

escrow deposits which are reasonably necessary for use in the ordinary course of the business of the title insurer or agent.

(h) Paying or offering to pay the fees or charges of an outside professional, including but not limited to, an attorney, engineer, appraiser, or surveyor, whose services are required by any producer of title insurance to structure or complete a particular transaction.

(i) Paying or offering to pay all or part of the salary of an employe of a producer of title insurance.

(j) Paying or offering to pay a fee to a producer of title insurance for services unless the fee bears a reasonable relation to the services performed. The determination of whether a fee bears a reasonable relation to the services performed means a recognition of time and effort spent, risk and expenses incurred, and an allowance for a reasonable level of profit. After June 30, 1987, for purposes of this paragraph, a payment determined by applying a percentage amount or formula to the premium paid for title insurance is presumed, unless rebutted, not to bear a reasonable relation to services performed. The presumption may be rebutted in a particular case by satisfying the commissioner that the service to be performed and the compensation to be received, with recognition of time and effort spent and risk and expenses incurred, are substantially comparable to the services performed and compensation received by agents, or to the services performed by underwriters, in this state who are not producers of title insurance.

(k) Paying or offering to pay for services by a producer of title insurance if the services are required to be performed by the person in his or her capacity as a real estate or mortgage broker or salesperson or agent.

(l) Furnishing or offering to furnish, or paying or offering to pay for, furniture, office supplies, telephones, equipment or automobiles to a producer of title insurance, or paying for, or offering to pay for, any portion of the cost of renting, leasing, operating or maintaining any of these items. Marketing and title insurance promotional items clearly of an advertising nature of token or nominal value, or supplies such as title insurance application blanks and related forms are prohibited under this paragraph if they are made available to all producers of title insurance on the same terms and conditions.

(m) Paying for, furnishing, or waiving, or offering to pay for, furnish, or waive, all or any part of the rent for space occupied by a producer of title insurance.

(n) Renting or offering to rent space from a producer of title insurance, at a rent which is excessive when compared with rents for comparable space in the geographic area, or paying or offering to pay, rent based in whole or in part on the volume of business generated by a producer of title insurance except for a bona fide percentage lease based on the total volume of receipts of the title insurer when the services of that title insurer are offered from that location to the public generally.

(o) Paying or offering to pay for gifts, vacations, business trips, convention expenses, travel expenses, membership fees, registration fees, lodging or meals on behalf of a producer of title insurance, directly or indirectly, or supplying letters of credit, credit cards or any such benefits. This paragraph does not preclude reasonable, moderate and customary business entertainment and trade association activities and expense in-

curred and recorded by the title insurer or agent in the course of marketing its products and services.

(p) Paying or offering to pay money, prizes or other things of value to, or on behalf of, a producer of title insurance in a contest or promotional endeavor. This paragraph does not apply to offers or payments to trade associations or charitable or other functions where the thing of value is a contribution or donation rather than a business solicitation.

(q) Paying or offering to pay for advertising concerning the title insurer or agent in material distributed or promoted by a producer of title insurance, unless the payment is reasonable compensation for the advertising, is not greater than the amount charged for comparable advertising and any title insurer is permitted to advertise in the material on the same terms and conditions.

(r) Paying for or furnishing, or offering to pay for or furnish any brochures, billboards, or advertisements of a producer of title insurance, products or services appearing in newspapers, on the radio, or on television, or other advertising or promotional material published or distributed by, or on behalf of, a producer of title insurance.

(5) REFERRAL OF TITLE INSURANCE APPLICATIONS. For the purpose of sub. (3) (b) and s. Ins 6.61 (2m), an application or order for title insurance is presumed to be referred to an agent by an affiliate producer of title insurance if the affiliated producer of title insurance acts as a broker, agent, lender, representative or attorney in the transaction which results in the application or order and the application was not referred to the affiliate producer by an unaffiliated producer of title insurance.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; emerg. am. (1), (2) and (3) (a), eff. 6-22-76; am. (1) (2), (3) (a) and (4) (c), Register, September, 1976, No. 249, eff. 10-1-76; am. (2) and (3) (a), Register, March, 1979, No. 279, eff. 4-1-79; am. (2), (3) (c) (Intro.), (d), (4) (Intro.), (e) to (p) and (r), renum. (3) (a) and (e) to be (3) (e) and (cm) and am., cr. (3) (Intro.), (a), (am), (bm) and (c) 4., r. and recr. (3) (b), (4) (q) and (5), Register, November, 1986, No. 371, eff. 12-1-86; emerg. am. (4) (j), eff. 7-5-88; am. (4) (j), Register, October, 1988, No. 396, eff. 1-1-89.

Ins 3.38 Coverage of newborn infants. (1) PURPOSE. This section is intended to interpret and implement s. 632.91, Stats.

(2) INTERPRETATION AND IMPLEMENTATION. (a) Coverage of each newborn infant is required under a disability insurance policy if 1. the policy provides coverage for another family member, in addition to the insured person, such as the insured's spouse or a child, and 2. the policy specifically indicates that children of the insured person are eligible for coverage under the policy.

(b) Coverage is required under any type of disability insurance policy as described in par. (a), including not only policies providing hospital, surgical or medical expense benefits, but also all other types of policies described in par. (a), including accident only and short term policies.

(c) The benefits to be provided are those provided by the policy and payable, under the stated conditions except for waiting periods, for children covered or eligible for coverage under the policy.

(d) Benefits are required from the moment of birth for covered occurrences, losses, services or expenses which result from an injury or sickness condition, including congenital defects and birth abnormalities of the newborn infant to the extent that such covered occurrences, losses, ser-

vices or expenses would not have been necessary for the routine postnatal care of the newborn child in the absence of such injury or sickness. In addition, under a policy providing coverage for hospital confinement and/or in-hospital doctor's charges, hospital confinement from birth continuing beyond what would otherwise be required for a healthy baby (e.g. 5 days) as certified by the attending physician to be medically necessary will be considered as resulting from a sickness condition.

(e) If a disability insurance policy provides coverage for routine examinations and immunizations, such coverage is required for covered children from the moment of birth.

(f) An insurer may underwrite a newborn, applying the underwriting standards normally used with the disability insurance policy form involved, and charge a substandard premium, if necessary, based upon such underwriting standards and the substandard rating plan applicable to such policy form. The insurer shall not refuse initial coverage for the newborn if the applicable premium, if any, is paid as required by s. 632.91 (3), Stats. Renewal coverage for a newborn shall not be refused except under a policy which permits individual termination of coverage and only as such policy's provisions permit.

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