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## Lawyers can help identify scams involving real estate

Residential real estate fraud is fast becoming one of the most common types of fraud committed on banks and consumers. Its impact on innocent people can be devastating. Scams can artificially inflate the price of a house, cause a prospective sale to fall apart, and hurt the real estate values of an entire neighborhood. Furthermore, fraud is hard to spot, which is why consumers can unwittingly be drawn in, according to Peter J. Birnbaum, president and CEO of Attorneys' Title Guaranty Fund, Inc. (ATG).

"Real estate fraud leads to increased consumer costs, it hurts lenders and others involved in the transaction, and it prevents government agencies that are there to help consumers, such as the Department of Housing and Urban Development (HUD), from fulfilling their mission," he said.

Knowledge and detection are the keys to avoid being drawn into a scam, Birnbaum states. "Experience real estate attorneys should be familiar with common fraud schemes, which will help prevent their clients from becoming involved."

Fraud schemes almost always involve "insider" participation by one of the key people involved in the transaction. The perpetrators often use forged identities and pose as the named buyer, seller, appraiser, or another party.

They frequently engage in a practice that involves illegal "flip" transaction. Land "flips" (the practice of buying a piece of property and selling it again in a short period of time for a profit) are legitimate, but the practice can also be used to facilitate fraudulent schemes involving forged documents that dupe lenders into providing funds for bogus transaction for homes worth less than the amount of the loan.

Consumers and others in the industry should be aware that this fraud is committed in a wide range of creative ways, Birnbaum continues. The schemes involve false appraisals that may be difficult, if not impossible, to identify. Other schemes involve what the industry calls "predatory lenders" who typically target those who, because of a poor credit history or limited in-

come, cannot - or believe they cannot - afford a traditional mortgage. While typical targets include the elderly, people in low-income neighborhoods, and those who speak little English, no one is immune.

Homeowners seeking to refinance an original mortgage or to obtain a home equity loan to pay bills or make home improvements are especially vulnerable. "Unlike potential homebuyers, those seeking to refinance usually don't hire an attorney to review the terms in the contract," Birnbaum says. "As a result, they can lose their home - or at least the equity they've built up - if they can't make the required payments."

Predatory lenders are often good salespeople who want to make a fast buck at the expense of the mortgage seeker. But they send out signals that an informed consumer will recognize:

- Recommending that you apply for more money than you need and, furthermore, that you accept monthly payments that you really don't believe you can make;
- Suggesting that you gloss-over or falsify even the smallest bit of information on your loan application;
- Offering cash back or more than 100% financing for a home purchase;
- Promising one set of terms when you apply, then giving you another set of terms to sign; and/or
- Encouraging you to sign forms on which the financial information has not yet been entered.

Predatory lenders often contact their victims through cold calls, either by phone or direct mail, or they come "referred" by a disreputable source such as a home repair company.

"It is unwise to make major financial decisions based solely on an unsolicited phone call or sales literature from an unknown company," Birnbaum states. "And remember, if something sounds too good to be true, it probably is. Before you proceed, discuss these important financial decisions with someone you trust, someone who does not benefit financially from your actions."

Birnbaum emphasizes to all consumers who are contemplating the purchase of a home, or who are refinancing their existing mortgage, to hire an attorney first, before selecting a lender. He explains: "An independent real estate attorney can help consumers through the maze of loan options and help make the loan decision that's best for you and your circumstances. An attorney will also help you steer clear of parties whose practices may not be in your best interests. For a relatively small investment, an attorney is an advocate in your corner right up the closing when you take ownership of your new home. For a small fee, a lawyer's advice can pay large dividends in prevention."

Many organizations, including ATG, as well as the media have attempted to educate the public about fraud in real estate transactions and specifically about predatory lending. Congress is now considering legislation, and many states, including Illinois, have passed laws that attempt to restrict predatory lending by imposing hefty penalties on those who engage in the practice. Penalties typically include an order that they make sure restitution to their victims. These carry with them the threat of incarceration, and therefore are often more compelling than a money judgment obtained through civil litigation.

Founded in 1964, ATG is the premier lawyer-service organization for the benefit of the profession and the public. In addition to providing title insurance to home buyers and lenders, the company now offers - through its network of 3,500 member-lawyers - a variety of investment and other services delivered by subsidiary companies. These subsidiaries include a trust company, a mortgage bank, a real estate brokerage company, and a real estate auction company.

ATG is headquartered in Champaign and downtown Chicago, and has offices in Mt. Prospect, Chicago (mid-north side), Homewood, Libertyville, Lombard, North Riverside, Oak Lawn, and Belleville, Ill.; and Madison, Wisconsin.