



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Bulletin T-4
October 17, 2007

Re: Rebates and Inducements in Title Insurance

To: All Title Insurers Licensed in the State of Connecticut

Increased attention has been directed to abuses related to rebates and inducements in the marketplace for title insurance nationally and in Connecticut. Such practices are unlawful and contrary to the interests of the public in that they add unnecessary expense to transactions involving title insurance.

Conn. Gen. Stat. Section 38a-414 provides as follows:

- (a) No title insurer or title agent shall (1) pay, directly or indirectly, to the insured, to any producer of title insurance business, to any associate of a producer or to any other person other than another title agent, any commission, any part of its premiums, fees or other charges or any other consideration or thing of value as inducement or compensation for the referral of title insurance business or (2) issue any title insurance policy in connection with any transaction in which it has paid or intends to pay any commission or any part of its premiums, fees or other charges, or any other consideration or thing of value which it knows to be in violation of this section.
- (b) No insured named in a title insurance policy, no producer of title insurance business, no associate of a producer, nor any other person, other than another title agent, may knowingly receive or accept, directly or indirectly, any commission, rebate, consideration, thing of value or inducement referred to in subsection (a) of this section.
- (c) Nothing in this section shall be construed as prohibiting reasonable payments for services actually rendered to either a title insurer or a title agent in connection with title insurance business.
(Emphasis added.)

Although the prohibitions are clear, a number of activities throughout the nation (including Connecticut) require that guidance be given to the marketplace.

Section 38a-414(a) prohibits a title insurer or title agent from directly or indirectly paying or giving to any insured, producer of title business, associate of a producer or any other person (other than another title agent) a rebate or any part of its fees or charges or any other consideration or thing of value as an inducement for, or as compensation for any title insurance business. This section not only prohibits rebates, but also prohibits many payment arrangements to various persons and entities involved in the real estate transaction.

The language is quite broad in its prohibition and encompasses many compensation arrangements. For example, the prohibitions would include, but are not limited to, the following activities encountered in Connecticut and other states with similar laws on title insurance rebates and inducements:

- Excessive advertising fees paid by title insurers to title agents, or businesses they are affiliated with.
- Rental payments for the use of office space for closings at businesses that refer title business, such as real estate agencies or mortgage lenders, with such payments bearing no reasonable relationship to the fair market value of the space leased or whether the closings even occurred there.
- Payment of service fees to real estate agents, lenders or other businesses referring title insurance business with the fees bearing no reasonable relationship to the services rendered.
- Compensation by mortgage lenders, with affiliated relationships to a title insurer, to employees for referrals made to such affiliate title insurers.
- Financial incentives given by title insurers to title agents such as gift certificates, lavish trips, sporting tickets and the like where such perquisites bear no reasonable relationship to the services performed or could be reasonably viewed as inducements for the referral of title insurance business.

The prohibitions of section 38a-414 are not, however, meant to prohibit efforts by attorneys¹ acting as title agents to reduce closing costs for their clients. For example, attorneys as title agents may waive discretionary fees that are not part of the title insurance rate provided the waiver is not related to which title insurer the agent uses. Among fees sometimes charged that may be waived by title agents are bankruptcy search fees, courier and escrow service fees, municipal search fees and Patriot Act search fees. Elimination or reduction of such fees would not violate insurance laws to the extent that the fees are not part of the approved rates of the title insurer.

Also, the fee charged by an attorney in connection with representation of a buyer or seller at a real estate closing is not subject to the prohibitions of section 38a-414, and an attorney also acting as a title agent may freely reduce such a fee provided it is not part of the title insurance premium.

Please note that this bulletin is confined to Connecticut's insurance laws, and does not encompass other federal and state laws dealing with mortgage lending and real estate transactions, including but not limited to, the federal Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. 2601, et seq.



Thomas R. Sullivan
Insurance Commissioner

¹ In Connecticut, only duly licensed attorneys (with very limited exceptions) may act as title insurance agents. See. Conn. Gen. Stat. Section 38a-402(13).