

BRIAN SANDOVAL  
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STATE OF NEVADA

TERRY REYNOLDS  
*Interim Director*

BARBARA D. RICHARDSON  
*Commissioner*



DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

1818 East College Pkwy., Suite 103  
Carson City, Nevada 89706  
(775) 687-0700 • Fax (775) 687-0787  
Website: doi.nv.gov  
E-mail: insinfo@doi.nv.gov

Bulletin 18-007  
Amends Bulletin 14-009

December 12, 2018

**Unlawful Inducements in the Title Industry**

The Nevada Division of Insurance often receives questions regarding marketing practices in the title industry that may violate Nevada's rebate and inducement laws. Real estate and mortgage professionals may unknowingly be asking title professionals for items or favors that they are not allowed to provide under Nevada law.

NRS 686A.130(3) prevents a title insurer or underwritten title company from paying directly or indirectly any commission, rebate, part of its fees or charges or any other consideration as inducement or compensation for the placement of any title, escrow, or other service to any of the following:

- The insured;
- The owner, existing or prospective, of the real property;
- The lessee, existing or prospective, of the real property;
- The mortgagee, existing or prospective, of the real property; or
- Any person acting as agent, representative, attorney, or employee of any of the above.

This bulletin serves to provide notice to all title insurers and title agents, as well as to all real estate brokers/agents, mortgage brokers/lenders, and builders/developers, as to how the Division of Insurance interprets and enforces NRS 686A.130. While it is not possible to discuss all potential unlawful title inducement activities, this bulletin provides guidance on some activities that may be considered a violation of NRS 686A.130.

## **Definitions**

For the purposes of this bulletin:

“Title company” means a title insurer or title agent authorized/licensed to do business in the State of Nevada.

“Real Estate Facilitator (REF)” means a person in a position to influence the selection of a title insurer or agent as a result of their occupation as:

- A real estate agent or broker;
- A mortgage lender or broker;
- A real estate builder or developer; or
- Other person who provides services in connection with a real estate transaction.

## **Guidelines**

### **Title and Escrow Fees**

A title company must follow its filed schedule of fees and charges. It may not reduce or waive fees when the insured does not qualify for a filed discount.

### **Promotional Materials**

A title company may provide promotional gifts and promotional items subject to the following restrictions:

- The item must be branded with a permanently affixed company-specific marking or logo of either the title insurer or title agent;
- The cost of the item to the title company must not exceed \$20; and
- The item must not contain a reference to a REF.

### **Other Gifts**

A title company may not provide gifts, rewards, or payments to a buyer, seller, or REF including, but not limited to:

- Tickets to concerts, theater shows, and sporting events;
- Golf memberships and green fees;
- Gift cards; or
- Cash payments.

### **Advertising Real Property**

A title company may provide title, escrow, and related services in accordance with the schedule of fees filed with the Division of Insurance. A title company may not provide items or services or subsidize the costs of items or services that assist in promoting or marketing the sale of real property including, but not limited to:

- Food, beverages, transportation, prizes or other items for a real estate open house;
- Postcards, flyers, signs, or sign riders advertising the property; or
- Simulated panoramic property tours, drone services, or other photos of the property.

### **Other Advertising**

A title company may not produce, pay for, or subsidize advertising for a REF. A title company may place an advertisement in the media, including publications of REFs or trade associations if the following criteria are met:

- The publication is non-exclusive, so any title company has an equal opportunity to advertise;
- The title company pays an amount equivalent to what other advertisers in the media pay; and
- The advertisement is solely self-promotional.

### **Business Costs**

A title company may not provide, pay for, or subsidize ordinary business costs of a REF including, but not limited to:

- Furniture;
- Office equipment;
- Cell phones or cell phone plans;
- Computer software or subscriptions to internet-based services, except software used by the title company that assists a REF in communicating with or handling transactions with the title company;
- Business cards, either printed or virtual;
- Postage; or
- Advertising leads or mailing lists.

### **Educational Activities**

A title company may not provide gratuitous seminars, conventions, or training classes. A title company may provide educational programs if it meets the following criteria:

- The content of the program consists solely of education relevant to the title insurance industry;
- The program is non-exclusive and open to all REFs;
- The title company spends no more than \$15 per attendee; and
- If there are continuing education credits offered, each attendee must pay an amount equal to what the attendee would pay to attend a similar class offered by someone other than a title company on the open market.

### **Business Entertainment**

A title company may not provide food, beverages, prizes, transportation or other items for an event promoting a REF.

A title company may pay for meals or other expenses to entertain a REF if the expenditure meets the following criteria:

- A title company representative is present during the function;
- There is a substantial and substantive business discussion regarding title or escrow during the function;
- Expenditures must not be based on or given as compensation for referral of business;
- Expenditures may be made for no more than four persons (including spouses and guests) representing a single REF during a single event;
- The title company may not expend more than \$40 per person per function. When calculating this limit, all costs paid by the title company for travel, hotel, equipment and facility rental, food,

beverages, and registration or entry fees, except those fees incurred solely by the title company that do not benefit the REF, must be included; and

- Expenditures may not be made for the same person for more than 4 functions in a calendar year.
- These criteria do not apply to topics covered separately in the bulletin, such as promotional items or educational activities.

A title company may host a self-promotional function if it meets the following criteria:

- The function must be held at the title company's offices;
- The function must be non-exclusive and open to all REFs; and
- The title company must spend no more than \$20 per guest reasonably expected to attend the function.

### **Office Space**

A title company may not lease or share office space inside the office of a REF. An employee of a title company conducting business inside the office of the REF may be construed as a favored-agent relationship in violation of NRS 686A.200 and may compromise the ability of the title company to act as a neutral third party in the escrow transaction. In addition, a title company paying for non-staffed office space in a REF's office merely for the purposes of advertising is considered an unlawful inducement.

### **REF Events**

A title company may not pay a marketing fee or preferred provider fee to a REF to obtain access to employees/contractors/associates of the REF. A title company employee may attend activities and business meetings of a REF if the following conditions are met:

- There is no cost to the title company other than entry or registration fees, meals for the employee, transportation, and similar per diem type costs;
- The fees paid are no greater than those paid by settlement-provider attendees; and
- The title company employee must actually attend the event for which any fee is paid.

### **Third-Party Vendors**

The statute prohibits title companies from paying inducements *directly or indirectly*. A title company may not utilize a marketing company or other third-party vendor, whether affiliated or not with the title company, to provide to a REF any of the prohibited items or services in this bulletin.

### **Trade Associations**

A title company may have a membership in and/or participate in the events of bona fide trade associations provided the association/event does not benefit a particular REF over other REFs and the opportunity to participate is non-exclusive and open to any title company.



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BARBARA D. RICHARDSON  
Commissioner of Insurance