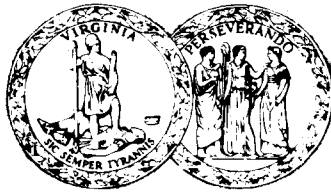


JAMES M. THOMSON
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STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

October 10, 1986

Administrative Letter 1986-19

**TO: ALL COMPANIES LICENSED TO WRITE TITLE INSURANCE IN VIRGINIA
AND ALL LICENSED TITLE INSURANCE AGENTS IN VIRGINIA**

**RE: PROHIBITION AGAINST THE PAYMENT OR RECEIPT OF TITLE INSURANCE
KICKBACKS, REBATES, COMMISSIONS AND OTHER PAYMENTS**

Questions have arisen regarding the requirements of Section 38.2-4614 and various agency arrangements made by title insurance agents with persons in a position to refer business.

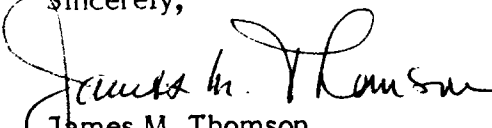
Subsection A of Section 38.2-4614 prohibits a person selling real estate, or performing services as a real estate agent, attorney, or lender, who performs services regarding a particular real estate settlement or sale, from paying or receiving any payment, directly or indirectly, in connection with the issuance of title insurance on such property. The provisions of this subsection apply regardless of whether these entities are licensed title insurance agents.

There are two exceptions to the prohibitions outlined in Section 38.2-4614. First, federally insured lenders, holding companies to which they belong, or subsidiaries of such lenders or holding companies are exempt from the statutory prohibitions. In addition, subsection C states that the kickback prohibition is not violated solely by stock ownership in a "bona fide title insurance company, agency or agent", which is defined as ". . . a company, agency or agent that passes upon and makes title insurance underwriting decisions on title risks, including the issuance of title insurance policies or binders and endorsements." Therefore, as long as the dividends received by the entities in question are a legitimate return on their investment and are not disguised referral fees, then such payment is not in violation of Section 38.2-4614.

The statute in question should be reviewed carefully by companies and agencies in addition to all agency arrangements currently in effect in this State to make certain that payments are not being made to persons who are not entitled to same. Arrangements which are in violation of the Code may result in penalties being levied, including conviction for a misdemeanor.

Please make certain that your company or agency is in compliance with the requirements of this law. Should you have any questions concerning this matter, kindly communicate same to the Bureau in writing.

Sincerely,


James M. Thomson
Commissioner of Insurance

JMT/kjc