



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE

Insurance Division – Agent Licensing
500 James Robertson Parkway
Nashville, Tennessee 37243-1134
Telephone: (615) 741-2693

CERTIFICATION

**TO: DEPARTMENT OF COMMERCE AND INSURANCE
STATE OF TENNESSEE**

**FROM: _____
Name of Applicant**

As required by the "Title Insurance Law" TCA 56-35-131, I hereby agree to abide by one of the following terms or conditions:

the gross operating revenues for any fiscal year attributable to the placement or issuance of policies or contracts of title insurance derived from all sources of controlled business do not exceed forty percent (40%) of the gross operating revenues for the insurance company or insurance agency;

the company, agent or agency will be operated as a financial institution or subsidiary thereof, as this term is defined in the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102 (Nov. 12, 1999); or

the company, agent or agency will be operated as a subsidiary of a financial institution with its primary business being that of accepting deposits and making real estate loans and subject to regulation, inspection, and supervision of the United States Government or an agency thereof; or

the title insurance agency or agent is to be operated by an attorney, a single partnership of attorneys, or a single professional corporation of attorneys as an ancillary part of the general practice of law.

I am a title insurance agent who is employed by a title insurance agency or insurance company and therefore do not have to enter into any term or condition listed above, pursuant to Tenn. Code Ann. § 56-35-201(c), provided that I meet all other licensure requirements.

Section 56-35-131 of the aforementioned statute is printed on the reverse side of this document or is attached.

Date

Signature

Tenn. Code Ann. § 56-35-131. Terms and conditions for licenses or certificates

(a) Except as provided by §§ 56-35-201 and 56-35-204, the commissioner shall refuse to issue any new license or certificate to any title insurance company, title insurance agent, or title insurance agency, unless the applicant therefor shall agree to abide by any one (1) of the following terms and conditions:

(1) The gross operating revenues for any fiscal year attributable to the placement or issuance of policies or contracts of title insurance derived from all sources of controlled business shall not exceed forty percent (40%) of the gross operating revenues of such company, agent or agency;

(2) The company, agent or agency will be operated as a subsidiary of a financial institution with its primary business being that of accepting deposits and making real estate loans and subject to regulation, inspection, and supervision of the United States government or an agency thereof; or

(3) The title insurance agency or agent is to be operated by an attorney, a single partnership of attorneys, or a single professional corporation of attorneys as an ancillary part of the general practice of law.

(b) Any violation of the terms and conditions of such agreement shall serve as grounds for the commissioner to suspend or revoke the license or certificate to which the agreement pertains and to assess a civil penalty as provided by § 56-35-127.

1980 Pub.Acts, c. 857, § 15.

NOTES OF DECISIONS

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1. In general

Only banks not owned by bank holding companies may have the authority to be limited partners in partnerships which are title insurance agencies and then only if such partnerships otherwise comply with state law; however, it is not clear at the present whether such national or state banks have such authority. Tenn. Op.Atty.Gen. No. 92-34, April 16, 1992.

1.5. Construction with federal laws

To the extent that the provisions of § 56-6-201, prohibiting a bank holding company from owning or controlling an insurance agency, and the provisions of § 56-35-131, restricting the amount of business income title insurance agents may receive from owners and affiliates, prevent or hinder national banks from exercising their ability to control or own an interest in title insurance agencies, these provisions are preempted by the federal Gramm--Leach--Bliley Financial Modernization Act. Tenn. Op.Atty.Gen. No. 02-013, Feb. 1, 2002.

2. Agency

Lawyer issuing title insurance policies pursuant to an issuing agency agreement was agent of insurer and not attorney for purposes of applicable statute of limitations in suit by insurer alleging negligent examination of title, even though statute provided that an agency could be operated by an attorney or attorneys; status as attorney was simply one of a number of possible preconditions for operating title insurance business. T.C.A. § 56-35-131. Ticor Title Ins. Co. v. Smith, 1990.

794 S.W.2d 734.

3. Savings and loan associations

The language of § 56-35-131(a)(2) regarding an entity "operated as a subsidiary of a financial institution with its primary business being that of accepting deposits and making real estate loans and subject to regulation, inspection, and supervision of the United States government or any agency thereof" only applies to savings and loan associations. Tenn. Op.Atty.Gen. No. 02- 013, Feb. 1, 2002.