**Section 8100.2402 Standards of Conduct**

a) No title insurance company, title agent or independent escrowee shall pay, furnish, or agree to pay or furnish, either directly or indirectly, to or on behalf of any of the persons listed, any commission or any part of the fees or charges or any other thing of value as consideration for any past, present, or future title insurance business, any closing and settlement services or any other title business:

1) any producer of title business, escrow business, or any associate of a producer;

2) any obligee or prospective obligee of any obligation secured or to be secured either in whole or in part by real property or any interest in real property; and

3) any person who is acting as or who is in the business of acting as agent, representative, attorney or employee of any of the persons described in subsections (a)(1) and (2).

b) As relates to transactions defined in Section 18(a) of the Act as applied to the persons set forth in subsection (a) and to the extent that there is any inducement or attempted inducement in the placement of title insurance business, closing and settlement services or any other title business, instances of acts and practices that violate RESPA standards and are unlawful include, but are not limited to:

1) the disbursement of funds prior to the actual delivery of funds acceptable to the closing and settlement services agent;

2) the disbursement of closing and settlement services funds before all necessary conditions of the transaction have been met;

3) paying for, furnishing or offering to pay for or furnish any reward or compensation for any past, present or future title insurance business or closing and settlement services or any other title business, including, but not limited to, the payment of a fee to an attorney for the referral of title business;

4) paying or offering to pay any fee to a producer of title business for making an inspection or appraisal of property;

5) any transaction in which any person, as set forth in subsection (a), is to receive securities of the title insurance company, title insurance agent or independent escrowee at prices below the normal market price, or bonds or debentures that guarantee a higher than normal interest rate, whether or not the consummation of the transaction is directly or indirectly related to the number of closing and settlement services or title orders coming to the title insurance company, title insurance agent or independent escrowee through the efforts of that person;

6) furnishing to any producer of title business or associate of a producer reports containing publicly recorded information, appraisals, estimates of income production potential, information kits or similar packages containing information about one or more parcels of real property helpful to any producer of title business without making a charge that is commensurate with the actual cost of the work performed and the material furnished;

7) making or guaranteeing or offering to make or guarantee, either directly or indirectly, any loan to any producer of title business or associate of a producer, with terms more favorable than otherwise available to the producer;

8) guaranteeing, or offering to guarantee, the proper performance of closing and settlement services or undertakings that are to be performed by any producer of title business.

A) However, the Director shall not deem any inducement or attempted inducement to have occurred in the placement of title insurance business, closing and settlement services or any other title business if the title insurance company issuing the closing protection letter or providing closing protection by contract, both pursuant to Sections 16 and 16.1 of the Act, charges an amount that is fair, adequate and nondiscriminatory to each party receiving protection provided by the closing protection letter or contract.

B) A buyer, seller or owner financing or refinancing property is each considered a single party to the transaction for purposes of this subsection (b)(8), regardless of the number of people or entities comprising the buyer, seller or owner;

9) providing, or offering to provide, either directly or indirectly, a compensating balance or deposit in a lending institution either for the express or implied purpose of influencing the placement or channeling of title insurance business by the lending institution; this provision does not prohibit the maintenance by a title insurance company, title agent or independent escrowee of demand deposits or escrow deposits that are reasonably necessary for use in the ordinary course of the business of the title insurance company, title agent or independent escrowee;

10) paying for, or offering to pay for, the fees or charges of an outside professional (e.g., an attorney, engineer, appraiser, or surveyor) whose services are required by any producer of title business to structure or complete a particular transaction;

11) providing, or offering to provide, non-title services (e.g., computerized bookkeeping, forms management, computer programming, or any similar benefit) without a charge that is commensurate with the actual cost to any producer of title business or to any associate of a producer of title business;

12) furnishing, or offering to furnish, all or any part of the time or productive effort of any employee of the title insurance company, title insurance agent, or independent escrowee (e.g., office manager, escrow officer, secretary, clerk, messenger, etc.) to any producer of the title business or associate of a producer of title business;

13) paying for, or offering to pay for, all or any part of the salary of an employee of any producer of title business;

