



Illinois Department of Financial and Professional Regulation
Division of Financial Institutions

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February 23, 2006

«Name»
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Re: Informational Handout – 1-06
Informational Handout – 2-06

Dear «MrorMrs»

On July 9, 2005 the Department issued Bulletin No. 1-05, Title Insurance Agent Requirements. In addition to Bulletin 1-05, a copy of Appendix B to Part 3500 of RESPA, “Illustrations of Requirements of RESPA” was included with the cover letter that went to all title insurance companies and agents. A review of the search products being sent to title insurance agents have revealed compliance issues, thereby necessitating the release of the Informational Handout 1-06 dated February 23, 2006 which is enclosed with this letter.

Bulletin No. 1-05 also discussed accurate disclosure of fees to the consumer and stated as follows:

“In order to give the consumers an accurate disclosure of the fees and parties involved in the real estate transaction, and in compliance with applicable statutes, the HUD-1 or HUD-1A Settlement Statement must disclose the name of the entity/individual receiving the funds. For example, in the case where a registered title insurance agent obtains services from a service company also registered as a title insurance agent with the same licensed title insurance company or receives services directly from the title insurance company, the HUD-1 or HUD-1A Settlement Statement must show the title insurance fees going to the registered title insurance agent, not the service company or title insurance company, regardless of how the collection of fees and payment thereof is actually handled as between the parties. In reviewing several HUD-1 and HUD 1-A Settlement Statements, it was discovered that some of the service companies and title insurance companies show their name as receiving the title fees, not the registered title insurance agent.”

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During our visits of title insurance agents, service companies and title insurance companies, the accurate disclosure of fees is still a problem. For example, if an attorney is a registered title insurance agent, whether serviced by a service company or a title insurance company, the title insurance fees should be shown as going to the title insurance agent. Some HUD-1 Statements reviewed by the Department show the fees going to the service company and some statements show the title insurance fees going to the title insurance company and the attorney is listed on the HUD-1 statement under "title examination fees". If the attorney is shown as receiving funds for title examination and the title insurance company is shown as the title insurance provider on Line 1108, then the attorney is really not a title insurance agent and thus should not be considered a title insurance agent. Under this scenario, the relationship between the title insurance company and the attorney is one of employment, not a registered title insurance agent.

Also enclosed, please find Informational Handout 2-06, dated February 23, 2006, dealing with Controlled Business Arrangements. In visiting the title insurance companies, title insurance agents and title insurance servicing companies regarding the "determination of insurability of title" issue, we discovered many compliance issues as it relates to controlled business/affiliated business arrangements. Informational Handout 2-06 addresses these issues, provides illustrations of some non-compliant arrangements, and reminds the title insurance companies of their obligation to monitor and oversee the operations of their registered title insurance agents.

Additionally, in my cover letter dated July 13, 2005, the Department stated that compensation to the title insurance agent must bear a reasonable relationship to the work performed so as not to be in violation of Section 8100.2402, Standards of Conduct, of the Title Insurance Rules promulgated by the Department and RESPA. While the Department has no rate regulation authority, the Department, through its recent title insurance agent/service company visits, has reviewed some programs where the compensation in some of the title insurance agent programs could be considered excessive. The Department would strongly suggest that each underwriter review the compensation of its title insurance agents in relationship to the work performed by the title insurance agent in the real estate transaction.

The Department requires that the licensed title insurance companies immediately advise their personnel and their registered title insurance agents of the requirements set forth in these Informational Handouts and cover letter. A copy of this letter, along with a copy of the Informational Handout 1-06 and Informational Handout 2-06, must be sent to all the registered title insurance agents.

Sincerely,

Harry E. Stirmell
Supervisor
Title Insurance Section

HES/bkf
Enclosures