

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

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BULLETIN 97-10

TO: TITLE INSURANCE LIMITED PRODUCERS AND TITLE INSURERS

RE: LICENSURE

In recent months, the division has received numerous inquiries seeking clarification and assistance as to when a person must obtain the title insurance limited producer license.

Under AS 21.66.270, title insurance limited producers are to be "licensed in the manner provided for in AS 21.27." Alaska Statute 21.66.480(8) defines a "title insurance limited producer" as "a person, firm, association, trust, corporation, cooperative, joint-stock company, or other legal entity authorized in writing by a title insurance company to solicit title insurance, collect premiums, determine insurability in accordance with the underwriting rules and standards prescribed by the title insurance company that the licensee represents, and issue policies in its behalf; however, the term "title insurance limited producer" does not include officers and salaried employees of the title insurance company." (Emphasis added.)

Further, AS 21.66.480(2)(B) defines the "business of title insurance" as "the transacting or proposing to transact, any phase of title insurance including solicitation, negotiation preliminary to execution, execution of a title insurance contract, and insuring and transacting matters subsequent to the execution of the contract and arising out of it, including reinsurance."

The above definitions provide guidelines as to when a person is required to obtain a license. The functions contained within the definitions may not be all encompassing, but include various aspects that occur in a title transaction. Based on the above definitions, any individual who represents a firm authorized in writing by a title insurer and performs any of the functions described in AS 21.66.480(8) must be licensed to comply with Alaska law. Some examples of who would require a license include individuals who determine what items affect a parcel of land, who execute or issue an insurance policy on behalf of the underwriter or a firm, or who otherwise solicit business, collect premiums, or determine insurability. Secretarial and receptionist positions may qualify for license exemption only if they perform duties that fall under AS 21.27.010(j).

Additionally, Alaska law prohibits a person from receiving a commission or any type of compensation pursuant to AS 21.27.370(a), which states:

A licensee may not compensate or offer to compensate a person, other than an insurance

producer . . . licensed by this state . . . for procuring or in any manner helping to procure applications for insurance or to place insurance in this state or relative to a risk resident, located, or to be performed in this state. Nothing in this subsection prohibits the payment of compensation to a regular employee of an insurance producer . . . by the employing licensee that **is not contingent** upon the volume of business transacted. (Emphasis added)

Further, under AS 21.27.370(b), "[a] person may not be promised or paid, directly or indirectly, compensation for procuring an application or for placing a kind or class of insurance for which the person is not then licensed to procure or place or for insurance that the person is prohibited by this title from procuring or placing." Accordingly, an individual must be licensed to receive a commission or any form of compensation for procuring or placing title insurance or to receive compensation that is based on the volume of business generated by that individual.

The foregoing provisions are the general parameters for licensing in this state. The division tries to avoid applying law to generalized hypothetical situations as are posed by producers from time to time because the actual facts may vary from situation to situation. If you have questions on a specific individual who performs various functions at your agency, you may submit a written request for the division to analyze whether the particular individual requires a license.

We encourage you to evaluate the duties and responsibilities of yourself and all employees of your title insurance agency or title insurance company to determine if licensure is required for business transacted in Alaska. We hope this bulletin provides the necessary information to assist you in evaluating compliance with Alaska insurance law.

Date this 15th day of September, 1997 in Juneau, Alaska.



Marianne K. Burke
Director of Insurance