



ALLIANT
NATIONAL
TITLE INSURANCE COMPANY

Key Statutes and Codes for Ethical Business Practices By Florida Title Agents and Real Estate Attorneys

Credit: 1 hour CE Ethics / 1 hour CLE (RE)

Lisa M. Yates
Alliant National Title Insurance Company
1:00 pm – 2:00 pm

Lisa M. Yates
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Lisa Yates is the Florida Agent Program Manager and North Central Florida Agency Manager, Assistant Vice President for Alliant National Title Insurance Company.

Lisa creates training and educational classes around the state for agents and their staff on behalf of Alliant National, and is also an agency manager in the North Central Florida area. Some of the presentations she provides are the Title 101-Back to Basics class, 10 minutes of TIPS and Study Class for Licensing. With over 26 years' experience working for major underwriters in agency, audit, production and closings she brings a deep and rich understanding of many areas of the title insurance industry. Lisa enjoys the training and education portion of our business that is necessary to ensure an Independent title insurance agent's success as well as their staffs ability to grow and flourish.

Lisa is also currently a member of FLTA and part of our Educational Boards here at Alliant National. Lisa's time away from title is used for gardening, Gator football, beach visits, concerts, hanging out with her son Chris (when he is home from school) and Mom Joan, visiting winery's with friends, her dog Snickers and driving around in her new Jeep Unlimited Rubicon (Rubi) visiting neat places in our great state.

OVERVIEW

Name of Provider: Alliant National Title Insurance Company

Name of Course: Key Statutes and Codes for Ethical Business Practices by Florida Title Agents and Real Estate Attorneys

Targeted audience: Title Insurance agents

Course Objective: To review the common statutes and codes that influence licensing, education, marketing and escrow. Pointing out mandatory rules in order to avoid violation, suspension or fines.

Course Relevance: In order to run a reputable title agency and provide reliable title insurance services it is important that licensees as well as staff understand what is expected by the governing bodies of our industry. Understanding the significance of staying compliant and ethical while following regulations and statutes that guide us while we perform title agent and escrow functions.

Study Method: Classroom

OUTLINE

PREVALENT STATUTES & ADMINISTRATIVE CODES FOR ETHICAL BUSINESS PRACTICES IN TITLE INSURANCE FOR LICENSED AGENTS/ATTORNEYS/STAFF

I. Introduction	5 Min
II. Our Governing Bodies: Florida Department of Financial Services, Florida Office of Insurance Regulation, Florida Statutes, Florida Bar Rules	5 Min
III. Review of the most common statutes out of the Florida Statutes 626 V: Continuing Education, Change of address or name rules Hiring a licensed agent/hiring staff Licensing and Branch locations Appointment requirements for agency Grounds for Enforcement Data Call	15 Min
IV. Florida Administrative Codes that cover Unlicensed Staff and Escrow accounts	5 Min
V. Florida Bar Trust Account Rules & Ethic Information	10 Min
VI. Review of the most common statutes out of the Florida Statutes 627 XIII Records Retention Illegal Dealings in premium &O requirements Unlawful Rebates Annual Surcharge	10 Min
Break as needed	10 min
Total Instruction Time	50 min
Total Break Time	10 min
Total Time	60 min

KEY STATUTES AND CODES FOR ETHICAL BUSINESS PRACTICES BY FLORIDA TITLE AGENTS AND REAL ESTATE ATTORNEYS

Being a part of a Licensed Title Agency, a licensed Title Agent or Attorney who specializes in Real Estate and works within the Title Industry is governed by many rules and statutes that can affect our ethical behavior and outlook. We will take a look at a few of the common areas that we receive questions about from the view of the Florida Statutes, Administrative codes and Florida Bar rules. Compliance in these areas is mandatory as the violations and penalties are real.

**As for any attorneys taking this course, while not directly regulated by the Rules cited here for title agents, the concepts set forth are still useful in determining proper ethical behavior in the activities of a Title Policy Issuing Agent. We will make reference to many Florida Statutes in this material and provide you with either the whole statute or the part pertaining to Title.*

I. Our Governing Bodies: Florida Department of Financial Services, Florida Office of Insurance Regulation, Florida Statutes, Florida Bar

Starting with all Licensed Title Agents who need to create a profile on the Florida Department of Financial Services: go to www.myfloridacfo.com/division/agents, then go to “MyProfile” portal and create a profile if you don’t have one. Here you can check your CE credits and make sure your contact information stays current.

Next we will take a look at the **Florida Office of Insurance Regulation** for its title information: <https://www.floir.com/PandC/Title/default.aspx>. You can also look up rules, statutes, legislative changes and Data Call information.

Another good website to keep in your favorites is the **Florida Statutes** “Online Sunshine” site that contains all of the Statutes that you may need to print if necessary to show a consumer. <http://www.leg.state.fl.us/statutes>

Go to: <https://www.floridabar.org/rules-ethics/> and under the rules box in the middle of the screen, you can also find ethics box here for other Florida Bar requirements.

II. Review of the most relevant Florida statutes-Chapter 626.

F.S. 626.2815(3) (i) Compliance reminders for CE as a licensed title agent:

(i) For compliance periods beginning on or after October 1, 2014, any person who holds a license as a title insurance agent must complete a minimum of 10 hours of continuing

education credit every 2 years in title insurance and escrow management specific to this state and approved by the department, which shall include at least 3 hours of continuing education on the subject matter of ethics, rules, or compliance with state and federal regulations relating specifically to title insurance and closing services.

F.S.626.551 Notice of change of address, name.

A licensee must notify the department, in writing, within 30 days after a change of name, residence address, principal business street address, mailing address, contact telephone numbers, including a business telephone number, or e-mail address. A licensee who has moved his or her principal place of residence and principal place of business from this state shall have his or her license and all appointments immediately terminated by the department. Failure to notify the department within the required time shall result in a fine not to exceed \$250 for the first offense and a fine of at least \$500 or suspension or revocation of the license pursuant to s. 626.611, s. 626.6115, s. 626.621, or s. 626.6215 for a subsequent offense. The department may adopt rules to administer and enforce this section.

F.S.626.841 Definitions

(1) “Title insurance agent” means a person appointed in writing by a title insurer to issue and countersign commitments or policies of title insurance in its behalf.

(2) “Title insurance agency” means an insurance agency under which title insurance agents and other employees determine insurability in accordance with underwriting rules and standards prescribed by the title insurer represented by the agency, and issue and countersign commitments, endorsements, or policies of title insurance, on behalf of the appointing title insurer. The term does not include a title insurer.

Things to consider when hiring a licensed agent

Besides running a background check for both criminal and credit (a must when it comes to your Escrow Accounts and Best Practices), you should always check the DFS site to make sure the individual’s license is not suspended or revoked. You can also “Google” their name to see if anything comes up.

