

Bulletin 135

Title Insurance Licensure Requirements:
Insured Closing Services

This Bulletin is directed to all companies that write title insurance under IC 27-1-5-1 Class 2(j), title insurance companies licensed under IC 27-7-3, title insurance producers and to all other persons or business entities engaged in the business of title insurance. The purpose of this Bulletin is to clarify when a person conducting a real estate closing on behalf of a title insurance producer or a title insurance company must be a licensed insurance producer and to establish licensing procedures.

Pursuant to IC 27-1-15.6-3, a person shall not sell, solicit or negotiate insurance in Indiana unless that person is licensed as an insurance producer. Insurers doing business in this state shall require any person who sells, solicits, or negotiates insurance by any means of communication on behalf of an insurer to be a licensed insurance producer. The term "sell" is defined as the exchange of a contract of insurance by any means, for money or its equivalent, on behalf of a company. IC 27-1-15.6-2(15). The term "solicit" is defined as attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. IC 27-1-15.6-2(16). And, the term "negotiate" is defined as the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. IC 27-1-15.6-2(13). IC 27-1-15.6-18(4) provides for limited insurance producer licenses for persons who solicit or negotiate only title insurance products. Any person who conducts a real estate closing on behalf of a title insurance producer or title insurance company in which a title insurance policy is issued or is to be issued must be a licensed insurance producer. For purposes of this Bulletin, "conduct a real estate closing" is described as a person who engages in any of the following:

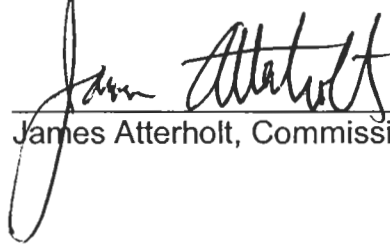
- (1) activities to determine proper execution, acknowledgement and delivery of all conveyances, mortgage documents and other title instruments necessary to consummate a transaction;
- (2) activities to ensure consideration has been passed and all proceeds have been properly accepted and properly disbursed; or
- (3) the preparation of settlement or closing statements in connection with the transaction.

Nothing in this Bulletin shall be construed to prohibit a lender from acts which are incidental and directly connected to the regular business of making loans. Such acts include, but are not limited to, closing a loan, providing disclosures required by law, requiring title insurance, ordering title insurance, providing title insurance information as

it relates to a specific loan or loan application, providing title insurance rate and premium information as it relates to a loan application, requesting title searches, requesting title insurance commitments, title insurance endorsements or title insurance policies.

Pursuant to IC 27-1-15.6-3, the insurer for which these activities are performed is also responsible for insuring that the closer is properly licensed. An insurer's failure to require a person who sells, solicits or negotiates title insurance to be properly licensed is considered an unfair method of competition subject to administrative action under IC 27-4-1. An individual who should have a license and does not is subject to administrative action under IC 27-1-15.6-12. The Department is granting a six (6) month implementation period for insurers and individuals to implement this bulletin and to complete the licensure process.

INDIANA DEPARTMENT OF INSURANCE

A handwritten signature in black ink, appearing to read "James Atterholt", is written over a horizontal line. The signature is stylized and cursive.

James Atterholt, Commissioner