



Illinois Department of Financial and Professional Regulation
Division of Financial Institutions

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TITLE INSURANCE SECTION

TITLE INSURANCE INDUSTRY MEETING

INFORMATIONAL HANDOUT - 2-06

FEBRUARY 23, 2006

CONTROLLED BUSINESS ARRANGEMENTS

In Bulletin 1-05, issued on July 9, 2005, the Department of Financial and Professional Regulation, Division of Financial Institutions, cited the statutory definition of Title Insurance Agent in Illinois. In the Department's investigation of practices in conjunction with Bulletin 1-05, the Department also reviewed many of the "controlled business" title insurance agents that have been registered by title insurance companies. "Controlled business" arrangements/agents will always bear much scrutiny from the Department and HUD. The "controlled business" title insurance agents must "determine the insurability of title" in order to receive compensation as a title insurance agent under the Title Insurance Act. The "controlled business" title insurance agent **cannot** place an order with a title insurance company or another title insurance agent, receive a search, have an unrelated third party "determine insurability of title" and receive compensation for the service. The "controlled business" title insurance agent has not performed a "core title service", is not entitled to receive compensation, and is in violation of the Rules of the Department and RESPA.

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Title insurance companies registering these “controlled business” title insurance agents must perform their own due diligence to insure that the title insurance agent being registered will be “determining insurability of title” as required. A legal entity registered as a title insurance agent, which does not have an office or employee, is highly questionable. As an example, there has been a proliferation of L.L.C.s registered with the Department. It has been discovered, that in a number of cases, multiple L.L.C.s were operating out of the same address or do not have offices at the address given on their title insurance agent application. In addition, some of these entities have one individual performing the “determination of insurability of title” for multiple L.L.C.s. All registered title insurance agents must have their own employees, offices, telephones, detailed expenses, etc. The title insurance company who registers these entities should be monitoring these situations to insure that the entities are “title insurance agents” as defined by, and in compliance with, the Title Insurance Act.

In the “controlled business” title insurance agent situation, the affiliated business wants the title insurance to flow through its title insurance arm. An affiliated business entity (the producer of title insurance business) cannot require the consumer to place the order with its affiliated agent as a condition of using its service, nor can it establish a monetary penalty if the consumer does not place the order with its affiliated title insurance agent. Similarly, a “controlled business” entity **cannot** maintain a “preferred list” whereby consumers must use the services of persons or entities on the “preferred list” as a condition of using its services. Additionally, a “preferred list” **cannot** be maintained by the affiliated business entity where the condition for being on the “preferred list” is expressly or implicitly so that the business will be directed to a particular affiliated title insurance agent. This violates both the Title Insurance Act and RESPA, and will be dealt with by the Department accordingly.