F.S.626.015 (3) Definitions (3) “Agent” means a general lines agent, life agent, health agent, or title agent, or all such agents, as indicated by context. The term “agent” includes an insurance producer or producer, but does not include a customer representative, limited customer representative, or service representative.

F.S. 626.641 Duration of suspension or revocation

(1) The department shall, in its order suspending a license or appointment or in its order suspending the eligibility of a person to hold or apply for such license or appointment, specify the period during which the suspension is to be in effect; but such period shall not exceed 2 years. The license, appointment, or eligibility shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the

court, prior to expiration of the suspension period. A license, appointment, or eligibility that has been suspended shall not be reinstated except upon the filing and approval of an application for reinstatement and, in the case of a second suspension, completion of continuing education courses prescribed and approved by the department; but the department shall not approve an application for reinstatement if it finds that the circumstance or circumstances for which the license, appointment, or eligibility was suspended still exist or are likely to recur. In addition, an application for reinstatement is subject to denial and subject to a waiting period prior to approval on the same grounds that apply to applications for licensure pursuant to ss. 626.207, 626.611, 626.621, and 626.8698.

(2) No person or appointee under any license or appointment revoked by the department, nor any person whose eligibility to hold same has been revoked by the department, shall have the right to apply for another license or appointment under this code within 2 years from the effective date of such revocation or, if judicial review of such revocation is sought, within 2 years from the date of final court order or decree affirming the revocation. An applicant for another license or appointment pursuant to this subsection must apply and qualify for licensure in the same manner as a first-time applicant, and the application may be denied on the same grounds that apply to first-time applicants for licensure pursuant to ss. 626.207, 626.611, and 626.621. In addition, the department shall not grant a new license or appointment or reinstate eligibility to hold such license or appointment if it finds that the circumstance or circumstances for which the eligibility was revoked or for which the previous license or appointment was revoked still exist or are likely to recur; if an individual's license as agent or customer representative or eligibility to hold same has been revoked upon the ground specified in s. 626.611(1)(l), the department shall refuse to grant or issue any new license or appointment so applied for.

(3)(a) If any of an individual's licenses as an agent or customer representative or the eligibility to hold such license or licenses has been revoked at two separate times, the department may not thereafter grant or issue any license under this code to such individual.

(b) If a license as an agent or customer representative or the eligibility to hold such a license has been revoked resulting from the solicitation or sale of an insurance product to a person 65 years of age or older, the department may not thereafter grant or issue any license under this code to such individual.

(4) *During the period of suspension or revocation of a license or appointment, and until the license is reinstated or, if revoked, a new license issued, the former licensee or appointee may not engage in or attempt or profess to engage in any transaction or business for which a license or appointment is required under this code or directly or indirectly own, control, or be employed in any manner by an agent, agency, adjuster, or adjusting firm.*

F.S.626.8443 (4) Duration of suspension or revocation

(4) During the period of suspension or after revocation of the license and appointment, the former licensee shall not engage in or attempt to profess to engage in any transaction or business for which a license or appointment is required under this code or directly or indirectly own, control, or be employed in any manner by any insurance agent or agency or adjuster or adjusting firm.

If you are thinking about opening a branch location for your office you will need to be familiar with these:

F.S. 626.0428 Agency personnel powers, duties, and limitations

(1) An individual employed by an agent or agency on salary who devotes full time to clerical work, with incidental taking of insurance applications or quoting or receiving premiums on incoming inquiries in the office of the agent or agency, is not deemed to be an agent or customer representative if his or her compensation does not include in whole or in part any commissions on such business and is not related to the production of applications, insurance, or premiums.

(2) An employee or an authorized representative located at a designated branch of an agent or agency may not bind insurance coverage unless licensed and appointed as an agent or customer representative.

(3) An employee or an authorized representative located at a designated branch of an agent or agency may not initiate contact with any person for the purpose of soliciting insurance unless licensed and appointed as an agent or customer representative. As to title insurance, an employee of an agent or agency may not initiate contact with any individual proposed insured for the purpose of soliciting title insurance unless licensed as a title insurance agent or exempt from such licensure pursuant to s. 626.8417(4) and (5).

(4)(a) Each place of business established by an agent or agency, firm, corporation, or association must be in the active full-time charge of a licensed and appointed agent holding the required agent licenses to transact at least two of the lines of insurance being handled at the location. If only one line of insurance is handled at the location, the agent in charge must hold the required agent license to transact that line of insurance.

(b) Notwithstanding paragraph (a), the licensed agent in charge of an insurance agency may also be the agent in charge of additional branch office locations of the agency if insurance activities requiring licensure as an insurance agent do not occur at any location when an agent is not physically present and unlicensed employees at the location do not engage in insurance activities requiring licensure as an insurance agent or customer representative.

(c) An insurance agency and each branch place of business of an insurance agency shall designate an agent in charge and file the name and license number of the agent in charge and the physical address of the insurance agency location with the department at the department's designated website. The designation of the agent in charge may be changed at the option of the agency. A change of the designated agent in charge is effective upon notification to the department, which shall be provided within 30 days after such change.

(d) For the purposes of this subsection, an "agent in charge" is the licensed and appointed agent who is responsible for the supervision of all individuals within an insurance agency location, regardless of whether the agent in charge handles a specific transaction or deals with the general public in the solicitation or negotiation of insurance contracts or the collection or accounting of moneys.

(e) An agent in charge of an insurance agency is accountable for misconduct or violations of this code committed by the licensee or agent or by any person under his or her supervision while acting on behalf of the agency. This section does not render an agent in charge criminally liable for an act unless the agent in charge personally committed the act or knew or should have known of the act and of the facts constituting a violation of this chapter.

(f) *An insurance agency location may not conduct the business of insurance unless an agent in charge is designated by, and providing services to, the agency at all times. If the agent in charge designated with the department ends his or her affiliation with the agency for any reason and the agency fails to designate another agent in charge within the 30 days provided for in paragraph (c) and such failure continues for 90 days, the agency license shall automatically expire on the 91st day from the date the designated agent in charge ended his or her affiliation with the agency.**

*NOTE: *You will also need to add these locations to your E&O, Fidelity & Surety policies and provide the address to your insurer (underwriters).*

F.S. 626.8419 Appointment & Insurance Requirements

(1) The title insurer engaging or employing the title insurance agency must file with the department, on forms furnished by the department, an application certifying that the proposed title insurance agency meets all of the following requirements:

(a) The title insurance agency has obtained *a fidelity bond in an amount of at least \$50,000*, acceptable to the insurer appointing the agency. If a fidelity bond is unavailable generally, the department shall adopt rules for alternative methods to comply with this paragraph.

(b) The title insurance agency must have obtained *errors and omissions insurance in an amount acceptable to the insurer appointing the agency. The amount of the coverage must be at least \$250,000 per claim and an aggregate limit with a deductible no greater than \$10,000*. If errors and omissions insurance is unavailable generally, the department shall adopt rules for alternative methods that comply with this paragraph.

