

NOTICE OF PROPOSED RULE

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.:

RULE TITLE:

69B-210.010

Unlawful Inducements, Title Insurance

PURPOSE AND EFFECT: Section 626.9521(1), F.S., provides that no person shall engage in any trade practice which is defined in this part as an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance. Section 626.9611(1), F.S., authorizes the Department to adopt reasonable rules as are necessary or proper to identify specific unfair methods of competition or unfair or deceptive acts or practices which are prohibited by Section 626.9541, F.S.

SUMMARY: The proposed rule defines the term "unlawful inducement" and also provides examples of acts and practices that are unlawful inducements to purchase title insurance prohibited by Section 626.9541(1)(h), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The agency has determined that this rule will not have an impact on small business.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 624.308(1), 626.9611 FS

LAW IMPLEMENTED: 626.112(8), 626.572, 626.611(11), 626.621(6), 626.8411, 626.8437(8), 626.844(5), 626.9521, 626.9541(1)(h), (m), 626.9611 FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING

WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: September 20, 2010 @ 2:30 P.M.

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting Lorna Noren at (850) 413-5634 or Lorna.Noren@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lorna Noren, Special Investigator, Division of Insurance Agents and Agency Services, Bureau of Investigation, 200 E. Gaines Street, Tallahassee, FL 32399-0320 (850) 413-5634 or Lorna.Noren@MyFloridaCFO.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-210.010 Unlawful Inducements, Title Insurance.

(1) The term "unlawful inducement" as used in this rule means, except as otherwise provided by law or by any filed or approved rates or rating manuals:

(a) Permitting, or offering to make, or making, any contract or agreement concerning a contract other than that which is plainly expressed in the title insurance contract issued thereon; or

(b) Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as an inducement to the title insurance contract, any unlawful rebate of

premiums payable on the title insurance contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatsoever which is not specified in the title insurance contract.

(2) All lists contained within this rule are intended as examples and are not exhaustive.

(3) For purposes of this rule, the term "interested party" means a real estate professional, real estate salesperson, mortgage broker, lender, real estate developer, builder, property appraiser, surveyor, escrow agent, closing agent, or any other person or entity involved in a real estate transaction for which title insurance could be issued; or any representative of such a person or entity.

(4) As they relate to the transaction of title insurance, except as otherwise expressly provided by law, by Section 626.572, F.S., and Section 626.9541(1)(m), F.S., or by any filed and approved rates or rating manuals, the following inducements, when not specified by the title insurance contract, are unlawful inducements and constitute unfair insurance trade practices under Sections 626.9521 and 626.9541, F.S.:

(a) Facilitating any discount, reduction, credit, or paying any fee or portion of the cost of an inspection, inspection report, appraisal, or survey, including wind inspection.

(b) Providing membership in any organization, society, association, guild, union, alliance or club at a discount, reduced rate, or at no cost.

(c) Making or offering to make a charitable or other tax-deductible contribution on behalf of the purchaser.

(d) Offering or providing any service or incentive in conjunction with the sale of title insurance not specified in the policy or contract.

(e) Providing or offering stocks, bonds, securities, property, or any dividend or profit accruing or to accrue thereon.

(f) Providing or offering employment in exchange for the purchase of title insurance.

(g) Printing or paying for the printing of bulletins, flyers, post cards, labels, etc. for an interested party.

(h) Furnishing or paying for the furnishing of office equipment (fax machines, telephones, copy machines, etc.) to an interested party.

(i) Providing or paying for cellular telephone contracts for an interested party.

(j) Providing simulated panoramic home and property tours to real estate salespersons or real estate professionals which they in turn utilize in order to promote their listings.

(k) Providing or paying for giftcards or gift certificates to or for an interested party.

(l) Sponsoring and hosting, or paying for the sponsoring and hosting, of open houses for real estate salespersons or real estate professionals to promote their listings.

(m) Providing or paying for food or beverages at events designed to promote an interested party's businesses.

(n) Paying advertising costs to advertise and promote the listings of real estate salespersons or real estate professionals in periodicals or publications.

(o) Paying an interested party to fill out processing (order) forms in exchange for title insurance contracts.

(p) Providing "leads" or mailing lists to an interested party at no cost or a reduced cost.

(q) Entering into affiliated business arrangements in an attempt to provide kickbacks to an interested party.

(r) Providing, or offering to provide, any other payment, award, special favor, advantage, or incentive, tangible or intangible, direct or indirect, that encourages or is reasonably calculated to encourage an interested party to refer business to a title insurance agent or agency, regardless of whether a written or verbal agreement exists regarding the referral.

Rulemaking Authority 624.308(1), 626.9611 FS. Law Implemented 626.112(8), 626.572, 626.611(11), 626.621(6), 626.8411, 626.8437(8), 626.844(5), 626.9521, 626.9541(1)(h), (m), 626.9611 FS. History - New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lorna Noren, Division of Insurance Agents and Agency Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010