

"Fla.'s RE Referral Rules Official: Effective Feb. 9"

By: Florida Association of Realtors (FAR) (1/22/16) (emphasis supplied)

[Note: This is a memorandum published by the Florida Association of Realtors to all of its members]

It's official: The Florida Department Of Financial Services Division of Insurance Agents and Agency Services created title agency referral rules (Rule No. 69B-186.010) that go into effect on Feb. 9, 2016.

"In general, Florida statutes already prohibit title company referrals, which they call unlawful inducements," says Margy Grant, Florida Realtors' vice-president and general counsel. "However, the Department of Financial Services wanted to further define 'unlawful inducement,' so it created these new rules for agents, agencies and others to follow. It describes **the new rules as specific guidance concerning practices regarded as illegal inducements in the marketing of title insurance under Florida law.**"

According to the Department, a referrer can be almost anyone involved in a real estate transaction – a "title insurance agent, title insurance agency, title insurance company, attorney, real estate broker, real estate agent, real estate licensee, broker associate, sales associate, mortgage banker, 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."

"An important component to this new rule is the referral itself," says Grant. "For example, most local association activities are fine, such as a title company sponsoring an association luncheon as a way to advertise. For an activity to be considered an unlawful inducement, there must be quid pro quo – a direct line connecting business referrals to the unacceptable activity – and associations don't refer business to title insurance companies."

The Department lists 18 examples of banned referral activities for title companies. High profile ones include:

Furnishing office equipment (fax machines, telephones, copy machines, etc.);
Paying for cell phone contracts;

Providing simulated panoramic home and property tours to real estate brokers or real estate sales associates;

Providing gift cards for settlement service referrals or to a purchaser or prospective purchaser of title insurance;

Sponsoring or hosting open houses for real estate brokers or associates;

Paying for food, beverages or room rentals at events if designed to promote the business of a referrer (other than a title insurer event);

Paying advertising costs for real estate brokers or associates via publications, signs, emails, websites, web pages, banners or other forms of media; and

Noting that real estate brokers or agents have any type of preferred status or endorsing them in publications, signs, emails, websites or other forms of media.

The rule also includes a list of acceptable referral activities. The **complete** list of new rules is posted online.