(c) The title insurance agency must have obtained *a surety bond in an amount of at least \$35,000 made payable to the title insurer or title insurers appointing the agency*. The surety bond must be for the benefit of any appointing title insurer damaged by a violation by the title insurance agency of its contract with the appointing title insurer. If the surety bond is payable to multiple title insurers, the surety bond must provide that each title insurer is to be notified if a claim is made upon the surety bond or the bond is terminated.

(d) The surety bond must remain in effect and unimpaired as long as the agency is appointed by a title insurer. The agency must provide written proof to the appointing title insurer or insurers on an annual basis evidencing that the surety bond is still in effect and unimpaired.

(e) A title insurer may not provide the surety bond directly or indirectly on behalf of the agency.

(2) This section does not exempt title insurance agents from the appointment requirements of part I.

Grounds for Enforcement Actions

F.S.626.8437 Grounds for denial, suspension, revocation, or refusal to renew license or appointment.

The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it shall suspend or revoke the eligibility to hold a license or appointment of such person, if it finds that as to the applicant, licensee, appointee, or any principal thereof, any one or more of the following grounds exist:

(1) Lack of one or more of the qualifications for the license or appointment as specified in ss. 626.8417, 626.8418, and 626.8419.

(2) Material misstatement, misrepresentation, or fraud in obtaining, or attempting to obtain, the license or appointment.

(3) Willful misrepresentation of any title insurance policy or commitment, or willful deception with regard to any such policy or commitment, done either in person or by any form of dissemination of information or advertising.

(4) Demonstrated lack of fitness or trustworthiness to represent a title insurer in the issuance of its commitments or policies of title insurance.

(5) Demonstrated lack of reasonably adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(6) Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(7) Misappropriation, conversion, or unlawful withholding of moneys belonging to title insurers or insureds or others and received in conduct of business under the license or appointment.

(8) Unlawful rebating, or attempting to unlawfully rebate, or unlawfully dividing, or offering to unlawfully divide, title insurance premiums, fees, or charges with another, as prohibited by s. 626.9541(1)(h)3.

(9) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of this act.

(10) The licensee if an individual, or the partners if a partnership, or owner if a sole proprietorship, or the officers if a corporation, having been found guilty of or having pleaded guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state or under the law of any other country which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

(11) *Failure to timely submit data as required by s. 627.782. (Data Call)*

There are actions that may cause you to lose your license and you must be aware of them. You will have a copy of F.S. 626.8417 when we talk about Attorneys, Law Firms and the Florida Bar towards the end of this material.

F.S 626.8418 Application for title insurance agency license.

Before doing business in this state as a title insurance agency, the applicant must file with the department an application for a license as a title insurance agency, on forms furnished by the department, which includes all of the following:

- (1) The name of each majority owner, partner, officer, and director of the title insurance agency.
- (2) The residence address of each person required to be listed under subsection (1).
- (3) The name of the title insurance agency and its principal business address.
- (4) The location of each title insurance agency office and the name under which each agency office conducts or will conduct business.
- (5) The name of each title insurance agent to be in full-time charge of a title insurance agency office and specification of which office.
- (6) Such additional information as the department requires by rule to ascertain the trustworthiness and competence of persons required to be listed on the application and to ascertain that such persons meet the requirements of this code.

F.S 626.8419 is covered above in Appointment and Insurance Requirements

F.S. 626.9541 (1) (h) (3) Unfair methods of Competition

3. a. No title insurer, or any member, employee, attorney, agent, or agency thereof, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as inducement to title insurance, or after such insurance has been effected, any rebate or abatement of the premium or any other charge or fee, or provide any special favor or advantage, or any monetary consideration or inducement whatever.

b. Nothing in this subparagraph shall be construed as prohibiting the payment of fees to attorneys at law duly licensed to practice law in the courts of this state, for professional services, or as prohibiting the payment of earned portions of the premium to duly appointed agents or agencies who actually perform services for the title insurer. Nothing in this subparagraph shall be construed as prohibiting a rebate or abatement of an attorney fee charged for professional services, or that portion of the premium that is not required to be retained by the insurer pursuant to s. 627.782(1), or any other agent charge or fee to the person responsible for paying the premium, charge, or fee.

c. No insured named in a policy, or any other person directly or indirectly connected with the transaction involving the issuance of such policy, including, but not limited to, any mortgage broker, real estate broker, builder, or attorney, any employee, agent, agency, or representative thereof, or any other person whatsoever, shall knowingly receive or accept, directly or indirectly, any rebate or abatement of any portion of the title insurance premium or of any other charge or fee or any monetary consideration or inducement whatsoever, except as set forth in sub-subparagraph b.; provided, in no event shall any portion of the attorney fee, any portion of the premium that is not required to be retained by the insurer pursuant to s. 627.782(1), any agent charge or fee, or any other monetary consideration or inducement be paid directly or indirectly for the referral of title insurance business.

Data Call has been in effect for the last 4 years. It is mandatory that if you are a corporate agency that has been in business the prior calendar year (even if you ended up closing your agency), you must still submit your data to the Data Call. There have been many enforcement actions against agents who did not think this was mandatory.

F.S. 627.782 (8) Adoption of rates

(1) Subject to the rating provisions of this code, the commission must adopt a rule specifying the premium to be charged in this state by title insurers for the respective types of title insurance contracts and, for policies issued through agents or agencies, the percentage of such premium required to be retained by the title insurer which shall not be less than **30 percent**. However, in a transaction subject to the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. ss. 2601 et seq., as amended, no portion of the premium attributable to providing a primary title service shall be paid to or retained by any person who does not actually perform or is not liable for the performance of such service.

(2) In adopting premium rates, the commission must give due consideration to the following:

- (a) The title insurers' loss experience and prospective loss experience under closing protection letters and policy liabilities.
- (b) A reasonable margin for underwriting profit and contingencies, including contingent liability under s. 627.7865, sufficient to allow title insurers, agents, and agencies to earn a rate of return on their capital that will attract and retain adequate capital investment in the title insurance business and maintain an efficient title insurance delivery system.
- (c) Past expenses and prospective expenses for administration and handling of risks.
- (d) Liability for defalcation.
- (e) Other relevant factors.
- (3) Rates may be grouped by classification or schedule and may differ as to class of risk assumed.
- (4) Rates may not be excessive, inadequate, or unfairly discriminatory.
- (5) The premium applies to each \$100 of insurance issued to an insured.
- (6) The premium rates apply throughout this state.
- (7) The commission shall, in accordance with the standards provided in subsection (2), review the premium as needed, but not less frequently than once every 3 years, and shall, based upon the review required by this subsection, revise the premium if the results of the review so warrant.

