



NEW RESTRICTIONS *Title Marketing Activities*

The California State Legislature has passed a new law (SB 133) that changes the way a Title Marketing Representative (“Marketing Manager”) can solicit title business from real estate agents, brokers, lenders, escrow officers, buyers, sellers or anyone that directs title and escrow transactions (“Industry Participants”). The new law becomes effective January 1, 2009 and applies to ALL Title Companies and ALL Marketing Managers in the State of California.

“By curtailing the practice of real estate agents and brokers recommending a specific title insurer to their clients due to incentives provided by the title marketing representatives competition and transparency are fostered in the insurance marketplace,” said Steve Poizner, Insurance Commissioner for the State of California.

WHAT DOES THE NEW LAW MEAN FOR INDUSTRY PARTICIPANTS?

Certain activities that Marketing Managers are currently engaged in will no longer be allowed under this new legislation. Activities that are prohibited under the new law (effective January 1, 2009):

- Meals, drinks or entertainment to market title insurance is prohibited.
- Taking a person to a sporting event to market title insurance is prohibited.
- Paying for ANY advertising in any newspaper, newsletter, magazine or publication on behalf of an Industry Participant is prohibited.
- Taking photographs on behalf of an Industry Participant is prohibited.
- Providing any marketing materials (postcards, flyers, postage, etc.) on behalf of an Industry Participant (already existing violation of DOI regulations) is prohibited.
- Providing food or refreshments for any broker caravan, open house or ANY other function on behalf of an Industry Participant is prohibited.
- Distributing any items that have a specific monetary value, including gift cards, movie tickets, car washes, etc., to an Industry Participant is prohibited.
- Quoting or charging any title or escrow fees below their company’s filed rate with the State of California is prohibited — anything less is an unlawful rebate.
- Marketing Managers CAN provide educational classes and materials exclusively related to the business of title insurance or escrow; HOWEVER, the Marketing Manager cannot provide educational credits, food or drinks during the seminar.
- All Title Company Employees are prohibited from using their own money to entertain customers. Any personal funds expended will be considered a violation of the law.
- Engaging in any prohibited activity through a separate entity controlled by the Marketing Manager or the Marketing Manager’s employer is prohibited.

WHAT DOES THE SB133 MEAN FOR MARKETING MANAGERS?

All Marketing Managers will now be licensed by the Department of Insurance (DOI) in the State of California. Marketing Managers will be subject to personal fines, possible license suspension or license revocation if they are found in violation of the new law. Title Companies are also subject to possible fines and other penalties should an employee violates the law. If a Marketing Manager’s license is revoked, the Marketing Manager will not be able to apply for reinstatement of his/her license for a period of 5 years. Marketing Manager CAN provide promotional items with (1) a “permanently affixed” title company logo AND (2) the promotional item has a “value” of not more than ten dollars (\$10).

Be aware about the new law and don’t hesitate to ask your Marketing Manager for more details!

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