

# IT'S THE LAW REFERRAL FEES AND **YOU**

They're called "referral fees," "finder's fees" – even "kickbacks."

In many cases, they are entirely legal. But in other cases they are not, so it is important to understand how these laws work.

## **PROTECTING CONSUMERS**

The federal Real Estate Settlement Procedures Act (RESPA) protects consumers by eliminating certain fees that might unnecessarily increase settlement charges. Specifically, RESPA allows one sales broker to pay a referral fee to another licensed sales broker, but prohibits a sales broker from paying a referral fee to a non-licensed person. However, the law does not prohibit an innocent show of appreciation to a non-licensee – such as flowers, a bottle of wine or a gift certificate – so long as there is no expectation of compensation.

RESPA applies to transactions that involve the sale of buyer-occupied residential property with 1-4 dwelling units to be

acquired with a federally related loan (such as those made by a lender and insured by the federal government or sold on the secondary mortgage market to Fannie Mae or Freddie Mac). Commercial property, vacant land, apartments with five or more units and all-cash transactions, however, are not subject to this federal law.

## **WHAT CALIFORNIANS NEED TO KNOW**

California law prohibits payment to a non-licensee for performing licensed activity. This includes soliciting clients for an agent, assisting in the negotiation of the terms of a sale and providing documents, among other activities. California law requires all fees for licensed activity to be paid through the responsible broker – not directly to or from an agent. Unlike federal law, California law applies to all real property, regardless of property type or number of units or the method of financing



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