(8) Each title insurance agency and insurer licensed to do business in this state and each insurer's direct or retail business in this state shall maintain and submit information, including revenue, loss, and expense data, as the office determines necessary to assist in the analysis of title insurance premium rates, title search costs, and the condition of the title insurance industry in this state. Such information shall be transmitted to the office annually by May 31 of the year after the reporting year. The commission shall adopt rules relating to the collection and analysis of the data from the title insurance industry.

F.S. 626.621(2) Grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representatives, or managing general agent's license or appointment.

- (1) Any cause for which issuance of the license or appointment could have been refused had it then existed and been known to the department.
- (2) *Violation of any provision of this code or of any other law applicable to the business of insurance in the course of dealing under the license or appointment.*
- (3) Violation of any lawful order or rule of the department, commission, or office.
- (4) Failure or refusal, upon demand, to pay over to any insurer he or she represents or has represented any money coming into his or her hands belonging to the insurer.

- (5) Violation of the provision against twisting, as defined in s. 626.9541(1) (l).
- (6) In the conduct of business under the license or appointment, engaging in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part IX of this chapter, or having otherwise shown himself or herself to be a source of injury or loss to the public.
- (7) Willful over insurance of any property or health insurance risk.
- (8) If a life agent, violation of the code of ethics.
- (9) Cheating on an examination required for licensure or violating test center or examination procedures published orally, in writing, or electronically at the test site by authorized representatives of the examination program administrator. Communication of test center and examination procedures must be clearly established and documented.
- (10) Failure to inform the department in writing within 30 days after pleading guilty or nolo contendere to, or being convicted or found guilty of, any felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof, or under the law of any other country without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case.
- (11) Knowingly aiding, assisting, procuring, advising, or abetting any person in the violation of or to violate a provision of the insurance code or any order or rule of the department, commission, or office.
- (12) Has been the subject of or has had a license, permit, appointment, registration, or other authority to conduct business subject to any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.
- (13) Failure to comply with any civil, criminal, or administrative action taken by the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. ss. 651 et seq., to determine paternity or to establish, modify, enforce, or collect support.
- (14) Directly or indirectly accepting any compensation, inducement, or reward from an inspector for the referral of the owner of the inspected property to the inspector or inspection company. This prohibition applies to an inspection intended for submission to an insurer in order to obtain property insurance coverage or establish the applicable property insurance premium.
- (15) Denial, suspension, or revocation of, or any other adverse administrative action against, a license to practice or conduct any regulated profession, business, or vocation by this state, any other state, any nation, any possession or district of the United States, any court, or any lawful agency thereof.

F.S.626.8437 (11) Grounds for denial, suspension, revocation, or refusal to renew license or appointment.

(11) Failure to timely submit data as required by s. 627.782. (Data Call)

III. Florida Administrative Codes that cover Unlicensed Insurance Agency Personnel and Escrow Requirements

Florida Administrative Code 69B-222.020 Definitions

For purposes of this rule chapter the following definitions shall apply.

(1) "Giving a quote" refers to the basic tasks of obtaining certain basic underwriting answers from the inquirer, and then consulting written underwriting materials that state the rate. Giving a quote does not involve application of judgment, processing, binding, policy interpretation, signing an application, procedure explanation, or insurance advice and counsel, or similar activity.

(2) "Incidental" means:

(a) Conduct by insurance agency personnel qualifies as "incidental" only if it meets the following three criteria:

1. All the work done under the "incidental" exception, in terms of the amount of time the unlicensed employee spends doing it, is 10% or less of the employee's time compared to time spent on other tasks;

2. The exact amount and timing of the work is unpredictable; and,

3. On an agency-wide aggregate level, all the work done by unlicensed employees under the "incidental" exception is 10% or less of such work as compared to the amount of such work done by agents, solicitors, and customer representatives in that office.

(b) Absent evidence of abuse of the "incidental" exception, the Department will evaluate "incidental" by looking at the operation of the agency over a 6 to 12 month period. For example, if it were shown that over the course of a year an agent's receptionist spent just 20 minutes a day doing work under the incidental exception, except that for four weeks during the year while the agent was hospitalized or on vacation the receptionist spent almost full-time taking applications and giving quotes, then this activity would still qualify as "incidental". Note that an agent's illness or vacation does not expand the types of activities unlicensed staff may conduct.

(3) "Taking an application" means filling in the blanks on an application form in response to information provided by the applicant, and then passing the application to an agent or

customer representative for further application of judgment, processing, binding, policy interpretation, procedure explanation, or insurance advice and counsel, or similar activity. Taking an application does not include application of judgment, processing, binding, policy interpretation, signing an application, procedure explanation, or insurance advice and counsel, or similar activity.

Florida Administrative Code 69B-222.040 Lawful Activity by Unlicensed Insurance Agency Personnel.

The following actions are allowable by unlicensed personnel at any time:

(1) Serving in the capacity of switchboard operator, receptionist, or secretary, when merely taking incoming calls and visitors and routing them to licensed staff or taking messages.

(2) Explaining claims procedures or advising claimants as to the procedural status of claims, so long as same merely requires the unlicensed staffer to read from agency records and files and does not require application of judgment or interpretation.

(3) Answering incoming calls from existing clients as to purely administrative matters, so long as same merely requires the unlicensed staffer to read from agency records and files and does not require application of judgment or interpretation, such as “Do your files show receipt of my June premium?” or “What do your files show as the current expiration date on my homeowners policy?”

(4) At the direction of the agent, solicitor or customer representative:

(a) Calling back a specific person who had called the agent or customer representative or solicitor and setting up a solicitation meeting between the person and the agent or customer representative or solicitor.

(b) Conveying information to existing clients or claimants, such as “Agent Smith wanted me to call you and tell you he received your paperwork on your new car and it is covered under your existing policy effective immediately” or “Agent Smith asked me to let you know your claim has been allowed in full and you should get your check within 30 days.”

Florida Administrative Code 69B-222.050 Lawful Activities by Unlicensed Insurance Agency Personnel Done on an Incidental Basis under Rule 69B-222.020(1).

The following types of conduct by unlicensed staff are allowable as long as they are done only on a basis “incidental” to the employee’s main duties:

(1) Taking an application for insurance in the agent’s office, as set forth in Rule 69B-222.020, F.A.C., for a person who has called or come into the office.

(2) Giving quotes in the agent's office, as set out in Rule 69B-222.020, F.A.C., to persons calling or coming into the office and asking for a quote.

(3) Receiving premium at the agent's office. Receiving premium does not include the handling of premium by mail room personnel or other unlicensed personnel who handle mail.

F.S. 626.844 Grounds for discretionary refusal, suspension, or revocation of license or appointment.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it may suspend or revoke the eligibility to hold a license or appointment of any such title insurance agent or agency if it finds that as to the applicant or licensee or appointee, or any principal thereof, any one or more of the following grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.8437:

(1) Any cause for which issuance of the license or appointment could have been refused had it then existed and been known to the department.

