

**R592. Insurance, Title and Escrow Commission.**

**R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.**

**R592-6-4. Unfair Methods of Competition, Acts and Practices.**

In addition to the acts prohibited under Section 31A-23a-402, the Commission finds that providing or offering to provide any of the following benefits by parties identified in Section R592-6-2 to any client, either directly or indirectly, except as specifically allowed in Section R592-6-5 below, is a material and unfair inducement to obtaining title insurance business and constitutes an unfair method of competition.

(1) The furnishing of a title insurance commitment without one of the following:

(a) sufficient evidence in the file of the title insurer, agency or producer that a bona fide real estate transaction exists; or

(b) payment in full at the time the title insurance commitment is provided.

(2) The paying of any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect which gives rise to a claim on an existing policy.

(3) Furnishing escrow services pursuant to Section 31A-23a-406:

(a) for a charge less than the charge filed pursuant to Section 31A-19a-209(5); or

(b) the filing of charges for escrow services with the Utah Insurance Commissioner (commissioner), which are less than the actual cost of providing the services.

(4) Waiving all or any part of established fees or charges for services which are not the subject of rates or escrow charges filed with the commissioner.

(5) Deferring or waiving any payment for insurance or services otherwise due and payable, including a series of real estate transactions for the same parcel of property.

(6) Furnishing services not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction, including non-related delivery services, accounting assistance, or legal counseling.

(7) The paying for, furnishing, or waiving all or any part of the rental or lease charge for space which is occupied by any client.

(8) Renting or leasing space from any client, regardless of the purpose, at a rate which is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by any client.

(9) Furnishing any part of a title insurer's, title agency's, or title producer's facilities, for example, conference rooms or meeting rooms, to a client or its trade association, for anything other than the providing of escrow or title services, or meetings related to such, without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.

(10) The co-habitation or sharing of office space with a client of a title insurer, title agency, or title producer.

(11) Furnishing all or any part of the time or productive effort

of any employee of the title insurer, agency or producer, for example, secretary, clerk, messenger or escrow officer, to any client.

(12) Paying for all or any part of the salary of a client or an employee of any client.

(13) Paying, or offering to pay, either directly or indirectly, salary, commissions or any other consideration to any employee who is at the same time licensed as a real estate agent or real estate broker or as a mortgage lender or mortgage company subject to 31A-2-405 and R592-5.

(14) Paying for the fees or charges of a professional, for example, an appraiser, surveyor, engineer or attorney, or for the pre-payment of fees and charges of a client or party to the transaction, for example subordination, loan or HOA payoff request fees, whose services are required by any party or client to structure or complete a particular transaction. This subsection does not include the pre-payment of overnight delivery/mail fees that will be recovered through closing of a transaction.

(15) Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food or otherwise providing anything of value for an activity of a client, except as allowed under Subsection R592-6-5(6). Activities include open houses at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of all kinds, hunting trips or outings, golf or ski tournaments, artistic performances and outings in recreation areas or entertainment areas.

(16) Sponsoring, cosponsoring, subsidizing, supplying prizes or labor, except as allowed under Subsection R592-6-5(2) or otherwise providing things of value for promotional activities of a client. Title insurers, agencies or producers may attend activities of a client if there is no additional cost to the title insurer, agency or producer other than their own entry fees, registration fees, meals, and provided that these fees are no greater than those charged to clients or others attending the function.

(17) Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions. A letter or card in these instances will not be interpreted as providing a thing of value.

(18) Furnishing or providing access to the following, even for a cost:

- (a) building plans;
- (b) construction critical path timelines;
- (c) "For Sale by Owner" lists;
- (d) surveys;
- (e) appraisals;
- (f) credit reports;
- (g) mortgage leads for loans;
- (h) rental or apartment lists; or
- (i) printed labels.

(19) Newsletters cannot be property specific or cannot highlight specific customers.

(20) A title insurer, agency or producer cannot provide a client access to any software accounts that are utilized to access real

property information that the insurer, agency or producer pays for, develops, or pays to maintain. Closing software is exempt as long as it is used for a specific closing.

(21) (a) A [person, as defined in 31A 1-301, or individual affiliated with a] title insurer, agency or producer cannot provide [a loan or any type of financing to a client of title insurance.] title or escrow services on real property where an existing or anticipated investment loan or financing has been or will be provided by said title insurer, agency or producer, including its owners or employees.

(b) Subsection (21)(a) does not apply to such transactions involving seller financing.

(22) Paying for any advertising on behalf of a client.

(23) Advertising jointly with a client on subdivision or condominium project signs, or signs for the sale of a lot or lots in a subdivision or units in a condominium project. A title insurer, agency or producer may advertise independently that it has provided title insurance for a particular subdivision or condominium project but may not indicate that all future title insurance will be written by that title insurer, agency or producer.

(24) Advertisements may not be placed in a publication, including an internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client.

(25) A donation may not be made to a charitable organization created, controlled or managed by a client.

(26) A direct or indirect benefit, provided to a client which is not specified in Section R592-6-5 below, will be investigated by the department for the purpose of determining whether it should be defined by the Commission as an unfair inducement under Section 31A-23a-402(8).

(27) Title insurers, agencies and producers who have ownership in, or control of, other business entities, including I.R.C. Section 1031 qualified intermediaries and escrow companies, may not use those other business entities to enter into any agreement, arrangement, or understanding or to pursue any course of conduct, designed to avoid the provisions of this rule.

**KEY: title insurance**

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**31A-23a-402] 31A-2-404**