



Journal



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American Land Title Association Commends President's Plan to Help Responsible Homeowners

Source: www.alta.org

WASHINGTON, (BUSINESS WIRE) -- The American Land Title Association (ALTA), the national trade association of the land title insurance industry, commends President Obama's plan to bring relief to millions of struggling homeowners and heal our depressed housing market.

"In order to see more movement in the housing market, there should be solutions presented for the problems of responsible homeowners who are current on their mortgages but underwater with their mortgage because of the drop in their home value," said Michelle Korsmo, ALTA's chief executive officer. "Improving access to simple, low-cost refinancing is vital to rebuilding a stronger housing market, and ALTA will work with Congress and the administration to put this plan in motion and keep hardworking families in their homes."

As part of his plan, Obama discussed the creation of simpler mortgage disclosure forms that will help borrowers better understand the loans they are getting. The Consumer Financial Protection Bureau (CFPB) is in the process of developing new disclosure forms to replace current forms that are confusing for borrowers.

"To feel confident in the largest purchase they will make, homebuyers should be able to easily understand where their money is going," Korsmo said. "Just like when you go out to dinner, your check doesn't just give you a total price. Rather, each item is listed giving you a breakdown of what you pay for. Purchasing a home should have the same transparency."

"ALTA members are the real estate professionals responsible for providing these important disclosures to consumers at the closing table. We will continue to work with the CFPB and others to make these forms as useful and transparent as possible," Korsmo continued.

SB 133 Q&A

Source: www.cfta.org

Marketing Activities Regulated Under the Law

Q. Prior to the enactment of SB 133, there was a general prohibition in existing law against providing any consideration, compensation, or commission for the referral of title business. Is that still in effect?

A. Yes. The pre-existing prohibition against providing any consideration, compensation, or commission as an inducement for the placement or referral of title business was left completely intact and was not affected by the passage of SB 133.

Q. Can a title marketing representative take a person out to lunch to market title insurance?

A. No. Under the new law expenditures for food, beverages, or entertainment are prohibited.

Q. Can a title marketing representative take a person to a sporting event?

A. No. That would be considered entertainment and cannot be the subject of an expense.

Q. Are there any other expenses that are specifically prohibited under the new law?

A. Yes. The law makes it clear that advertising or paying for advertising in any newspaper, newsletter, magazine or publication that is produced by or on behalf of a person that results in a direct or indirect subsidy to the person violates the law.

Q. What is permitted as an expense?

A. Limited promotional items are permitted. These items must have a permanently affixed title company logo and cannot have a value of more than \$10. Gift certificates and gift cards are not promotional items.

Q. Can gift cards or certificates be provided to 12404 persons if they have a title company logo permanently affixed to them?

A. No. Gift cards are specifically prohibited as "promotional items" under SB 133, irrespective of whether or not they have a title company logo permanently affixed to them.

Q. Can a title marketing representative provide educational materials?

A. Yes. However, this exclusion only applies to educational materials exclusively related to the business of title insurance and only if continuing education credits are not offered to the recipient.

Q. If a title marketing representative or title company is providing an educational seminar or educational materials exclusively related to the business of title insurance, can food, beverages or entertainment be provided at that time?

A. No. Food, beverages and entertainment are specifically prohibited by SB 133, irrespective of when they are being provided. In addition, educational seminars and materials devoted to the business of title insurance, when provided, cannot be accompanied by continuing education credits for the attendees, such as a real estate broker or agent.

Q. May a title marketing representative volunteer time instead of providing other types of benefits now prohibited under SB 133?

A. No. It is clear under the law that the furnishing of all or any part of the time or productive effort of any title company employee to any person for any service unrelated to the title business is prohibited.

Q. May title marketing representatives or other employees use their personal funds or part of their salary, compensation or commissions to provide things of value not otherwise permitted by SB 133 if they are not reimbursed?

A. No. The law prohibits a title marketing representative from providing prohibited inducements or expenditures, irrespective of how the title marketing representative is paying for those inducements.

Q. Can a title company increase a title marketing representative's salary so that the employee can pay for expenses directly from their salary?

A. No. The law specifically prohibits a title marketing representative or title company from providing prohibited inducements or expenditures, regardless of who is eventually footing the bill. It is important to focus on the expenditure itself to determine if it is illegal, not the source from which the expenditure was made. Even if the title marketing representative or employee is not reimbursed through an expense account for an expenditure, the expenditure or inducement is illegal if it falls under prohibited categories as defined by existing law and SB 133.

Q. Can a title marketing representative use another shell company or entity controlled by the title marketing representative or his or her title company employer to provide expenditures or inducements that would otherwise be prohibited by SB 133 or existing law?

A. No. The law is clear that unlawful inducements are prohibited whether made directly or indirectly, including through a separate company not regulated by the Department of Insurance.

Q. Are all title company employees, owners and managers or escrow professionals bound by expenditure limitations under the law enacted by SB 133 or does it apply only to "title marketing representatives"?

A. It applies to everyone. While title marketing representatives are the only individuals required to obtain a certificate of registration from the Department of Insurance, the new limitations on expenditures created by SB 133 apply to every title company and every employee whether a payment is made directly or indirectly.

Q. What happened to the law that allowed reasonable expenditure for food, beverages, entertainment and educational programs so long as it was a permitted IRS expense?

A. Those provisions of law (former Insurance Code Section 12404 (d)) have been repealed by Senate Bill 133.

Q. Can a title company or title marketing representative rely on Bulletins previously issued by the Department of Insurance?

A. No. Prior Bulletins issued by the Department are considered to be "underground regulations" and should not be relied upon to determine the lawfulness of any expenditure under the new law.