(2) Violation of any provision of this act in the course of dealing under the license or appointment.

(3) Violation of any lawful order or rule of the department.

(4) Failure or refusal upon demand to pay over to any title insurer that the appointee represents or has represented any money coming into the hands of such appointee and belonging to the title insurer.

(5) Engaging in unfair methods of competition or in unfair or deceptive acts or practices in the conduct of business, as prohibited under part IX of this chapter, or having otherwise shown himself or herself to be a source of injury or loss to the public or to be detrimental to the public interest.

(6) The licensee if an individual, or the partners if a partnership, or owner if a sole proprietorship, or the officers if a corporation, having been found guilty of or having pleaded guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases. * *Note: F.S.626.8427 we also referenced on for Grounds for Enforcement*

One of the most important parts of our business is the Escrow Account or Trust Account. It is where the deposit money, money from the lenders or purchaser is used for funding and in some cases monies held for a draw account in reference to Construction loans. The way this account is handled is of the utmost importance.

Florida Administrative Code 690-186.008 Escrow Requirements.

(1) A title insurance agent or title insurer may not use, endanger, or encumber money held in trust without the permission of the owner of such money, given after full disclosure of the circumstances. Accordingly, except as hereinafter provided, a title insurance agent or title insurer may not disburse funds unless the funds are collected

funds. For purposes of this provision, “collected funds” means funds deposited, finally settled and credited to the title insurance agent’s or title insurer’s trust account. Notwithstanding that a deposit made by a title insurance agent or title insurer to the trust account has not been finally settled and credited to the account, the title insurance agent or title insurer may disburse funds from the trust account in reliance on such deposits under any of the following circumstances:

- (a) The deposit is made by a certified check, cashier’s check, or money order;
- (b) The deposit is made by a check representing loan proceeds issued by a federally- or state-chartered bank, savings bank, savings and loan association, credit union, mortgage broker licensed under chapter 494, F.S., or other duly licensed or chartered lender;
- (c) The deposit is made by a bank check, cashier’s check, official check, treasurer’s check, or other such official instrument issued by a bank, savings and loan association, or credit union when the instrument is drawn by the bank on itself, or on another bank whether or not the check is “payable through” or “payable at” a bank and the title insurance agent or title insurer has reasonable and prudent grounds to believe the instrument will clear and constitute collected funds in the title insurance agents or title insurer’s trust account within a reasonable period of time. Such instruments are considered by the Federal Reserve Board, under Federal Regulation CC, otherwise cited as 12 C.F.R. 229, to be “next day” payable items. A check drawn by a corporation on a bank or a draft drawn by a corporation on itself whether or not the check or draft is “payable at” or “payable through” a bank and is not a “next day” payable item under Regulation CC unless the depository bank chooses to treat it as such, and may not be disbursed on until collected;
- (d) The deposit is made by a check drawn on the trust account of a lawyer licensed to practice in the State of Florida or on the escrow or trust account of a real estate broker licensed under chapter 475, F.S., or on the account of a mortgage broker licensed under chapter 494, F.S., or on the escrow trust account of a title insurance agent or title insurer licensed under the Florida Insurance Code, when the title insurance agent or title insurer has a reasonable or prudent belief that the deposit will clear and constitute collected funds in the trust account within a reasonable period of time;
- (e) The deposit is made by a check issued by the United States Government, the State of Florida or any agency or political subdivision of the State of Florida;
- (f) The deposit is made by a check issued by an insurance company authorized to do business in the State of Florida and the title insurance agent or title insurer has a reasonable and prudent belief that the instrument will clear and constitute collected funds in the trust account within a reasonable period of time;
- (g) The deposit is made by a personal check in an amount not to exceed \$500 when the title insurance agent or title insurer has a reasonable and prudent belief that the instrument will clear and constitute collected funds in the trust account within a reasonable period of time.

(2) For purposes of this provision, disbursement of funds shall only be made on such negotiable instruments as enumerated above which contain the following elements:

- (a) Are signed by the drawer; and,

(b) Contain an unconditional order to pay; and,

(c) Are payable on demand; and,

(d) Are payable to order or to bearer.

(3) Funds received by a licensed title insurance agent or insurer pursuant to a real estate closing transaction involving the issuance of a title insurance binder, commitment, policy of title insurance, or guaranty of title shall not be deposited or transferred to an interest-bearing trust account without the written consent of the buyer and seller.

(4) Funds received from depositors in excess of the insured amount must be deposited in a financial institution that has a rating not less than the minimum standards established by Government National Mortgage Association (GNMA).

Escrow TIPS:

- ✓ Understand the difference between “collected funds” and “available funds”.
- ✓ Ask your bank for a determination of what funds are “collected”, not what funds are “available”.
- ✓ Even though the rule may allow you to disburse on “uncollected” funds, you may bear the risk of any reversal which creates a shortage in your account. Always require collected funds.
- ✓ For a fee you can have your bank alert with a “Positive Pay System” that shows that funds are collected and available.

Florida Administrative Code 690-186.009 Reconciliation of Escrow Accounts.

(1) Every licensed title insurance agent shall maintain a monthly reconciliation of every escrow account required to be maintained pursuant to section **626.8473, F.S** (referenced next)., and shall, on a monthly basis, report such reconciliation together with appropriate supporting documentation to each title insurer which licensed the agent during the reconciliation period. The reconciliation shall be supported by appropriate documentation, including a monthly bank statement, a list of all outstanding checks as of the date of the reconciliation which are not shown on the monthly bank statement, and a trial balance of the escrow ledger records required to be maintained by subsection (2). Licensed title insurance agents and title insurers shall provide a copy of the monthly escrow account reconciliation to the Office upon its request. Such records shall be maintained by the title insurer for a period of five years.

(2) Every licensed title insurance agent shall maintain a separate ledger card for each real estate closing transaction for which funds are received in escrow. The ledger card shall contain chronological entries of dates and amounts of moneys received and disbursed including the name of the remitter and payee and each check number issued on such escrow account. Such records shall be maintained by the title insurance agent for a period of three years. The ledger card required by this rule may be maintained in computer storage with a print-out available upon request of a title insurer or the Office.

F.S.626.8473 Escrow; trust fund.

(1) A title insurance agent may engage in business as an escrow agent as to funds received from others to be subsequently disbursed by the title insurance agent in connection with real estate closing transactions involving the issuance of title insurance binders, commitments, policies of title insurance, or guarantees of title, provided that a licensed and appointed title insurance agent complies with the requirements of s. 626.8417, including such requirements added after the initial licensure of the agent.

(2) All funds received by a title insurance agent as described in subsection (1) shall be trust funds received in a fiduciary capacity by the title insurance agent and shall be the property of the person or persons entitled thereto.

