

CR 88-11

STATE OF WISCONSIN)
)
OFFICE OF THE COMMISSIONER OF INSURANCE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Robert D. Haase, Commissioner of Insurance and custodian of the official records of said Office, do hereby certify that the annexed order amending a rule relating to compensation paid to a producer of title insurance was issued by this Office October 24, 1988.

I further certify that said copy has been compared by me with the original on file in this Office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 24th day of October, 1988.



Robert D. Haase
Commissioner of Insurance

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STATE OF WISCONSIN
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OCT 24 1988
3:10pm
DUGLAS LA FOLLE
SECRETARY OF STATE

1-1-89

ORDER OF THE COMMISSIONER OF INSURANCE

AMENDING A RULE

To amend s. Ins 3.32 (4) (j), relating to compensation paid to a producer of title insurance.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3) and 628.34 (12), Stats.

Statutes interpreted: ss. 601.01 (2) and (3), and 628.34 (11), Stats.

The purpose of this rule is to clarify under what conditions a title insurer may pay or offer to pay a fee for services to a producer of title insurance (most commonly a realtor or lender, or an employe or affiliate thereof). Under current law, the fee must bear a reasonable relation to services performed. Under this rule, the determination of what constitutes a reasonable relation expressly includes a recognition of the time and effort spent, and risk and expense incurred by the producer of title insurance or the title insurer. The rule also requires that a reasonable level of profit be allowed in determining what constitutes a reasonable relation to services performed.

The rule retains the current rebuttable presumption that a commission payment does not bear a reasonable relation to services performed. However, the rule adds that the presumption may be rebutted in a particular case by satisfying the commissioner that the service to be performed or compensation received are substantially comparable to services performed and compensation received by title agents or underwriters in Wisconsin who are not producers of title insurance.

RECEIVED AND FILED

OCT 24 1988

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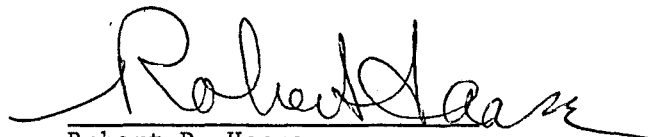
DOUGLAS LA FOLLE
SECRETARY OF STATE

SECTION 1. Ins 3.32 (4) (j) is amended to read:

Ins 3.32 (4) (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.

EFFECTIVE DATE. Pursuant to s. 227.22 (2) (intro.), Stats., this rule shall be effective on the first day of the month commencing after the date of publication.

Dated at Madison, Wisconsin, this 24th day of October, 1988.



Robert D. Haase
Commissioner of Insurance