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BULLETIN NO. 17-16

DATE: December 18, 2017

TO: All Licensed Title Insurance Producers

RE: Prohibition of Rebates, Discounts and Inducements

It has come to the attention of the Maryland Insurance Administration ("MIA") that title insurance producers are offering consumers free home warranties or other things of value as an inducement for the purchase of a title insurance policy. The purpose of this Bulletin is to provide guidance on rebating, discounts, and other inducements offered in connection with Maryland real estate transactions under the Insurance Article.

Specifically, § 27-212(b) of the Insurance Article of the Annotated Code of Maryland states:

Except to the extent provided for in an applicable filing with the Commissioner as provided by law, an insurer, employee or representative of an insurer or insurance producer may not pay, allow, give, or offer to pay, allow, or give directly or indirectly as an inducement to insurance or after insurance has become effective:

- (1) a rebate, discount, abatement, credit, or reduction of the premium stated in the policy;
- (2) a special favor or advantage in the dividends or other benefits to accrue on the policy; or
- (3) any valuable consideration or other inducement not specified in the policy.

Additionally, § 11-407 (b) provides:

Each title insurer must hold to the rates or premiums as approved by the Commissioner and may not deviate from the rates or premiums or allow to or for the account of an insured a rebate or discount on the rates or premiums payable.

Section 27-216(b)(1) states:

A person may not willfully collect a premium or charge for insurance that:

(i) exceeds or is less than the premium or charge applicable to that insurance under the applicable classifications and rates as filed with and approved the Commissioner, or

(ii) if classifications, premiums, or rates are not required by this article to be filed with and approved by the Commissioner, exceeds or is less than the premium or charge specified in the policy and set by the insurer.

Offering rebates or discounts in the form of free home warranties or home inspections as thank you gifts to consumers who purchase a title insurance policy from an insurance producer is prohibited by Maryland insurance law. Likewise, offering all consumers seeking title insurance free home warranties or inspections regardless of whether a title insurance purchase is ultimately made is also prohibited by Maryland insurance law.

In the first circumstance, the insurance producer is directly and explicitly offering the free item in exchange for receiving that consumer's business, which is an inducement that falls within the scope of § 27-212(b)(1) (no rebate, discount, or credit may be given as an inducement directly connected to a purchase). Likewise, offering free items of value, even though not expressly conditioned on the purchase of an insurance product, violates § 27-212(b)(3) as an "indirect" inducement because it conveys a hopeful expectation that the consumer may ultimately be so moved or persuaded to purchase an insurance product or to do business with a specific title insurance producer. Accordingly, insurance producers should not offer to consumers any type of rebates, discounts, or other free items of value, directly or indirectly even if not expressly conditioned on the purchase of contract of title insurance.¹

Please direct any questions regarding this Bulletin to Darlene Arnold, Director of Producer Enforcement, Compliance and Enforcement at darlene.arnold@maryland.gov or 410-46-2354 or to Erica J. Bailey, Associate Commissioner, Compliance and Enforcement at 410-468-2113 or erica.bailey@maryland.gov.

ALFRED W. REDMER, JR.
Commissioner

signature on original

By:

Erica J. Bailey
Associate Commissioner

¹ See § 14-127 of the Real Property Article, Annotated Code of Maryland