(3) All funds received by a title insurance agent to be held in trust shall be immediately placed in a financial institution that is located within this state and is a member of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. These funds shall be invested in an escrow account in accordance with the investment requirements and standards established for deposits and investments of state funds in s. 17.57, where the funds shall be kept until disbursement thereof is properly authorized.

(4) Funds required to be maintained in escrow trust accounts pursuant to this section shall not be subject to any debts of the title insurance agent and shall be used only in accordance with the terms of the individual, escrow, settlement, or closing instructions under which the funds were accepted.

(5) The title insurance agents shall maintain separate records of all receipts and disbursements of escrow, settlement, or closing funds.

(6) In the event that the department promulgates rules necessary to implement the requirements of this section pursuant to s. 624.308, the department shall consider reasonable standards necessary for the protection of funds held in trust, including, but not limited to, standards for accounting of funds, standards for receipt and disbursement of funds, and protection for the person or persons to whom the funds are to be disbursed.

(7) A title insurance agent, or any officer, director, or employee thereof, or any person associated therewith as an independent contractor for bookkeeping or similar purposes, who converts or misappropriates funds received or held in escrow or in trust by such title insurance agent, or any person who knowingly receives or conspires to receive such funds, commits:

(a) If the funds converted or misappropriated are \$300 or less, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the funds converted or misappropriated are more than \$300, but less than \$20,000, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the funds converted or misappropriated are \$20,000 or more, but less than \$100,000, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the funds converted or misappropriated are \$100,000 or more, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) An attorney shall deposit and maintain all funds received in connection with transactions in which the attorney is serving as a title or real estate settlement agent into a separate trust account that is maintained exclusively for funds received in connection with such transactions and permit the account to be audited by its title insurers, unless maintaining funds in the separate account for a particular client would violate applicable rules of The Florida Bar.

IV. The Florida Bar Trust Accounting Rules: These can be printed out from CHAPTER 5. RULES REGULATING TRUST ACCOUNTS 5-1. GENERALLY RULE 5-1.1 TRUST ACCOUNTS (12 pages)

Go to: <https://www.floridabar.org/rules-ethics/> and under the rules box in the middle of the screen, you can also find ethics box here for other Florida Bar requirements.

F.S. 626.8417 (4), (6) Title insurance agent licensure; exemptions.—(in reference to attorneys)

(4) Title insurers or attorneys duly admitted to practice law in this state and in good standing with The Florida Bar are exempt from the provisions of this chapter relating to title insurance licensing and appointment requirements.

(6) If an attorney owns a corporation or other legal entity that is doing business as a title insurance agency, other than an entity engaged in the active practice of law, the agency must be licensed and appointed as a title insurance agent.

F.S. Sec. 626.8473(8) as it Applies to Attorney Firms (Trust Accounts)

(8) An attorney shall deposit and maintain all funds received in connection with transactions in which the attorney is serving as a title or real estate settlement agent into a separate trust account that is maintained exclusively for funds received in connection with such transactions and permit the account to be audited by its title insurers, unless maintaining funds in the separate account for a particular client would violate applicable rules of The Florida Bar.

V. Review important provisions in Chapter 627, Florida Statutes.

F.S.627.7845 Determination of insurability required; preservation of evidence of title search and examination.

(1) A title insurer may not issue a title insurance commitment, endorsement, or title insurance policy until the title insurer has caused to be made a determination of insurability based upon the evaluation of a reasonable title search or a search of the records of a Uniform Commercial Code filing office, as applicable, has examined such other information as may be necessary, and has caused to be made a determination of insurability of title or the existence, attachments, perfection, and priority of a Uniform Commercial Code security interest, including endorsement coverages, in accordance with sound underwriting practices.

(2) *The title insurer shall cause the evidence of the determination of insurability and the reasonable title search or search of the records of a Uniform Commercial Code filing office to be preserved and retained in its files or in the files of its title insurance agent or agency for at least 7 years after the title insurance commitment or title insurance policy was issued. The title insurer or its agent or agency must produce the evidence required to be maintained under this subsection at its offices upon the demand of the office. Instead of retaining the original evidence, the title insurer or its agent or agency may, in the regular course of business, establish a system under which all or part of the evidence is recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process that accurately reproduces or forms a durable medium for reproducing the original.*

(3) *The title insurer or its agent or agency must maintain a record of the actual premium charged for issuance of the policy and any endorsements in its files for a period of not less than 7 years. The title insurer, agent, or agency must produce the record at its office upon demand of the office.*

(4) This section does not apply to an insurer assuming no primary liability in a contract of reinsurance or to an insurer acting as a coinsurer if any other coinsuring insurer has complied with this section.

Florida Administrative Code 690-186.009 Reconciliation of Escrow Accounts (in Escrow Section Page 15)

F.S.627.780 Illegal Dealings in Premium (ref F.S. 626.9541(1)(h)3 & F.S. 627.782(1)

A person may not knowingly quote, charge, accept, collect, or receive a premium for title insurance other than the premium adopted by the commission, except as provided in s. 626.9541(1)(h)3.b.

(2) A title insurer may not knowingly accept, collect, or receive any sum as premium for title insurance, if the title insurance is not then provided or is not to be provided, subject to acceptance of the risk, in due course, unless the title insurer promptly enters the sum on its books of account as premium collected in advance.

F.S. 626.9541(1) (h) 3-Unfair Method of Competition

(1) (h) (3).a. *No title insurer, or any member, employee, attorney, agent, or agency thereof, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as inducement to title insurance, or after such insurance has been effected, any rebate or abatement of the premium or any other charge or fee, or provide any special favor or advantage, or any monetary consideration or inducement whatever.*

b. Nothing in this subparagraph shall be construed as prohibiting the payment of fees to attorneys at law duly licensed to practice law in the courts of this state, for professional services, or as prohibiting the payment of earned portions of the premium to duly appointed agents or agencies who actually perform services for the title insurer. Nothing in this subparagraph shall be construed as prohibiting a rebate or abatement of an attorney fee charged for professional services, or that portion of the premium that is not required to be retained by the insurer pursuant to s. 627.782(1), or any other agent charge or fee to the person responsible for paying the premium, charge, or fee.

c. No insured named in a policy, or any other person directly or indirectly connected with the transaction involving the issuance of such policy, including, but not limited to, any mortgage broker, real estate broker, builder, or attorney, any employee, agent, agency, or representative thereof, or any other person whatsoever, shall knowingly receive or accept, directly or indirectly, any rebate or abatement of any portion of the title insurance premium or of any other charge or fee or any monetary consideration or inducement whatsoever, except as set forth in sub-subparagraph b.; provided, in no event shall any portion of the attorney fee, any portion of the premium that is not required to be retained by the insurer pursuant to s. 627.782(1), any agent charge or fee, or any other monetary consideration or inducement be paid directly or indirectly for the referral of title insurance business.

F.S. 627.782 Adoption of rates.

