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18.01.39 - REBATES AND ILLEGAL INDUCEMENTS IN TITLE INSURANCE BUSINESS

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18.01.39 - REBATES AND ILLEGAL INDUCEMENTS IN TITLE INSURANCE BUSINESS

000. LEGAL AUTHORITY.

Section 41-2708(3), Idaho Code, and Section 41-1314, Idaho Code.

(7-1-93)

001. TITLE AND SCOPE.

The purpose of this rule is to supplement the provisions of Chapter 27 and Chapter 13, Title 41, Idaho Code, which pertain to illegal rebates and inducements in the insurance business, and particularly in the title insurance business; to ensure that the consumers of title industry products and services have access to a viable and competitive marketplace; to maintain such a free and competitive consumer-oriented marketplace; to ensure that those persons who make selections of title service or products for those who are required to purchase title insurance place a higher priority on selecting the best product in terms of cost or service than they do their own enrichment; to ensure that agents or representatives of those who purchase such title service or products but may not make a conscious selection of the title insurer on the basis of comparisons of product cost, quality or service are motivated by considerations in such channeling of title business other than their own personal benefit; to ensure that no recommendations by such representatives are made in order to protect such representative's own competitive position; to ensure that where such channeling or directing of title business is unavoidable, companies who would provide the best product in terms of costs and service are recommended instead of those companies who are not in competition in an effort to protect one's own competitive position in the marketplace; to ensure that the interests of the consumer are not treated as secondary to those of the consumer's agent or representative; to ensure that monopolistic practices are not furthered or encouraged through the sale or exchange or offers to sell or exchange shares of stock in any title entity or any other business concern owned by or affiliated with a title entity. These objectives are accomplished by prohibiting as an unlawful inducement or rebate scheme any title insurer or title agency from exchanging with or selling to any licensed realtor, mortgage lender, attorney, or person engaged in the active business of construction of residences within the state of Idaho, any shares of stock or interest in any title entity or any other business concern owned by or affiliated with a title entity regardless of the price or relative value except for purchases or exchanges made through a registered general public offering.

(7-1-93)

002. -- 003. (RESERVED).

004. DEFINITIONS.

All terms defined in Chapter 27 and Chapter 13, which are used in this rule shall have the same meaning as used in those chapters.

(7-1-93)

005. -- 010. (RESERVED).

011. UNLAWFUL INDUCEMENT.

It shall be an unlawful inducement or rebate scheme for any title entity, including but not limited to any title insurer or title agency, to sell to, exchange with or offer to sell or exchange with any licensed realtor or mortgage lender, attorney, or person engaged in the active business of construction of residences, within the state of Idaho, any shares of stock in any title entity or any other business concern owned by, or affiliated with, a title entity, or interest in any such title entity, including but not limited to any title insurer or title agencies, regardless of the price or relative value except for purchases, sales or exchanges made through a registered general public offering. This prohibition also applies to the furnishing, or offer to furnish, legal or other professional services by any title entity to any such person or group of persons to assist such person(s) in the formation of a title entity. The burden will be placed on any existing title entity that invests in a new title entity formed by one or more such persons to show that such investment does not represent a benefit coming within the prohibition of this rule.

(7-1-93)

012. SEVERABILITY.

If any provision of this rule or the application thereof to any persons or circumstances is held invalid, the remainder of the rule and application of such provision to the other person or circumstances shall not be affected thereby.

(7-1-93)

013. -- 999. (RESERVED).