14) paying for, or offering to pay for, the salary or any part of the salary of a relative of any producer of title business that payment is in excess of the reasonable value of work performed by the relative on behalf of the title insurance company, title insurance agent or independent escrowee;

15) paying for, or offering to pay for, services by any producer of title business that are ordinarily to be performed by the producer of title business in his or her licensed capacity as a real estate or mortgage broker or salesman or agent;

16) furnishing or offering to furnish, or paying for or offering to pay for, furniture, office supplies, telephones, facsimile machines, equipment or automobiles to any producer of title business, or paying for, or offering to pay for, any portion of the cost of renting, leasing, operating or maintaining any of these items;

17) paying for, furnishing, or waiving, or offering to pay for, furnish, or waive, all or any part of the rent for space occupied by any producer of title business;

18) renting, or offering to rent, space from any producer of title business, regardless of the purpose, at a rent that is excessive when compared with rents for comparable space in the geographic area, or paying, or offering to pay, rent based in whole or in part on the volume of business generated by any producer of title business;

19) paying for, or offering to pay for, gifts, vacations, business trips, convention expenses, travel expenses, membership fees, registration fees, lodging or meals on behalf of a producer of title insurance, directly or indirectly, or supplying letters of credit, credit cards or any such benefits;

20) paying for, or offering to pay for, the cancellation fee for a title report or other fee on behalf of any producer of title business either before or after inducing the producer of title business to cancel an order with another title insurance company, title insurance agent or independent escrowee;

21) paying for or furnishing, or offering to pay for or furnish, any business form to any producer of title business, other than a form regularly used in the conduct of the title insurance company's business, that is furnished for the convenience of the title insurance company and does not constitute a direct monetary benefit to any producer of title business;

22) giving of trading stamps, cash redemption coupons or similar items to any producer of title business.

c) As relates to transactions defined in Section 18(a) of the Act and as applied to the persons set forth in subsection (a), examples of acts and practices that do not violate RESPA standards and are lawful include, but are not limited to:

1) publishing or printing and disseminating by a title insurance company, title insurance agent or independent escrowee any educational information, notwithstanding that the information may be of benefit to a producer of title business;

2) distributing by a title insurance company, title insurance agent or independent escrowee information, whether printed or oral, advertising novelties and gift items not to exceed $25 in value that bear the name of the giver (but not the name of the recipient) to producers of title business;

3) issuing by a title insurance company a closing protection letter or providing closing protection by contract, both pursuant to Sections 16 and 16.1 of the Act, in favor of any insured or other party in any transaction that protects the insured or other party as provided in Section 16 or 16.1 of the Act;

4) providing by title insurance companies, title insurance agents or independent escrowees reasonable promotional and educational activities that are not conditioned on the referral of business and that do not involve the defraying of expenses that otherwise would be incurred by persons in a position to refer settlement services or business incident to those services, such as a reception by a title company, seminars on title matters offered to professionals, furnishing property descriptions and names of record owners without charge to lenders, real estate brokers, attorneys or others, or distribution of calendars and other promotional material that do not exceed $25 in value.

d) Nothing in this Section shall be construed as prohibiting:

1) the payment of a fee:

A) that bears a reasonable relationship to the value of the services rendered or performed:

i) by any person or party to attorneys at law for services actually rendered, or

ii) by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance, or

iii) by a lender to its duly appointed agent for services actually performed in the making of a loan; and

B) that is paid to a settlement service provider for services outside of the normal scope of that provider's services to the parties to the transaction.

2) the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed, so long as the salary, compensation or other payment bears a reasonable relationship to the value of the services, goods or facilities.

3) proportionate returns on an ownership or franchise interest.

4) the ordinary and customary business entertainment or promotional activities by title insurance companies, title insurance agents or independent escrowees that are not directly or indirectly consideration as an inducement or compensation for the referral of title business or for the referral of any escrow or other service from a title insurance company, title insurance agent or independent escrowee.

(Source: Amended at 35 Ill. Reg. 12354, effective July 22, 2011)