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2005/2006 may end up being a watershed year as borrowers out "class" the title insurance industry

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You may have recently received in the mail a Notice of Proposed Settlement of Class Action and wondered what it was all about. No it's not a lotto ticket, however if you refinanced a commercial or residential mortgage after June 20, 1996, you may be entitled to some money from the settlement fund.

Have you refinanced a residential or commercial mortgage during the recent refinance boom? If so, do you know if you paid the proper amount for title insurance?

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Beginning June 20, 2002 a class action was filed in New York against several major title insurance companies. The action alleges that each defendant title insurance company either directly or through its title agents, charged premiums for loan policies in refinance transactions that were in excess of the appropriate rates.

A proposed settlement has been reached and the Notice of Proposed Settlement describes the class action and explains your rights with respect to the settlement of the class action.

So how much money do I get?

Not so fast. First you have to qualify as a member of the class. If you are the same owner of a property located in New York, who during the class period (mid-1996 to current), refinanced the identical property within 10 years from the date of closing the last previously insured mortgage or purchase, and you were charged a premium by one of the defendant title insurance companies or their agents in an amount in excess of the appropriate reduced premium, then you may be entitled to receive some compensation.

Not everyone is entitled to the same level of compensation. The proposed settlement requires the claims administrator in the action to determine each class member's pro rata share of the Total Settlement Fund based upon a 5-tiered Plan of Allocation. Depending on the level at which you qualify, you will have to provide certain evidence or proofs of insurance, and the award range is from a minimum of \$75 and a maximum of \$600 at the highest level.

Background information is necessary to understand the class action and the reason for the settlement. Property owners or borrowers refinancing mortgages pay various closing costs. One of the closing costs is for a title insurance policy taken out on behalf of the lender. The property owners who are refinancing their mortgages usually pay the premiums for the lender's loan policy. The title insurers are bound to follow the schedule of rates for title insurance premiums that are filed with New York State Insurance Department. Pursuant to these rates, the property owners may be entitled to a discounted premium.

If all of the criteria set forth in the rate regulations are met, the cost for insurance shall be only 50% or 70% of the applicable loan rate depending upon the size of the mortgage.

Based on their evaluation of the time and expense involved in litigating a complex class action lawsuit and the risks associated with an adverse final decision, the plaintiffs and their attorneys, and the defendants and their attorneys have

determined that the settlement is in the best interests of the parties.

The court will hold the final settlement hearing on July 29th in part 16, at the Supreme Court of the state of New York, Nassau County to determine whether the settlement and the stipulations of settlement should be finally approved. It is not necessary for members of the class to appear unless you have timely filed and served a written objection to the settlement.

If you have additional questions, consult the Notice of Proposed Settlement of Class Action received in the mail for the names and telephone numbers of parties to contact.

Many readers are aware of the recent scrutiny of the insurance industry by the attorney general of the state of New York. At the same time the Federal Department of Housing and Urban Development (HUD) has been pushing for revisions of the Real Estate Settlement and Procedures Act (or RESPA). HUD's goal is to shorten the time it takes to close on a mortgage loan and to reduce the costs charged to the consumer for borrowing money.

2005/2006 may end up being a watershed year for the entire insurance industry.

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