

"FAQ About Title Insurance in Florida"

By: Florida Division of Financial Services (2016) (excerpted)

[Note: This is a memorandum published by the Florida Division of Financial Services directed to title insurance agents]

What fees may I charge on the settlement statement form?

The only amounts that may be charged by a title agency for issuing the title Insurance and completing the closing are:

Closing Services - "Closing services" means services performed by a licensed title insurer, title Insurance agent or agency, or attorney agent in the agent's or agency's capacity as such, including, but not limited to, preparing documents necessary to close the transaction, conducting the closing, or handling the disbursing of funds related to the closing in a real estate closing transaction in which a title insurance commitment or policy is to be issued.

Title Search - "Title search" means the compiling of title information from official or public records.

Premium - "Premium" means the charge, as specified by rule of the commission that is made by a title insurer for a title insurance policy including the charge for performance of primary title services by a title insurer or title insurance agent or agency.

No other charges are authorized by the Florida Statutes to be charged by a title insurance agent or agency for these services.

Can I use an outside notary to assist with performing closings for my title agency?

Yes. However, this would be an expense of the title agency and not an expense of the closing file. The cost for this service should be calculated in the closing services fee recorded on line 1100 of the settlement statement form. The notary service is conducting the closing which is clearly defined in Florida Statute §627.7711(1)(a) as being part of the closing services. By hiring an outside vendor to assist your title agency, you are assuming the responsibility for that vendor as if they were your employee. The title agency will be held responsible for the closing transaction performed by the outside vendor.

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Can our agency pay real estate agents, brokers or others for each piece of business they send to us?

No. The Florida Statutes prohibit title insurance agents and agencies from paying, allowing, giving, or offering to pay, allow or give a direct or indirect inducement for the purchase of title insurance. Paying someone for each piece of business they send to you could be considered an inducement, which would be a violation of the statutes. [Florida Statutes §626.9541(1)(h)3.a. and Rule 69B-186.010, F.A.C.] Who selects the title agency to be used to issue the title insurance? The person paying the premium.

Can I help the brokers that send me business by holding open houses for them?

No. While we understand your desire to assist the people that are assisting you to increase your business, holding open houses for brokers would be viewed as an unfair trade practice and an inducement for the future sale of title insurance. [Florida Statutes §626.9541(1)(h)3.a. and Rule 69B-186.010, F.A.C.]

Can a title agency advertise?

Yes. The ad must be honest and accurate. It should promote the title agency and not any other business. If the title agency places an ad that solicits customers for any other business, it may be viewed as an unfair trade practice and an inducement for the future purchase of insurance.

Can the agency advertise they offer rebates?

Yes. Again the advertisement must be truthful and not be misleading. The advertisement cannot say the agency is discounting the title insurance premium, as that is misleading and inaccurate. The agency must charge the promulgated rate for title insurance and then the agency may rebate any portion of their share of the premium.

Some examples: Advertising that your agency charges the lowest rates is misleading in that everyone must charge the same rates in Florida. Stating your agency reduces the title insurance premium by 20% is deceptive. You must charge the same rate, but you could provide a rebate of your portion of the premium that equates to 20% of the full premium. The rebate must be given to the person/entity who pays the premium.