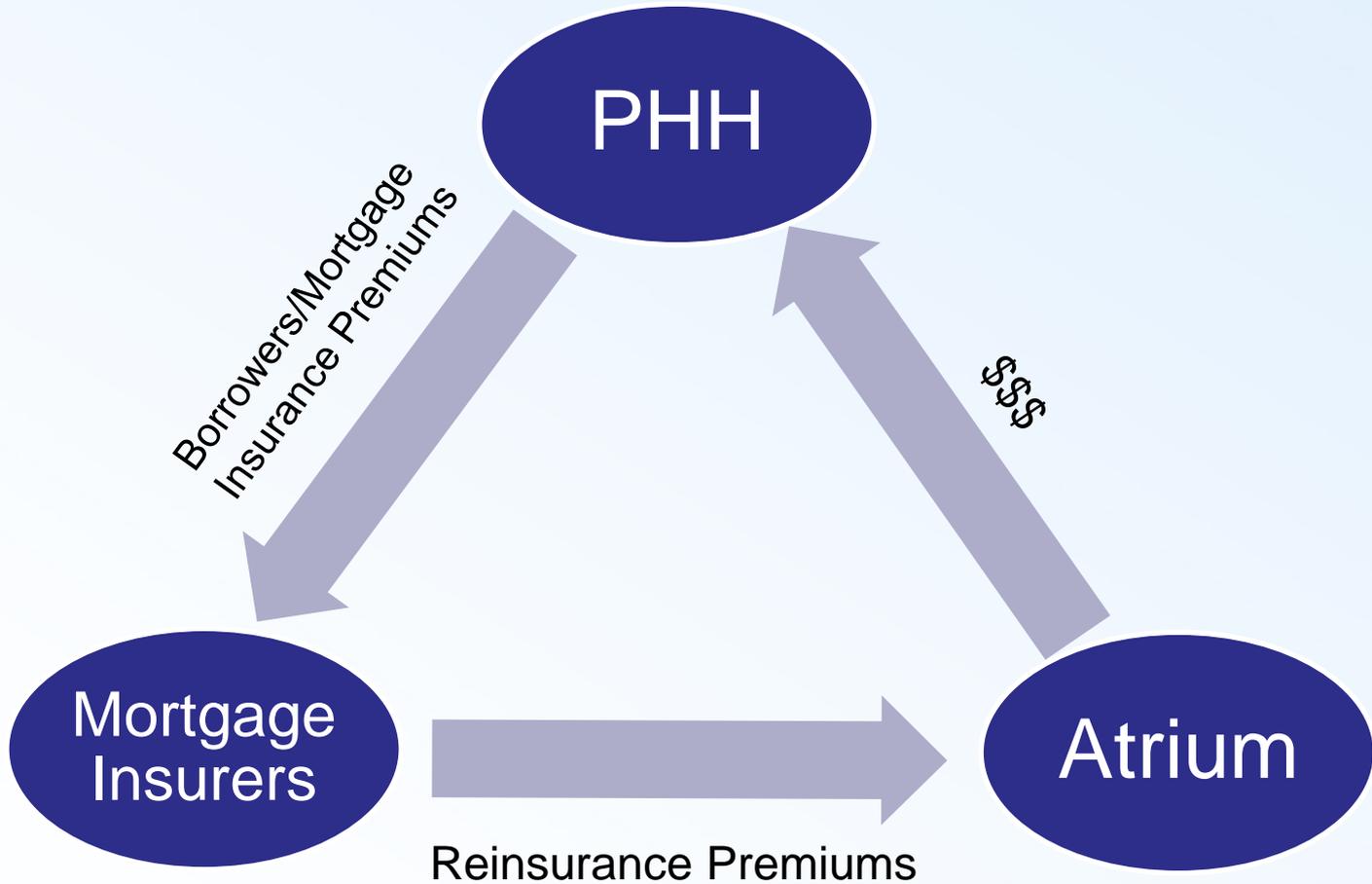


***PHH Corp. v. Consumer Fin.
Prot. Bureau, 881 F.3d 75
(D.C. Cir. 2018).***



DIRECTOR CORDRAY REQUIREMENTS FOR SECTION 8(C)(2)

1. Payments are fair market value payment for services actually provided.
2. Payments must be “bona fide,” which is “not tied in any way to the referral of business”.

Section 8(c)(2) provides that:

“[n]othing in [section 8] shall be construed as prohibiting...the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or services actually performed.”

PHH TAKEAWAYS

1. Rejection of “bona fide” test; restores long-standing interpretation of RESPA
2. Rejects “guidance through enforcement”; instead, agency must follow rulemaking process.

SECTION 8(C)(2) SAFE HARBOR REQUIREMENTS

RESPA still applies to marketing arrangements – remember the following:

- 1) Goods or services must be actually provided.
- 2) Payments reflect fair market value for services, as confirmed by independent evaluation.
- 3) Do not endorse settlement service provider or enter into exclusive arrangements.

RESOURCES

- **RESPA page on nar.realtor**

<https://www.nar.realtor/topics/real-estate-settlement-procedures-act-respa>

- **RESPA FAQ**

<https://www.nar.realtor/topics/real-estate-settlement-procedures-act-respa/respa-faq>

- **Dos and Don'ts for Co-marketing**

<http://narfocus.com/billdatabase/clientfiles/172/4/2855.pdf>

- **RESPA products for sale:**

- **RESPA Do's and Don'ts for MSAs**

<https://store.realtor.org/product/brochure/respa-do-s-and-don-ts-msas?sku=126-123>

- **Complying with RESPA**

<https://store.realtor.org/product/brochure/respa-guide-complying-real-estate-settlement-procedures-act-download?sku=E126-110>