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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 6. INSURANCE COVERING LAND [12340 - 12661] (*Part 6 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 1. Title Insurance [12340 - 12418.4] (*Chapter 1 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 4.5. Business Plans [12396 - 12399] (*Article 4.5 added by Stats. 1989, Ch. 344, Sec. 1.*)

12396. (a) For purposes of this article, "controlled business source" means an affiliate, as defined in subdivision (a) of Section 1215, of any title insurer, controlled escrow company, or underwritten title company.

(b) For purposes of this article:

(1) "License" means a securities permit issued to a title insurance entity, a license to operate as an underwritten title company, or a certificate of authority to act as a title insurer.

(2) "Licensee" means the holder of a license.

(c) For purposes of this article, a title order shall be deemed to emanate from a controlled business source if the controlled business source is acting in the capacity of a principal, lender, representative, or agent of any of the parties to the transaction, or any other person or entity with which the reporting entity has an agreement, written or otherwise, whereby title orders are traded or otherwise exchanged in order to achieve compliance with this article.

(*Added by Stats. 1989, Ch. 344, Sec. 1.*)

12397. Any applicant for a license shall indicate the applicant's intent to actively compete in the marketplace for title insurance in each county in which the applicant seeks to or does conduct the business of title insurance. The failure to so indicate shall constitute grounds for denial of the license. Each applicant for a license shall also demonstrate that its plan of operation and intended course of business conduct will not involve reliance for more than 50 percent of its closed title orders from controlled business sources.

(*Added by Stats. 1989, Ch. 344, Sec. 1.*)

12397.5. (a) Each licensee shall make submissions as are required by the Department of Insurance to enable the department to determine the nature and extent of the licensee's efforts to actively compete in each county in which it transacts its business. The licensee shall maintain records of its title orders sufficient to indicate the source of the title orders.

(b) Competitive behavior shall be measured by the source of closed title orders in each county in which the licensee engages in the title business and by the entity's progress toward meeting the 50 percent objective specified in Section 12397, as indicated in the annual, verified report filed pursuant to subdivision (c).

(c) Within 90 days following the end of each business year, as established by the licensee, each licensee shall file with the commissioner, and any title insurer with which the licensee maintains an underwriting agreement, a verified report executed by the licensee's chief executive officer or his or her designee under penalty of perjury, stating the percent of closed title orders for each county originating from controlled and noncontrolled business sources. Each title insurer that maintains an underwriting agreement with another licensee shall, within 30 days after receipt of this report, file with the commissioner a verified statement, signed by the licensee's chief executive officer or by his or her designee under penalty of perjury, that the report is substantially correct or that insufficient information is contained in the report to enable an opinion to be formed concerning the correctness of the report.

(d) Upon receipt by the department of a verified statement, signed under penalty of perjury, that less than 5 percent of the business a licensee transacts emanates from controlled business sources, the licensee shall be relieved of further reporting under this article, but shall be subject to reporting under subdivision (c) at any time that 5 percent or more of the business which the licensee transacts emanates from controlled business sources.

(*Added by Stats. 1989, Ch. 344, Sec. 1.*)

12398. The failure of an applicant or licensee to comply with any of the requirements of this article shall be grounds for the denial of an application for a license, the suspension or revocation of an issued license, or other disciplinary action determined by the commissioner, in accordance with procedures prescribed by law therefor.

(Added by Stats. 1989, Ch. 344, Sec. 1.)

12399. Nothing in this article shall limit or preclude the consideration or approval of an application for a license, except as expressly provided in this article.

(Added by Stats. 1989, Ch. 344, Sec. 1.)