

## Affiliated Business Arrangements FAQs

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**Question:** Where can I find information regarding affiliated business arrangements?

**Answer:** For information regarding Affiliated Business Arrangements please see the [Real Estate Manual](#), and specifically Section 12-10-218, C.R.S., and Commission Rules 6.18 and 6.21. See also Commission Position Statement [CP-38](#) (Disclosure of Affiliated Business Arrangements and Conflicts of Interest).

**Question:** When is a real estate broker required to disclose Affiliated Business Arrangements to the Commission?

**Answer:**

- When a licensee enters into an Affiliated Business Arrangement;
- When a licensee changes Affiliated Business Arrangements;
- When a licensee applies for a license;
- When a licensee changes status from inactive to active;
- When the licensee transfers to another brokerage; and
- Annually for all Employing Brokers.

The licensee shall disclose to the Commission the names of all affiliated business arrangements to which the licensee is a party. The written disclosure shall include the physical location of the affiliated business.

Please note: Complete a separate disclosure form for each Affiliated Business Arrangement.

**Question:**

When is a real estate broker required to disclose Affiliated Business Arrangements to a consumer?

**Answer:**

- The existence of an Affiliated Business Arrangement to the consumer they are referring must be disclosed at or prior to the time the referral is made. The disclosure must comply with the Real Estate Settlement Procedures Act ([RESPA](#)).
- Prior to or at the time the Contract to Buy and Sell is executed by the consumers, the existence of an Affiliated Business Arrangement with the Brokerage Firm or Broker must be disclosed in writing to all parties to the transaction.

**Question:** What are some examples of settlement services that need to be disclosed to the Division of Real Estate?

**Answer:** “Settlement Service” means any service provided in connection with a real estate settlement including, but not limited to, the following:

- (I) title searches;
- (II) title examinations;
- (III) the provision of title certificates;
- (IV) title insurance;
- (V) services rendered by an attorney;
- (VI) the preparation of title documents;
- (VII) property surveys;
- (VIII) the rendering of credit reports or appraisals;
- (IX) real estate appraisal services;
- (X) home inspection services;
- (XI) services rendered by a real estate broker;
- (XII) pest and fungus inspections;
- (XIII) the origination of a loan;
- (XIV) the taking of a loan application; (XV) the processing of a loan;
- (XVI) underwriting and funding of a loan;
- (XVII) escrow handling services;
- (XVIII) the handling of the processing; and
- (XIX) closing of settlement.

**Question:**

As an example, let’s say a real estate brokerage also owns a title company, a home inspection company and/or a mortgage company. A number of questions may come up, for instance:

- When does the brokerage need to make any affiliated business disclosure to a consumer regarding a referral?
- Does a disclosure need to be made if there is no referral?
- Can a referral fee be paid?
- Can the affiliated businesses share common expenses between them?

**Answer:**

A real estate brokerage is permitted to own an interest in a settlement service company (affiliated business), such as a title company, home inspection company, and/or mortgage brokerage, and refer business to the same so long as the brokerage:

- Discloses its relationship with the affiliated business to the consumer they are referring at or prior to the time the referral is made. The affiliated business arrangement disclosure must describe the business arrangement that exists between the two providers and give the client an estimate of the affiliate provider's charges;
- Does not require the consumer to use the affiliated business services; and
- Does not receive any payments from the affiliated business other than a possible return on its ownership interest in the company. These payments cannot be referral fees and cannot vary based on the volume of referrals to the affiliated business.
- Also, the affiliated business must be a bona-fide, stand-alone business with sufficient capital, employees, and separate office space, and must perform core services associated with that industry.

**Question:**

My husband is a home inspector. Can I refer him to my buyer? If so, when should I disclose that he is my husband?

**Answer:**

You can refer your husband's home inspection services but should disclose that relationship at or before the time you are making the referral.

**Question:**

My company has an affiliated title company. Do I need to disclose the affiliation to ALL the parties of the contract? Or can I disclose just to my client? What if we aren't using the affiliated title company for this transaction?

**Answer:**

You must disclose the affiliated business to all parties of the contract no later than at the time of contracting. Even if you are not using the affiliated business for this specific transaction, disclosure should be made.

**Question:**

I have an affiliated business relationship with a local lender. We'd like to do a full color brochure to have at my open houses. The lender said that he would be happy to cover all the graphic design and printing costs of the brochure since he can't be at the open house to help hand out the brochure. Is that OK?

**Answer:**

No. If the lending information makes up 50% of the brochure the lender may cover 50% of the expenses to create and print the brochure. Similarly if the lending information makes up 30%, the lender may cover 30% of the cost.

**Question:**

On occasion I have recommended a mold remediation company to my buyers when the inspection has shown the possible presence of mold. I am not affiliated with that company. I just think they do a good job and their prices are reasonable. The company has started sending me a \$100 gift card every time a client says that I referred them. Is this allowed? Can I accept this “finder’s fee?”

**Answer:**

No. A review of 12-10-218(2)(d) C.R.S., states that you shall not give or receive a “fee, kickback or other thing of value” from the referral.