

SENATE BILL NO. 133

Explained

California Anti-Rebate Law

It has been over a decade since SB-133 went into effect, significantly changing the landscape of our industry by toughening Insurance Code Section 12404, which states that it is unlawful for any title insurer, underwritten title company, or controlled escrow company to provide, directly or indirectly, anything of value to any person as an inducement for the placement or referral of title business. A “12404 person” includes sellers, buyers, borrowers, lenders, and agents, attorneys, or employees of those persons.

Title companies risk stiff penalties, and marketing reps risk the loss of their licenses if they violate these laws. The California Department of Insurance (CDI) has increased its enforcement efforts by quadrupling its investigators.

Here is a brief reminder of a few of the broad categories of SB-133 restrictions, examples of some prohibited activities that have been reported and disciplined, and a reminder of what we are permitted to do in each category.



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| Prohibited | Example | Permitted |
|---|--|---|
| Paying for any adverting, leads, and marketing material (flyers, postage, postcards, door tags, newspapers, etc.) for any 12404 person(s). | We cannot provide property addresses or phone numbers for cold calling or email information for sending out e-blasts on the agent's behalf (like open house and just listed flyers.) We cannot design or upload agent-branded marketing materials to websites. | We provide premium access to property information through various platforms. This information is considered a premium tier and is paid for by the 12404 person(s). |
| Financially and/ or physically supporting or sponsoring a Broker or Agent specific event or offering assistance with any 12404 person(s) business expenses. | We cannot pay for a table or sponsor an event that is Broker or Agent specific, nor can our employees offer their time, support, or productive effort at these events (gathering permits, sitting an open house). | We can provide approved inexpensive promotional materials and items, that have our logo permanently affixed. We can assist with and talk about the title and escrow process. |
| Education and Informational Materials for 12404 person(s) that are not exclusively or predominantly related to the title insurance and escrow closing business. | We cannot lecture, educate, or train on matters unrelated to title insurance or provide open house materials unless certain criteria are met. We cannot provide informational materials such as sporting events schedules under any circumstances. | We can create and provide approved title and escrow relevant education and educational materials to any 12404 person(s) without providing continuing education credits or food. |
| Expenditures for meals, food, beverages, and entertainment for any 12404 person(s). | We cannot provide snacks, drinks, candy, or lunches. | We can provide our CTC branded water. But we can not provide cases. |
| Quoting or charging Discount Rates – Title rates are filed with the state, and charging anything other than an appropriate filed rate is illegal; even “accidentally” quoting a rate that is too low is also illegal. | We cannot provide a “Major Projects” rate if the particular transaction does not fall within that filed rate exemption, and we cannot waive or discount a fee as a favor to any 12404 person(s). | We will check with our expert Title Unit to see if any “special” rates are available and obtain the best possible filed rate for specific circumstances or transactions. |