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A.I. calls for withdrawal of HUD's proposed RESPA Rule

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The nation's largest professional organization of real estate appraisers has called for the withdrawal of proposed changes to the Real Estate Settlement Procedures Act (RESPA) because it fails to promote transparency of real estate settlement costs to consumers. The Appraisal Institute was joined by the American Society of Appraisers, American Society of Farm Managers and Rural Appraisers, and the National Association of Independent Fee Appraisers in expressing concerns with the proposal, including allowing fees to be hidden or disguised from consumers and charging some consumers more than actual costs through average cost pricing, among other things. The appraisal organizations expressed concern over common industry practices that allow consumers to be charged additional loan processing fees through the line item for appraisal fees. It is increasingly common for local appraisers - those actually performing the appraisal assignment and subject to requirements of the Uniform Standards of Professional Appraisal Practice - to be paid only a small percentage of the actual appraisal fee charged to the consumer and presently reported on Line 803 of the HUD-1 as "appraisal fee." As much as 60% of some "appraisal fees" charged to consumers today are actually being paid to appraisal management companies, which are actually loan processing functions, according to the organizations. The result is that in many transactions, loan processing fees are misleadingly labeled as appraisal fees and being charged to consumers. Further, the proposal to allow "average cost pricing" for settlement services is essentially a green light to charge some consumers more than what was actually paid to the appraiser (settlement service provider) for the services conducted in the performance of the consumer's loan. This is contrary to the goals of adequately informing consumers of settlement services charges, and the appraisal organizations fear it will result in widespread consumer abuse. For instance, as an alternative to a full appraisal inspection, today it is common for lenders to utilize streamlined appraisal processes (drive-by appraisals) or evaluations (automated valuation models) on many loans. Oftentimes, the fees for conducting a streamlined appraisal or an evaluation are well below the average fully inspected appraisal costs. Yet, if these lesser services are performed, and the consumer is charged the overall average, they will be assessed a higher fee than the actual cost of the appraisal services performed on their loan. Advancing a regulatory system whereby loan originators are incentivized to order the lowest service available and charge the consumer a higher average is ripe for abuse, the appraisal organizations said. To address these and other concerns - should HUD move forward with a final rule despite near industry- wide opposition to the rule - the appraisal organizations suggested that HUD distinguish between appraisal fees and loan processing fees such as those involved in appraisal management. In addition, the appraisal organizations urged HUD to allow average cost pricing for establishing estimates on the GFE only and prohibit their use, under all circumstances, on the proposed new HUD-1 statement, among other things.