

Regulation 3-5-1

Be Informed. Be Prepared. Be Compliant.



Effective May 1st, 2010, the newly revised Colorado Division of Insurance Regulation 3-5-1 goes into effect. Rules for title companies relative to the way we deliver, service and market our products will create changes for the real estate community. This is an effort by the DOI to further protect consumers and ensure that settlement producers (agents/lender/etc.) are not being induced or given other forms of remuneration in exchange for business.

Please find below some helpful information to better understand the revised regulation.

Ownership & Encumbrance Reports

Free ownership and encumbrance reports (O&E's) are not permitted. Beginning May 1, 2010, all title entities must charge for O&E's. All charges must be properly filed with the Division. However, title entities may give a single copy of the last recorded vesting deed on a property without charge.

To Be Determined (TBD) Commitments

Free TBD commitments are no longer permitted beginning May 1, 2010. Any charge paid for a TBD may be credited back at the closing of a transaction. When issuing a commitment for title insurance, a title entity may give copies of the background or exception documents for the property without charge.

Educational Opportunities... How will that change?

A title entity may teach classes on any subject they feel qualified to teach. The rules, however, focus on what classes may be taught at no charge. If a class is primarily related to the business of title insurance (i.e. commitments, policies, closings, or any similar matters that pertain closely to title insurance) it may be conducted without charge to the attendees. This includes reasonable expenses for food and beverage, room fees, etc. If a class does not relate to title insurance (e.g. real estate marketing, real estate forms, etc.), then any costs associated with the class must be passed back to the attendees.

As an example of passing costs back to attendees, assume a title company is sponsoring a class on internet marketing for real estate brokers. They spend \$200 on lunch, \$50 on room fees, \$10 on printed materials, and \$40 in speaker fees for a total cost of \$300. If there are 50 people taking the class, then each attendee must be charged at least \$6 for the class. Note: there are no tolerances for costs per attendee under a certain amount. If it costs the title entity anything to perform or sponsor the class, they must pass those costs on to the class attendees.

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Sponsorships, open houses or other real estate broker events.



A title entity may not give money or any other thing of value to a real estate broker or other settlement producer in exchange for an advertising benefit at an event. Title entities may participate in events if they maintain a physical presence throughout the event. For example, this means a title entity may have a table at an open house with refreshments and marketing materials if an employee of the entity is at all times present and engaging in the promotion of the entity's services.

What are the rules on Generic Exceptions?

A generic exception is any overly broad exception that is not a standard or preprinted exception. A generic exception does not refer to a specific recorded document (e.g. Any and all roads, easements, rights of way, etc.). These exceptions are only permitted in cases where the proposed insured on a commitment has made a written request for a policy form that makes use of them. For practical purposes, it is expected that generic exceptions will only be used for such transaction as junior liens or lines of credit. It is anticipated that very few purchase transactions (i.e. owners' policies) will make use of these exceptions.

Aside from the standard or preprinted exceptions, all exceptions on a title commitment or policy must refer to the specific recording information on the document. If a document is not recorded, the title entity should reference any identifiable information on the document. The identifiable information may include dates, names of parties, case numbers, etc.

What are the general rules for holding money?

All money belonging to others must be deposited in a bank account that is separate from any other funds. Examples include portions of premiums that will be sent to an underwriter, earnest money, loan proceeds, escrows, etc. This account must be labeled or named "fiduciary account", "trust account", "escrow account", or other similar name that identifies the account as one to be used solely for holding these funds. A title entity is prohibited from mixing these funds with any others. A title entity is also prohibited from using the funds for any purpose other than that set forth in writing for a specific transaction.

Heritage Title Company is committed to providing information, tools, services and products that will support your business and meet all regulatory standards.



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