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The bunk behind junk closing fees

Mortgage brokers and their many "fees" -- sometimes not related to any actual service performed by a broker.

By **Stephen Gandel**, MONEY Magazine staff writer

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Money

NEW YORK (MONEY Magazine) - These days nearly everyone knows someone -- a brother-in-law, a college pal, a former hairdresser -- who's become a mortgage broker.

There aren't many barriers to entry. Only about half of all state governments have any licensing requirements, which, when they do exist, usually amount to a day or less of training. In the other states, all you have to do is register and you're in.

The National Association of Mortgage Brokers (NAMB) does have a code of ethics, but it doesn't do any testing or screening or even require professional ethics classes.

Beth and Robert Grommesh bought their place at 3049 Aquila in 2005 with a \$522,500 loan. The various pretax fees came to \$8,856, or 1.7 percent of their loan. Among those costs, according to their HUD-1, were \$1,265 in charges for "processing" and "administration."

NAMB board member Jim Pair calls these "junk fees" because, he says, they're generally not related to any actual service performed by a broker and, if so, are violations of NAMB's code of ethics.

"As a mortgage broker, I don't perform those services, so I can't charge for them," Pair says.

Yet such fees can be routine: We found them in 10 of the 12 Aquila purchases. The long list of names that fees go by (in addition to processing and administration charges, Aquila residents were hit with application, commitment, courier, document prep, origination and underwriting fees) suggests that specific things were done to earn them.

Actually, says University of Minnesota law professor Prentiss Cox, a former head of the Minnesota attorney general's consumer division, most all of these fees end up in lender or broker coffers regardless of what a HUD-1 says: "They should just call them 'Pluto research fees.' They're just making this stuff up."

Toothless regulations

The federal Real Estate Settlement Procedures Act, or RESPA, was passed back in 1974 to prevent just such a state of affairs. Among other provisions, it requires lenders to send, within three days of a loan application, a good-faith estimate to the borrower detailing the interest rate and fees.

In theory, all this information allows consumers to compare offers and select the best deal. In reality, the law is so toothless that it enables lenders to ignore their estimates in your HUD-1 come closing day.

"I call them bad-faith guesstimates," says Brian Montgomery, an assistant secretary at HUD.

When Kevin Slama and Brooke Perry applied for a \$213,000 loan to buy their home on Aquila Lane in 2004, for example, their good-faith estimate for fees was \$4,524. The actual fees turned out to be \$7,320 -- or 61 percent higher.

Yet fees aren't the costliest result of the loopholes. RESPA was also meant to stop realtors from taking kickbacks for steering customers to favored lenders, title companies, appraisers or home inspectors. But it doesn't prohibit agents from making referrals within their own firm, as long as the agent isn't directly compensated.

And the law says nothing about indirect compensation -- or about how much the agent's employer can benefit from referrals. So the two-decade-long housing boom has seen firms morph into huge organizations that offer their own mortgage and title services. Even small shops can have a lending officer these days.



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The result: Almost no one in this arrangement has an incentive to offer consumers the most competitive price.

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