

MEMORANDUM

To: All title insurance companies, title insurance agents, independent escrowees and citizens of Illinois

From: Illinois Department of Financial and Professional Regulation,
Division of Financial Institutions

Date: April 3, 2018

Re: Revision of the Disclosure of Financial Interest form (DS-1)

The Department of Financial and Professional Regulation, Division of Financial Institutions announces that the Disclosure of Financial Interest form, also known as the DS-1 form, has been revised.

This revised disclosure form is effective at 12:01 am, April 4, 2018, and the current form will no longer be used.

The Title Insurance Act (Act) authorizes the Department to prepare the disclosure form so that a producer of title business (usually the attorneys, real estate brokers or lenders in transactions) discloses their financial interest to any home seller and buyer involved in the closing process. This includes the title insurer, independent escrowee or title agent/agency involved in the closing.

The most common examples of this include an attorney having a financial interest in being the title agent, or a real estate broker having a financial interest in a title agency owned by the broker's parent company.

It is hoped the revision will make it clearer to sellers and buyers the cost of title insurance and settlement services for a home sale.

Insurers, agent and escrowees should know the following:

- The names of all title insurance providers must be disclosed;
- The insurer must review and approve the disclosure, including accurately verifying the percentage the agent will receive for statutorily authorized services that the agent will perform, including an estimate of the fee;

- Estimated charges include seller and buyer charges, the estimated agent fee and the seller's (or buyer's) attorney's fee;
- The seller and buyer acknowledge the disclosure by signing the form;
- The online form is fillable, which means the producer of title business can complete the form, forward to the insurer for review and then, ultimately, forward to the seller and buyer; and
- It is strongly recommended that the agent, insurer and escrowee each maintain a copy for their records. While the Act requires only one of these entities retain the disclosure, best practices would dictate maintaining a record as proof of authorization to issue the policy or close the transaction.

Consumers should know the following:

- Under the Act, sellers and buyers have the right to choose the title agent, insurer and escrowee, not the attorney, broker or lender.
- If the attorney acts as a title agent, the seller or buyer will be paying for both the attorney and agent's fee.
- Title fees can vary, so it is advantageous to shop around.
- The disclosure form must be provided at the beginning of the transaction process, i.e. before the title commitment is issued.
- If a seller or buyer has any questions, they should direct them to their attorney or title insurer.

The revised disclosure form and the instructions for completing it are available online at:

<https://www.idfpr.com/Forms/F2350.pdf> (form) and
<https://www.idfpr.com/Forms/F2352.pdf> (instructions).