

SENATE BILL 133

New Law Tightens Controls on Title Industry Sales Representatives



Beginning January 1, 2009, the California Department of Insurance (DOI) will have significant new power to regulate sales practices in the title insurance industry. Senate Bill 133, propelled by bipartisan support, was signed recently by the Governor and creates the country's first program to register and regulate title company sales representatives.

Under the new law, anyone who is employed by a title insurer, underwritten title company or controlled escrow company whose primary duty is to "market, offer, solicit, negotiate or sell" title insurance must be registered with the state and will receive a certificate of registration. State-issued certificates of registration will be valid for three years. Escrow officers and title officers are specifically exempted from registration. The law was sponsored by Senator Sam Aanestad (R-Grass Valley).

The law prohibits expenditures by title representatives for food, beverages and entertainment. It also specifically prohibits advertising or paying for advertising in any publication that is produced by or on behalf of any person, because it may result in a direct or indirect subsidy to that person.

Permitted expenses include some promotional items, which must bear a permanent title company logo and cannot have a value of more than \$10. Promotional items must not include gift certificates, gift cards or other items with a monetary face value. Education and educational materials are permissible if they are exclusively related to the business of title insurance and only if continuing education credits are not offered to the recipient.

To obtain certification, title representatives must provide the DOI with a filing fee and written application, including a statement by an officer of the employer which guarantees that training on the anti-rebate law will be provided within 60 days of the date of application.

The law, which was supported by the California Land Title Association (CLTA), provides severe penalties for sales representatives who violate the law. The DOI may bring administrative action against a title representative and temporarily suspend or temporarily or permanently revoke the certificate of registration. The law specifies a five-year waiting period before an application may again be submitted for certification. The DOI may also impose a monetary penalty upon the title representative, which must be paid by the individual and cannot be paid by the title company.

Finally, the law specifies that a title representative may not engage in any prohibited activity through a separate entity controlled by the title representative or by the title representative's employer. Additional regulations as specified in Insurance Code 12404 are still in effect.

For more information and the language of the bill, see http://info.sen.ca.gov/pub/07-08/bill/sen/sb_0101-0150/sb_133_bill_20080925_chaptered.html.

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Sources: California Land Title Association, PR Newswire, California State Senate



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