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Division of Financial Institutions

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TITLE INSURANCE SECTION

TITLE INSURANCE INDUSTRY MEETING

INFORMATIONAL HANDOUT - 1-06

FEBRUARY 23, 2006

Since the issuance of Bulletin 1-05 on July 9, 2005, the Department has reviewed a number of search products issued by either title insurance underwriters or service companies to title insurance agents. From this review, the Department has determined that a misunderstanding exists as to what information should be furnished to title insurance agents for the “determination of insurability of title”. Bulletin 1-05 explains the requisite information to be furnished to the title insurance agent for such determination. The Bulletin was premised on the title insurance agent receiving raw data and examining the data for the “determination of insurability of title”.

The Department’s review of certain search products indicates preprinted exceptions (pre-examination) are being created in conjunction with the search package. While the use of a prior title insurance policy (including a commitment that is substantiated by the issuing company’s own prior file where the file did not go to final policy) may be utilized as a starting point (starter file) for the search and included with the search package as an aid for the purpose of the “determination of insurability of title”, the creation of preprinted exceptions as a pre-examination may not be utilized. The use of a starter file is acceptable only if it is used as a starting point for a title examination. Some of the products that have been reviewed indicate that some in the title insurance industry have changed the meaning and design of the starter file to include events/information that have occurred since the last title insurance policy was issued (or commitment as stated above). Any starter file that includes information or changes that have occurred since the previous title insurance policy (commitment) date will be considered already “examined” and therefore in violation of Bulletin 1-05, the Title Insurance Act and RESPA.

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In addition, in reviewing the title searches sent to title insurance agents by the title insurance underwriters and service companies, the Department has found that some title insurance agents are being sent a preliminary title commitment with the heading, "title search", basically requiring the title insurance agent to merely sign and return without doing the proper examination. The issuance of a commitment by a title insurance underwriter or service company in any shape or form prior to the "determination of insurability of title" by the title insurance agent is prohibited.

The Department will be examining/auditing title insurance agents in the near future to establish compliance with the foregoing requirements. The search package must contain raw data and may not contain preprinted exceptions unless the exceptions are contained in a prior title insurance policy (commitment) included with the raw data search.

A title insurance agent must make a "determination of insurability of title" based upon the search product as outlined. If the search product does not comply, the title insurance agent **and** the title insurance underwriter or service company will be in violation of the Illinois Title Insurance Act and subject to a fine of \$1,000.00 per offense as set forth in Section 23 of the Act. In addition, the title insurance agent and title insurance underwriter and/or service company may be subject to additional sanctions by the Department.

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