have been violated, you can file your complaint by writing to:

Director, Office of RESPA and Interstate Land Sales
US Department of Housing and Urban Development
Room 9154
451 7th Street, SW
Washington, DC 20410

Your complaint letter should include:

- Your name and phone number
- Violator's name, address and phone number
- Description of violation

Further Information

For further information on the Real Estate Settlement Procedure Act, go to the RESPA – Real Estate Settlement Procedure Act page at U.S. Department of Housing and Urban Development (HUD) Web site (http://www.hud.gov/offices/hsg/sfh/res/respa_hm.cfm).

Fair Housing Act

The Fair Housing Act prohibits discrimination in sales and rentals of housing units and in mortgage lending based on the following six characteristics:

- Race or color
- National origin
- Religion
- Sex

- Familial status
- Disability (physical or mental)

Exemptions

The Fair Housing Act covers most housing, but there are several exemptions. Among those that are exempt is the sale or rental of any single-family house by an owner only under the following conditions:

- the owner does not own or have interest in more than three single-family houses at any one time;
- if the house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting homes that is sold or rented directly by owner without using any type of brokers; and,
- if the owner resides in the house at the time of the sale or rental or has resided in the house within 24 months before the sale or rental.

In addition, housing for older persons is exempt only from the prohibition against familial status discrimination.

Summary of Prohibited Actions

In Sale or Rental of Housing

- Refusing of sales, rental, negotiation of housing, and dwelling
- Making housing unavailable or false denial of housing for inspection, sale or rental
- Setting different terms, conditions, or privileges for sale or rental of a dwelling
- Providing different housing services or facilities

In Mortgage Lending

- Refusing to make a mortgage loan, to provide information regarding loans, or to purchase a loan
- Imposing different terms or conditions (interest rates, points or fees) on a loan or for purchasing a loan

- Discrimination in appraising property

Other

- Refusal of permitting a person with physical or mental disability, or with any history of such a disability, to make any necessary modification to the person's dwelling or common use areas at the person's own expense.
- Refusal to make reasonable accommodations in rules, policies, practices, or services if necessary for the person with disability to use the housing
- Advertising or making any statement that indicates a limitation or preference based on the protected characteristics
- Threaten, coerce, intimidate, or interfere with anyone exercising a fair housing right or assisting other who exercise that right

Report of Violations

If you think your rights have been violated, you have one year to report the violation. There are three ways to report your claim:

Report the Violation Online

You can file your claim using online form at <http://www.hud.gov/offices/fheo/online-complaint.cfm>.

Report the Violation via Postal Mail

You can file your claim by completing a complaint form from the U.S. Department of Housing and Urban Development (HUD) Web site (<http://www.hud.gov/offices/adm/hudclips/forms/files/903-1.pdf>) and by mailing it to:

Office of Fair Housing and Equal Opportunity
Department of Housing and Urban Development
Room 5204
451 Seventh St. SW
Washington, DC 20410-2000

Or, you also can write a letter regarding any violation in Florida to Atlanta Regional Office of FHEO (Fair Housing and Equal Opportunity):

Atlanta Regional Office of FHEO
U.S. Department of Housing and Urban
Development
Five Points Plaza
40 Marietta Street, 16th Floor
Atlanta, Georgia 30303-2806

If you write a letter to file your claim, the following information should be included in your letter:

- Your name and postal address
- The name and address of the person your complaint is about
- The address of the house or apartment you were trying to rent or buy
- The date when this incident occurred
- A short description of what happened

Report the Violation via Phone

For violations in Florida, you can file your claim by calling the Atlanta Regional Office of FHEO at a toll-free number 1-800-440-8091, (404) 331-5140, or TTY (404) 730-2654.

Further Information

For further information on the Fair Housing Act, go to the Fair Housing and Equal Opportunity page on the HUD Web site (<http://www.hud.gov/offices/fheo>) or contact the Atlanta Regional Office of FHEO as listed above.

Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies (CRAs).

Summary of Your Rights

- To obtain one free credit report every 12 months from each nationwide credit bureau and from nationwide specialty CRAs (Equifax, Experian, TransUnion) upon your request
- To know what is included in your file

- To ask for your credit score
- To dispute incomplete or inaccurate information—CRAs should correct or delete inaccurate, incomplete, or unverifiable information within 30 days
- To be informed of any negative action using your credit report

Report of Violations

If you think your rights have been violated, send your complaint to:

Consumer response Center – FCRA
Federal Trade Commission
Washington, DC 20580

Further Information

For further information on the Fair Credit Reporting Act, contact the Federal Trade Commission (FTC) at 1-877-FTC-HELP (1-877-382-4358) or TTY 1-866-653-4261 or visit the FTC Web site at <http://www.ftc.gov>.

Truth-in-Lending Act

The Truth-in-Lending Act (TILA, or Title I of the Consumer Credit Protection Act) requires all creditors to make written, standardized disclosures about their terms and costs. TILA also protects consumers' rights to cancel certain transactions that involve the establishment of a security interest in the consumer's residence, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes.

Amending Acts

Home Ownership and Equity Protection Act

The Home Ownership and Equity Protection Act (HOEPA), amending the Truth-in-Lending Act, established disclosure requirements and prohibits equity stripping and other abusive practices in connection with high-cost mortgages.

Home Equity Loan Consumer Protection Act

The Home Equity Loan Consumer Protection Act, also amending the Truth-in-Lending Act, requires

creditors to provide certain disclosures for open-end credit plans secured by the consumer's dwelling and imposes substantive limitations on such plans.

Further Information

For further information on the Truth in Lending Act, contact the Federal Trade Commission (FTC) at 1-877-FTC-HELP (1-877-382-4358) or TTY 1-866-653-4261 or visit FTC Web site at <http://www.ftc.gov>.

Equal Credit Opportunity Act

Equal Credit Opportunity Act (ECOA, or Title VII of Consumer Credit Protection Act) prohibits creditors from discriminating in credit applications, in giving credits, and in credit evaluation based on the following six characteristics:

- Race or color
- National origin
- Sex
- Marital status
- Religion
- Whether or not receiving public assistance income

Summary of Prohibited Actions

Because of the consumer protections under ECOP, creditors are prohibited:

- To discourage your credit application based on the six protected characteristics
- To consider the protected six characteristics of your when making decision to give you credit
- To ask asking to reveal your religion
- To inquiring about your plans for having or raising children
- To refuse considering public assistance income the same way as other income

- To discount your income because of your sex or marital status
- To refuse to consider regular alimony, child support, or separate maintenance payments

Additional Rights

In addition to prohibition of the actions listed above, you also have the right:

- To have credit in your birth name, your first name and your spouse's last name, or your first name and a combined last name.
- To get credit without cosigner, if you meet the creditor's standard
- To have cosigner other than your spouse, when you need a cosigner
- To keep your own account after you change your name, marital status, reach certain age, or retire, unless the creditor has evidence that you are not creditworthy
- Know whether or not your application was accepted or rejected within 30 days of filing your complete application
- To learn specific, and reasonable reasons of their decisions

Report of Violations and Further Information

If you suspect your rights have been violated, complain to the creditor and make the creditor know that you are aware of the Equal Credit Opportunity Act. The creditor may find an error or change his/her decision.

If the creditor does not correct the decision and if you still think your rights have been violated, write to an appropriate government agency depending on characteristics of the creditors. For further information on the Equal Credit Opportunity Act, including where to report your complaint, contact the Federal Trade Commission (FTC) at 1-877-FTC-HELP (1-877-382-4358) or TTY 1-866-653-4261 or visit the FTC Web site at <http://www.ftc.gov>.