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Inducements to Title Insurance

- (A) Purpose. The purpose of this rule is to identify inducements and compensation arrangements which violate section 3953.26 of the Revised Code.
- (B) Authority. This rule is promulgated pursuant to the authority vested in the superintendent by section 3901.041 of the Revised Code.
- (C) Definitions. For purposes of this rule:
 - (1) “Business office” means the physical space in which a majority of the day-to-day business activity of a title agent is conducted. It does not include a temporary facility, pavilion, tent, hotel suite, lodge, loge, skybox, country club, party center, or other place of entertainment.
 - (2) “Consideration” means a right, interest, profit not directly related to percentage of ownership, or benefit given by, or a forbearance, detriment, loss, or responsibility given, suffered, or undertaken by a title insurance company or a title insurance agent.
 - (3) “Fair market value” means the market value of the item or service if the item or service were purchased on the open market in an arms-length transaction. At a minimum, this is the entire cost of the item/service that the title agent or title insurance company is providing. It includes the cost of the item or service as well as the resources used to provide or produce the item/service and all other associated costs.
 - (4) “Indirectly” means by or through any owner, shareholder, member, officer, director, employee, or independent contractor of a title agent or title insurance company.
 - (5) “Person” includes any natural person, corporation, limited liability company, association, partnership, or other legal entity, or any employee thereof, described in section 3953.26 of the Revised Code.
 - (6) “Title agent” means a natural person licensed as a title insurance agent or a title insurance marketing representative, or a business entity licensed as a title insurance agent.
 - (7) “Valuable thing” means, but is not limited to, money, discounts, salaries or commissions, fees, duplicate payments, stock dividends or other distributions of profit not directly related percentage of ownership, credits representing monies to be paid at a future date, special loan or loan guarantee terms, joint advertising, marketing arrangements, and services of all types, including the providing of information found in public records.
- (D) Section 3953.26 of the Revised Code prohibits title agents and title insurance companies from paying or giving to persons, directly or indirectly, any commission or any part of its fees or

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charges, or any other consideration or valuable thing, as an inducement for, or as compensation for, any title insurance business.

- (1) Payment by a title agent to a person for goods or services must bear a reasonable relationship to the fair market value of the goods or services received. Any payment in excess of the fair market value shall be considered an inducement for or compensation for title insurance business.
 - (2) Payment to a title agent from a person for goods or services must bear a reasonable relationship to the fair market value of the goods or services rendered. Payment of less than the fair market value shall be considered an inducement for or compensation for title insurance business.
- (E) The following practices shall not be considered inducements for or compensation for title insurance business:
- (1) Joint advertising, provided that each party pays for a proportional share of the advertising expenses based on the coverage or percentage of the advertisement that is directly devoted to that party;
 - (2) Marketing agreements, provided that such agreements do not in whole or in part, directly or indirectly, relate to access to a provider of title insurance business. When a title agent gives a valuable thing in exchange for access to providers of title insurance business, whether that access be through the provider's employee or agent mailboxes, exclusive or semi-exclusive advertising in the office itself, participation in team meetings or training events, or through some other means, that valuable thing is an inducement for title insurance business. Whether title insurance business in fact results from the payment is immaterial in determining if a violation has occurred;
 - (3) Providing tax, legal, and deed information on plain printer paper or on paper containing the letterhead of the title agent;
 - (4) Paying desk, office space, or conference room rental in the office of a real estate broker or sales person, mortgage broker or loan officer, or developer, provided the payment is for fair market value and the rental is reasonably utilized by a title agent or the employee of a title agent rather than undertaken to provide the real estate broker, sales person, mortgage broker, loan officer, builder or developer with a windfall gain;
 - (5) The providing of business meals, subject to all of the following:
 - (a) The meal is not direct or indirect compensation for title insurance orders;
 - (b) The purpose of the meal is to discuss business matters with the title agent or title insurance company representative;

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- (c) The meal is not combined with, concurrent with, or associated with any entertainment, recreational, or sporting event;
 - (d) The number of persons present at the meal is reasonably related to the scope of the business matters under discussion. For purposes of this rule, up to six persons shall be considered a rebuttable presumption of reasonableness; and
 - (e) The meal falls within the definitions set forth in the Internal Revenue Code of 1986 as amended, or the regulations promulgated thereunder, when deductible for income tax purposes;
- (6) Providing, paying for, or subsidizing the cost of educational or informational programs related to the title insurance business provided the program does not offer continuing education credits and is not combined with, concurrent with, or associated with any entertainment, recreational, or sporting event;
 - (7) Providing a licensed title agent, a business entity title agent employee, or the employee of a title insurance company to speak or present at a function sponsored by a trade association or similar non-profit organization where real estate, mortgage broker, or loan officer continuing education credits are given;
 - (8) The giving of an inexpensive, token advertising item that has the title agent's or title insurance company's name or logo prominently and permanently displayed thereon. For purposes of this rule, a coffee cup, tee shirt, hat or equivalent having a fair market value of ten dollars or less is considered an inexpensive advertising item;
 - (9) Food, beverage, entertainment, and parking costs directly related to hospitality events held at a title agent's or title insurance company's business office, subject to a maximum of two such events per office per calendar year.
- (F) Except as permitted by paragraph (E) of this rule, the following practices are a non-exclusive list of inducements for title insurance business:
 - (1) Providing, printing or paying for the printing and/or dissemination of bulletins, flyers, postcards, labels, or other advertising or promotional materials;
 - (2) Subsidizing or defraying the cost of a person's advertising, promotional, or day-to-day business activities through payment or through the providing of goods or services;
 - (3) Furnishing or paying for the furnishing of office equipment such as, but not limited to, fax machines, mobile phones, and copiers;
 - (4) Providing or paying for mobile telephone minutes including text messaging and internet usage;
 - (5) Providing or paying for gas cards;

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- (6) Providing or paying for the advertising or promoting of real estate listings or individuals or business entities engaged in the real estate or mortgage business;
 - (7) Providing or paying for food or beverages at events such as brokers' opens that are designed to promote the listings of real estate brokers and/or real estate salespeople;
 - (8) Paying for or providing real estate, mortgage broker, or loan officer continuing education fees or credits;
 - (9) Providing or paying for tickets, participation fees including greens fees or other golf related expenses, or equipment for sporting or entertainment events;
 - (10) Providing or paying for information related to comparative sales, demographics, or lead generation (farming lists);
 - (11) Providing mortgage and/or lien information prior to the receipt of a title insurance order;
 - (12) The providing of coupons to any person.
- (G) Nothing in this rule shall apply to activities exclusively between title insurance companies and title agents or among the employees of a business entity title agent.
- (H) Pursuant to section 3905.14 of the Revised Code, the superintendent may suspend or revoke an insurance license of a person who violates this rule, assess administrative costs, and/or assess a civil penalty of up to twenty-five thousand dollars per violation.
- (I) Severability. If any paragraph, term, or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair, or invalidate any other paragraph, term, or provision of this rule, but the remaining paragraphs, terms, and provisions shall be and continue in full force and effect.