(1) Subject to the rating provisions of this code, the commission must adopt a rule specifying the premium to be charged in this state by title insurers for the respective types of title insurance contracts and, for policies issued through agents or agencies, the percentage of such premium required to be retained by the title insurer which shall not be less than 30 percent. However, in a transaction subject to the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. ss. 2601 et seq., as amended, no portion of the premium attributable to providing a primary title service shall be paid to or retained by any person who does not actually perform or is not liable for the performance of such service.

(2) In adopting premium rates, the commission must give due consideration to the following:

(a) The title insurers' loss experience and prospective loss experience under closing protection letters and policy liabilities.

(b) A reasonable margin for underwriting profit and contingencies, including contingent liability under s. 627.7865, sufficient to allow title insurers, agents, and agencies to earn a rate of return on their capital that will attract and retain adequate capital investment in the title insurance business and maintain an efficient title insurance delivery system.

(c) Past expenses and prospective expenses for administration and handling of risks.

(d) Liability for defalcation.

(e) Other relevant factors.

(3) Rates may be grouped by classification or schedule and may differ as to class of risk assumed.

- (4) Rates may not be excessive, inadequate, or unfairly discriminatory.
- (5) The premium applies to each \$100 of insurance issued to an insured.
- (6) The premium rates apply throughout this state.
- (7) The commission shall, in accordance with the standards provided in subsection (2), review the premium as needed, but not less frequently than once every 3 years, and shall, based upon the review required by this subsection, revise the premium if the results of the review so warrant.
- (8) Each title insurance agency and insurer licensed to do business in this state and each insurer's direct or retail business in this state shall maintain and submit information, including revenue, loss, and expense data, as the office determines necessary to assist in the analysis of title insurance premium rates, title search costs, and the condition of the title insurance industry in this state. Such information shall be transmitted to the office annually by May 31 of the year after the reporting year. The commission shall adopt rules relating to the collection and analysis of the data from the title insurance industry.

F.S.627.796 Errors and omissions policy requirements. (for Independent search companies, vendors providing searches)

A title insurance policy may not be issued from a search performed by any person other than a title insurance agent, or an employee of a title insurer or title insurance agency, unless that person has in effect an errors and omissions policy that has minimum coverage limits of \$250,000 and a deductible that does not exceed \$10,000.

VI. A collective review of more predominant codes & statutes

Florida Administrative Code 69B-186.010 Unlawful Rebates and Inducements Related to Title Insurance Transactions. (Amended 5-13-18)

(1) The purpose of this rule is to interpret paragraph 626.9541(1) (h), F.S., which provides that it is an unfair method of competition and unfair or deceptive act or practice prohibited by section 626.9521, F.S., to engage in certain activities related to title insurance.

(2) All lists contained within this rule are intended as examples and are not exhaustive. This rule does not prohibit inducements or rebates provided by filed or approved rates or rating manuals, advertising gifts allowed by paragraph 626.9541(1)(m), F.S., or inducements and rebates otherwise expressly allowed by law.

(3) For purposes of this rule, the term "referrer of settlement service business" means any person who is in a position to refer title insurance business incident to or part of a real estate transaction, or an associate of such person. A referrer of settlement service business may be 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; or any employee, officer, director, or representative of such a person or entity.

(4) As they relate to the transaction of title insurance, the following activities, whether performed directly or indirectly, for or by any referrer of settlement service business, are inducements for the sale, placement or referral of title insurance business in violation of section 626.9521 and paragraph 626.9541(1) (h), F.S.:

(a) Facilitating any discount, reduction, credit, or paying any fee or portion of the cost of an inspection, inspection report, appraisal, or survey, including wind inspection, to or for a purchaser or prospective purchaser of title insurance.

(b) Providing membership in any organization, society, association, guild, union, alliance or club at a discount, reduced rate, or at no cost to a referrer of settlement service business.

(c) Making or offering to make a charitable or other tax-deductible contribution on behalf of the purchaser or prospective purchaser of title insurance.

(d) Providing or offering stocks, bonds, securities, property, or any dividend or profit accruing or to accrue thereon to a referrer of settlement service business. However, the use of lawful affiliated business arrangements that are permitted under the Federal Real Estate Settlement Procedure Act would not violate this subparagraph and would be allowable under subsection (2) of this rule.

(e) Providing or offering employment to a referrer of settlement service business in exchange for the purchase of title insurance.

(f) Providing or paying for the printing of bulletins, flyers, post cards, labels, etc. that promote the business of a referrer of settlement service business.

(g) Furnishing or paying for the furnishing of office equipment (fax machines, telephones, copy machines, etc.) to a referrer of settlement service business.

(h) Providing or paying for cellular telephone contracts for a referrer of settlement service business.

(i) Providing simulated panoramic home and property tours to real estate brokers or real estate sales associates that they utilize to promote their listings.

(j) Providing or paying for gift cards or gift certificates to or for a referrer of settlement service business or to a purchaser or prospective purchaser of title insurance.

(k) Sponsoring and hosting, or paying for the sponsoring and hosting, of open houses for real estate brokers or real estate sales associates to promote their listings.

(l) Providing or paying for food, beverages, or room rentals at events designed to promote the business of a referrer of settlement service business other than the title insurance agent or agency.

(m) Paying advertising costs to advertise and promote the listings of real estate brokers or real estate sales associates via publications, signs, emails, websites, web pages, banners, or other forms of media.

(n) Providing an endorsement, designation of preferred status, approved status, or featured partner status on publications, signs, emails, websites, web pages, banners or

other forms of media promoting the business of real estate brokers or real estate sales associates.

(o) Paying a referrer of settlement service business to fill out processing (order) forms in exchange for title insurance contracts.

(p) Providing “leads” or mailing lists to or on behalf of a referrer of settlement service business at no cost or a reduced cost.

(q) Entering into any arrangement to provide unearned compensation to a referrer of settlement service business.

(r) Providing, or offering to provide, non-title services, without a charge that is commensurate with the actual cost, to a referrer of settlement service business.

(s) Waiving of fees, costs, or premium for title updates or endorsements requested after the issuance of the title insurance policy.

(t) Assuming any party’s responsibility to provide refunds to consumers under applicable laws and regulations.

(5) Except as prohibited by section 626.9541, F.S., expenditures for the following are not in violation of section 626.9521 and paragraph 626.9541(1) (h), F.S., or in violation of this rule:

(a) Promotional items with a company logo of the title insurance agent or agency, with a value not to exceed the amount allowed by paragraph 626.9541(1)(m), F.S., per item. “Promotional item” does not include a gift certificate, gift card, or other item that has a specific monetary value on its face, or that may be exchanged for any other item having a specific monetary value.

(b) Furnishing educational materials, such as fliers, brochures, pamphlets, or Frequently Asked Question sheets, exclusively related to title insurance for a referrer of settlement service business that are not conditioned on the referral of business and that do not involve the defraying of expenses that otherwise would be incurred by a referrer of settlement service business.

