

STATE OF COLORADO



DEPARTMENT OF REGULATORY AGENCIES

Tambor Williams

Executive Director

DIVISION OF INSURANCE

David F. Rivera

Commissioner of Insurance

April 26, 2005

The Honorable Dan Grossman
State Capitol Building
Denver, Colorado 80203

Dear Senator Grossman:

Thank you for the opportunity to comment on Senate Bill 220, concerning affiliated business arrangements in the title insurance industry.

As you know, the Colorado Division of Insurance has become the national leader in enforcing existing state and federal laws concerning title insurance. Earlier this year, the Division of Insurance secured more than \$24 million in restitution for consumers nationwide as a result of its investigation of captive title reinsurance arrangements. Through this investigation, Colorado has forged relationships with the Department of Housing and Urban Development (HUD) to ensure proper application of federal RESPA laws and regulations. In addition, Colorado has mobilized individual states to enforce applicable laws through its leadership as co-chair of the National Association of Insurance Commissioners (NAIC) Title Insurance Working Group.

In addition to this leadership role, the Division of Insurance regulation 3-5-1 already addresses affiliated business arrangements (AfBA's). As set forth in the regulation, it is my position that AfBA's are not inherently bad and could be beneficial to consumers who seek the convenience of "one-stop shopping". However, the Division has received complaints that sham arrangements are operating here. Accordingly, we have taken steps to examine certain AfBA's. I believe focusing our examination on targeted AfBA's rather than all AfBA's is a more efficient and appropriate way to potentially identify prohibited practices. We expect to launch the examination within the next two months. Once our examination is complete, we will be in a better position to proscribe specific practices, either through amendment of regulation 3-5-1 or through introduction of new legislation next year, which we would greatly appreciate the opportunity to work closely with you on.

In addition, AfBA's are the next agenda item scheduled for consideration by the NAIC at its upcoming meeting. Since many of our title entities operate on a national basis, placing AfBA's on the NAIC agenda will promote consistent application of laws on a national basis. Further, representatives of HUD will be in attendance at the meeting to ensure proper enforcement of RESPA.

It is my commitment as the new Insurance Commissioner to continue the Division of Insurance's active enforcement of state and federal title insurance laws. For the above reasons, I am respectfully asking you to postpone consideration of SB 05-220 until we have had a chance to complete our examination and determine if further steps are necessary.

Sincerely,

David F. Rivera
Commissioner of Insurance

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