



# LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON  
COMMISSIONER

## BULLETIN NO. 2011 – 02

TO: ALL LICENSED TITLE INSURANCE PRODUCERS

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: TITLE INSURANCE SOLICITATION

DATE: NOVEMBER 30, 2011

It has been brought to my attention that serious issues may exist regarding the manner in which some title insurance producers are soliciting business in the title insurance marketplace. Concern has arisen that licensed insurance producers may have paid money or provided other valuable consideration to persons involved in a real estate transaction who are not duly licensed title insurance producers in exchange for title insurance business referrals. Title insurance solicitation of real estate transactions in this manner may violate LSA- 22:1562 (A) (1).<sup>1</sup> Such solicitation may also subject violators to other administrative action by the Louisiana Department of Insurance (LDI) including but not limited to LSA-R.S. 22:1969 which sets forth penalties for unfair methods of competition or unfair or deceptive acts or practices.

Bulletin No. 2011-02 is issued to inform title insurance producers of the applicable law regarding rebating and unlawful inducement so that they can evaluate their business practices and ensure compliance with the law. The applicable law is found at LSA-R.S. 22:1562 of the Louisiana Insurance Code and specifically addresses the issue of rebating and unlawful inducement. As Commissioner of Insurance, I am authorized to impose an array of civil sanctions against a title insurance producer found to be in violation of LSA-R.S. 22:1562. These sanctions include a civil fine of not less

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<sup>1</sup> §1562. Prohibited acts

A.(1) No insurer or insurance producer shall pay any money or commission or brokerage, or give or allow any valuable consideration or compensation to any person or business entity not duly licensed as an insurance producer, nor to an insurer not licensed to do business in this state, for or because of service rendered or performed in this state in selling, soliciting, negotiating, or effecting a contract of insurance on any property or risks, or insurable interests, or business activities located within or transacted within this state. The prohibition of this Subsection shall not apply with respect to any contract of reinsurance.

(2) The prohibition of this Subsection shall not apply to the distribution of profits to the owners of an insurance agency. The provisions of this Paragraph shall not apply to the Louisiana Workers' Compensation Corporation.

B.(1) Whoever violates this Section shall, upon conviction, be fined not less than two thousand dollars, nor more than fifty thousand dollars, or imprisoned with or without hard labor, for not more than three years, or both.

(2) Any conviction for violation of this Section shall constitute grounds for the immediate suspension or revocation by the commissioner of insurance of the license of such insurance producer to sell insurance, in addition to those grounds set forth in R.S. 22:1554.

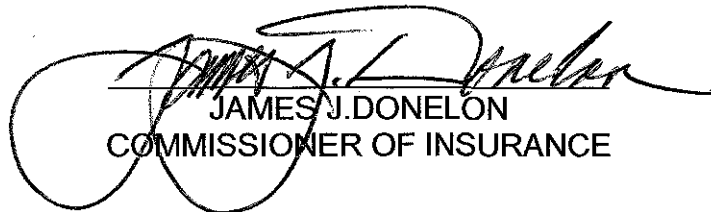
than \$2,000.00, nor more than \$50,000.00, as well as suspension or revocation of the producer's title insurance license. Additionally, since criminal penalties are set forth in LSA-R.S. 22:1562 (B) (1), if the facts merit, I am obligated to make a referral to the appropriate criminal prosecutor. Also, a criminal conviction for a violation of LSA-R.S. 22:1562 (B) (1) shall constitute grounds for suspension or revocation of the producer's title insurance license.

A title insurance producer who offers any type of consideration or compensation to any person or business entity that is not duly licensed as a title insurance producer by the LDI in exchange for title insurance referrals may be in violation of LSA-R.S. 22:1562. Providing the following types of consideration or compensation to any person or business entity are examples of actions that violate the law, to wit:

- the giving of gift certificates, sporting event tickets, prepaid dinner arrangements and casino junkets;
- the paying for or providing of goods and services such as office operational expenses, office equipment, office furnishings, office supplies, postage, computer hardware or software, telephones, telephone systems, copiers, fax machines, vehicles, administrative, management or staff services;
- the payment of marketing or advertising expenses of a real estate company, realtor, or mortgage lender or offering office space at rental rates that are substantially below fair market value;
- the paying of any expenses related to attending a company function that otherwise would have been incurred by a real estate company, realtor, or mortgage lender;
- the offering, providing, or underwriting of a continuing education program in a manner that results in the defraying of any expenses that otherwise would have been incurred by a real estate company, agent or mortgage lender; or
- the offering or donating of the use of vacation property.

If any of these actions or things are given or provided by a licensed title insurance producer to any unlicensed person in exchange for title insurance business referrals, the licensed title insurance producer has violated LSA-R.S. 22:1562 and will be sanctioned as appropriate. Questions regarding Bulletin No. 2011-02 should be directed to the LDI, Office of Licensing and Compliance, at (225) 219-5941.

Baton Rouge, Louisiana, this 30th day of November 2011.



JAMES J. DONELON  
COMMISSIONER OF INSURANCE