(c) Compensation paid to a referrer of settlement service business for goods and services actually performed at amounts not exceeding the reasonable fair market value of the goods and services and that is not intended to induce the referral of title insurance business.

(d) Any advertising or marketing activities that directly promote the title insurance business of the title insurance agent or agency, which may include joint participation in marketing with another party provided that the agent or agency pays the proportionate share or fair market value of the costs, and does not violate paragraph (5)(a) of this rule.

(e) A payment by a title insurance company to its duly appointed agent for services actually performed in the issuance of a title insurance policy.

(f) A payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed.

(6) A licensed and appointed title insurance agent is not prohibited under this rule to affix a notice to any contract or agreement, stating, "The terms of this contract are agreed to, but only to the extent that they do not violate the provisions of rule 69B-186.010, F.A.C., or paragraph 626.9541(1)(h), F.S.," or substantially similar language.

Another topic and source of questions pertaining to Real Estate Commission Disbursements F.S. 475.42(1) (d) Violations and Penalties (including whole statute for more information)

(a) A person may not operate as a broker or sales associate without being the holder of a valid and current active license therefor. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, or, if a corporation, as provided in s. 775.083.

(b) A person licensed as a sales associate may not operate as a broker or operate as a sales associate for any person not registered as her or his employer.

(c) A broker may not employ, or continue in employment, any person as a sales associate who is not the holder of a valid and current license as sales associate; but a license as sales associate may be issued to a person licensed as an active broker, upon request and surrender of the license as broker, without a fee in addition to that paid for the issuance of the broker's active

(d) A sales associate may not collect any money in connection with any real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, except in the name of the employer and with the express consent of the employer; and no real estate sales associate, whether the holder of a valid and current license or not, shall commence or maintain any action for a commission or compensation in connection with a real estate brokerage transaction against any person except a person registered as her or his employer at the time the sales associate performed the act or rendered the service for which the commission or compensation is due.

(e) A person may not commit any conduct or practice set forth in s. 475.25(1) (b), (c), (d), or (h).

(f) A person may not make any false affidavit or affirmation intended for use as evidence by or before the commission or a member thereof, or by any of its authorized representatives, nor may any person give false testimony under oath or affirmation to or before the commission or any member thereof in any proceeding authorized by this chapter.

(g) A person may not fail or refuse to appear at the time and place designated in a subpoena issued with respect to a violation of this chapter, unless because of facts that are sufficient to excuse appearance in response to a subpoena from the circuit court; nor may a person who is present before the commission or a member thereof or one of its authorized representatives acting under authority of this chapter refuse to be sworn or to affirm or fail or refuse to answer fully any question propounded by the commission, the member, or such representative, or by any person by the authority of such officer or appointee; nor may any person, so being present, conduct herself or himself in a disorderly, disrespectful, or contumacious manner.

(h) A person may not obstruct or hinder in any manner the enforcement of this chapter or the performance of any lawful duty by any person acting under the authority of this chapter or interfere with, intimidate, or offer any bribe to any member of the commission or any of its employees or any person who is, or is expected to be, a witness in any investigation or proceeding relating to a violation of this chapter.

(i) A broker or sales associate may not place, or cause to be placed, upon the public records of any county, any contract, assignment, deed, will, mortgage, affidavit, or other writing which purports to affect the title of, or encumber, any real property if the same is known to her or him to be false, void, or not authorized to be placed of record, or not executed in the form entitling it to be recorded, or the execution or recording whereof has not been authorized by the owner of the property, maliciously or for the purpose of collecting a commission, or to coerce the payment of money to the broker or sales associate or other person, or for any unlawful purpose. However, nothing in this paragraph shall be construed to prohibit a broker or a sales associate from recording a judgment rendered by a court of this state or to prohibit a broker from placing a lien on a property where expressly permitted by contractual agreement or otherwise allowed by law.

(j) A person may not operate as a broker under a trade name without causing the trade name to be noted in the records of the commission and placed on the person's license, or so operate as a member of a partnership or as a corporation or as an officer or manager thereof, unless such partnership or corporation is the holder of a valid current registration.

(k) A person may not knowingly conceal any information relating to violations of this chapter.

(l) A person may not undertake to list or sell one or more timeshare periods per year in one or more timeshare plans on behalf of any number of persons without first being the holder of a valid and current license as a broker or sales associate pursuant to this chapter, except as provided in s. 475.011 and chapter 721.

(m) A broker or sales associate may not enter into any listing or other agreement regarding her or his services in connection with the resale of a timeshare period unless the broker or sales associate fully and fairly discloses all material aspects of the agreement to the owner of the timeshare period. Further, a broker or sales associate may not use any form of contract or purchase and sale agreement in connection with the resale of a timeshare period unless the contract or purchase and sale agreement fully and fairly discloses all material aspects of the timeshare plan and the rights and obligations of both buyer and seller. The commission is authorized to adopt rules pursuant to chapter 120 as necessary to implement, enforce, and interpret this paragraph.

(n) A person may not disseminate or cause to be disseminated by any means any false or misleading information for the purpose of offering for sale, or for the purpose of causing or inducing any other person to purchase, lease, or rent, real estate located in the state or for the purpose of causing or inducing any other person to acquire an interest in the title to real estate located in the state.

(2) PENALTIES.—Any person who violates any of the provisions of subsection (1) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s.

775.083, or, if a corporation, it is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083, except when a different punishment is prescribed by this chapter. Nothing in this chapter shall prohibit the prosecution under any other criminal statute of this state of any person for an act or conduct prohibited by this section; however, in such cases, the state may prosecute under this section or under such other statute, or may charge both offenses in one prosecution, but the sentence imposed shall not be a greater fine or longer sentence than that prescribed for the offense which carries the more severe penalties. A civil case, criminal case, or a denial, revocation, or suspension proceeding may arise out of the same alleged state of facts, and the pendency or result of one such case or proceeding shall not stay or control the result of either of the others.

F.S.624.501 (27)(e) Filing, license, appointment, and miscellaneous fees.—The department, commission, or office, as appropriate, shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(27) Title insurance agents:

(e) Title insurer and title insurance agency administrative surcharge:

1. **On or before January 30 of each calendar year**, each title insurer shall pay to the office for each licensed title insurance agency appointed by the title insurer and for each retail office of the insurer on January 1 of that calendar year an administrative surcharge of \$200.00.
2. On or before January 30 of each calendar year, each licensed title insurance agency shall remit to the department an **administrative surcharge of \$200.00**.

The administrative surcharge may be used solely to defray the costs to the department and office in their examination or audit of title insurance agencies and retail offices of title insurers and to gather title insurance data for statistical purposes to be furnished to and used by the office in its regulation of title insurance.

