


Industry Awareness

CHICAGO TITLE 

Indiana Department of Insurance – Title Insurance Division Working Hard to Protect Hoosier Homeowners

◇ Title Insurance Enforcement Fund Fee

If you've reviewed a settlement statement lately you've probably noticed a new line item entitled TIEFF - \$5.00. On July 1, 2006, the Indiana Land Title Association introduced the Title Insurance Enforcement Fund Fee. Any person who purchases a title insurance policy is now required to pay the corresponding title company five dollars (\$5) as a fee for the title insurance enforcement fund.

This fee is to be collected on all owner and loan policies, and will appear in the 1100 series of the HUD settlement statement. This is a separate, non-negotiable fee to the purchaser of the policy and cannot be added to the title premium.

◇ What is the TIEFF money to be used for?

Title companies are required to remit a portion of this \$5 fee to the Indiana Department of Insurance to pay for the cost of hiring and employing staff within the newly created Title Insurance Division to enforce state title insurance laws.

◇ Why has a Title Insurance Division been created?

The Title Insurance Division's mission is *"to create a regulatory environment within the title insurance industry that balances the need for vigorous consumer protection with vibrant business competition to provide a healthy marketplace for consumers and industry alike."*

In order to accomplish these goals and as part of the Department's investigative and examination function, it will begin examining the practices and procedures of title insurance agencies statewide. This investigative process is headed by two managing attorneys, Paul K. Ogden and Kathy Carr Hulbert. Mr. Ogden has been an attorney for over 19 years, and most recently served as in-house counsel at a title company in Greenwood, Indiana. Ms. Hulbert comes to the Department from the Indiana Attorney General's Office where she served as supervising attorney of the Homeowner Protection Unit. In that role she enforced state licensing laws against real estate agents and appraisers.

◇ How does the Title Insurance Division affect me?

Goals of the Title Insurance Division include addressing consumer complaints and creating a more even playing ground within the industry. To achieve these goals, the Title Insurance Division plans to work to ensure that consumers receive their insurance policies and recorded documents in a timely manner, and that closings are conducted in accordance with state and federal law.

In addition, the Division will target misappropriation and Real Estate Settlement Procedures Act (RESPA) violations in the areas of shared marketing agreements, affiliated businesses, and the reduction and shifting of closing fees to obtain refinance business. The Title Insurance Division will also partner with the Attorney General's Office, the Secretary of State, the Department of Financial Institutions, the State Police and other governmental entities to combat the increasing problem of mortgage fraud.

◊ **Press Release, March 5, 2007**

Title Insurance Division Uncovers Hoosier Homeowner Scam

Paying nearly \$60 for a document which costs about \$6 doesn't sound like a bargain to most people, including Indiana Insurance Commissioner James D. Atterholt.

Commissioner Atterholt announced that National Deed Services, Inc. is mailing letters to Hoosier homeowners which the company offers to obtain a certified copy of the homeowner's deed for \$59.90. A file-stamped copy of the deed generally costs only \$1 (an additional \$5 for the certification) if the homeowner obtained it from the county courthouse, and often can be obtained for free from the title insurance agency that did the closing.

The misleading tactics of National Deed Services in encouraging homeowners to pay for the service, were noted by Commissioner Atterholt. Although based in Illinois, National Deed uses a Washington, D.C. office, just four blocks from the White House, for its mailings. The impressive sounding address is in fact shared commercial office space. National Deed also mentions a government website that encourages consumers to keep official copies of their deeds, but the website also says these public documents are generally available for a nominal cost and warns against companies that offer to obtain these publicly available documents at inflated prices.

"The legality of what National Deed is doing is something we are going to scrutinize closely," stated Commissioner Atterholt. "In the meantime, we felt Hoosiers should know that the cost of National Deed's service far exceeds the cost of getting the deed directly from a county recorder's office."

Upon reviewing the solicitation by National Deed, Managing Attorney Carr Hulbert advised that title insurance agencies should provide a file-stamped copy or original of the recorded deed to the home buyer following the closing along with the title insurance policy. While there is often a few months delay in doing this, due chiefly to the time required to process the property transfer and record the deed, Carr Hulbert noted that providing these documents in a reasonable time would be a point of emphasis for the Title Division. "We consider taking a policy premium at a closing and not producing a title insurance policy to be a very serious matter. That policy, and the recorded deed should be provided to the home buyer. If they are not provided in a reasonable time, the home buyer needs to ask for those documents from the title insurance agency. If the agency still fails to produce those documents, we at the Title Insurance Division want to know."

◊ **Paving the Way for Consumer Protection**

This is a great illustration of how the TIEFF fees that fund the Title Insurance Enforcement Unit have provided the resources necessary to bring these less than desirable situations to light. We look forward to seeing what other steps the Indiana Division of Insurance takes over the coming years to protect Indiana homeowners.

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