



# Illinois Department of Financial and Professional Regulation

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## Division of Financial Institutions

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**July 31, 2020**

### **Second Notice to Underwriters, Title Agents, and Escrow Agents Regarding Inaccurate Certificates of Exemption and Certificates of Compliance**

The Department provided a written notice to title underwriters, title agents, and escrow agents on May 15, 2020, cautioning that recording or attempting to record a mortgage without a valid certificate of exemption or compliance, generated by the Anti-Predatory Lending Database (“APLD”) may result in disciplinary action. Since that time, more than a thousand additional improper entity-based certificates of exemption have been generated. The Department continues its investigation and sent cease and desist orders to three title insurance agents on June 24, 2020.

Illinois law requires that a title insurance company, or closing agent, attach, to any mortgage for residential property located within Cook, Kane, Peoria, and Will Counties either a certificate of exemption or a certificate of compliance. Certificates must be generated by the APLD. A mortgage is not recordable without a valid certificate. *See* 765 ILCS §77/70(g). Attaching a certificate that is not generated by the APLD, or altering an APLD generated certificate, are fraudulent practices in violation of Section 70(g) of the Residential Real Property Disclosure Act (“RRPDA”) and the Consumer Fraud and Deceptive Business Practices Act.

When requesting a certificate of exemption from the APLD, it is the responsibility of the person requesting the certificate to ensure the accuracy of the information submitted. IDFP is investigating occurrences where certificates of exemption have been requested and generated by title agents and closing agents on the basis that the mortgage application was taken by an exempt entity when the entity was not exempt. Title agents and closing agents are responsible for ensuring that a certificate of exemption is accurate.

Exempt persons and entities are defined in Section 1-4 of the Residential Mortgage License Act of 1987. *See* 205 ILCS 635/1-4.

Accurate data is essential to preserving the integrity of the APLD. Inaccurate, altered, or fabricated certificates of exemption will be investigated as violations of the RRPDA. Violations of the RRPDA by a title insurance company, title agent, or escrow agent constitute violations of the Title Insurance Act. *See* 765 ILCS §77/70(j-2).

The Department expects all underwriters, title insurance agents, escrow agents to cease generating and/or recording improper certificates of exemption and to proactively investigate past practices to determine how many improper certificates of exemption of compliance were generated and/or recorded. Failure to immediately correct these practices may result in the issuance of a cease and desist order. The Department's investigation is ongoing.