

LAND TITLE ASSOCIATION OF COLORADO ANTITRUST COMPLIANCE POLICY STATEMENT

It is Land Title Association of Colorado's (LTAC) policy to fully comply with all federal and Colorado antitrust laws. Accordingly, LTAC desires to provide its members, board of directors, officers, volunteers, vendors, employees, and staff with this antitrust policy to summarize the antitrust laws and explain the pitfalls resulting from activities which violate those laws. It is important to remember that the complexities and subtleties of antitrust make a "do-it-yourself-kit" for its interpretation virtually impossible. Nevertheless, it is hoped and expected that this policy statement should assist each of our members, volunteers, and employees recognize antitrust issues if and when they arise. If you believe that a potential action may fall under the antitrust laws, please submit the question in writing to the LTAC Board President who may refer it to LTAC's Antitrust Counsel.

THE ANTITRUST LAWS

The purpose of the antitrust laws is to preserve our free enterprise system by ensuring to the greatest extent possible that American business operates in an economy which is free from collusive agreements by competitors and from other artificial restraints on normal, healthy competition.

The basic federal antitrust law is the Sherman Act which makes illegal any contract, combination or conspiracy which unreasonably restrains trade. Section 1 is directed to agreements (formal contracts, informal agreements, and even oral agreements or "understandings") among competitors whose effect or purpose is to limit or inhibit competition. For example, agreements among competitors to fix prices, allocate territories, or allocate services are violations of the Sherman Act. These violations are subject to criminal penalties and a fine of up to \$100,000,000 for corporations and \$1,000,000 and imprisonment of up to ten years or both for individuals may be imposed upon conviction.

In addition to the Sherman Act, Section 5 of the FTC Act prohibits "unfair methods of competition and deceptive acts or practices in commerce." This provision prohibits activities which either are violations or, if allowed to continue, would evolve into violations of the antitrust laws.

The federal antitrust laws may be enforced by either of two federal government agencies – the Antitrust Division of the Department of Justice or the Federal Trade Commission. In addition, private lawsuits by individuals or by state attorneys general on behalf of their citizens may be brought to recover three times the actual civil damages as well as attorney fees and costs. There have also been situations in which courts have ordered trade associations dissolved. The FTC Act is enforced through civil proceedings conducted by the Federal Trade Commission and only the Department of Justice may bring criminal actions under the Sherman Act. Many states, including Colorado, also make it a criminal offense to violate state antitrust laws.

Generally, trade and business associations such as LTAC operate to promote and develop good public policy and to improve economic efficiency and transparency in their industry. However, essentially every action of a trade or business association could be an agreement amongst competitors – the members- and thus a potential for a "conspiracy" among members to violate federal and/or state antitrust laws. In fact, most price fixing and market allocation violations of anti-trust laws take place within business and trade associations!

LTAC ANTI-TRUST POLICY

LTAC is committed to full compliance with all laws and regulations. Antitrust law protects the nation's free and competitive economy by preventing common action by competitors that would tend to restrain competition. In order to comply with the applicable antitrust laws, LTAC members should take care not

to discuss nonpublic information regarding: (1) transaction terms, (2) current or future pricing (including elements of pricing), (3) other confidential terms and conditions of a transaction or bid for a transaction.

In addition, discussion of direct competitive issues that might be deemed an attempt to collude, conspire or restrain competition should be avoided. These topics include: (1) allocating markets or customers, (2) discouraging business (boycott) with a particular agent, vendor or other partner, (3) limiting future production or announcing future policies and product offerings, (4) “speech making” regarding chaotic markets and the need for “order” (uniformity), (5) calling for the exclusion of a competitor.

CONDUCT TO BE FOLLOWED AT ALL LTAC-SPONSORED MEETINGS AND EVENTS

A nonprofit organization such as LTAC serves valid educational and community purposes. As such, LTAC may engage in a wide variety of activities to provide educational opportunities for its members and others. However, the antitrust laws require that the activities of LTAC members, as well as those of the Association, be conducted so as not to prevent or discourage competition. Accordingly, LTAC offers the following advice with respect to participation in LTAC activities.

DOs

- DO refer all LTAC matters that may have potential antitrust implications in writing to the Board President of LTAC. Matters to be referred would include those where there is any suggestion or indication of a discussion of prices among LTAC members, allocation of services, or boycotts/refusals to deal with prospective customers, clients, suppliers, or similar questions.
- DO follow previously published agendas for all annual meetings, Board meetings, Executive Committee and other Committee meetings of LTAC. Such meetings should be conducted pursuant to previously published agendas. Written minutes shall be prepared for each of these meetings.
- DO avoid loose, careless or flippant remarks, especially in correspondence, email, or on social media, which can pose an antitrust problem for LTAC if examined out of context at a later date.

DON'Ts

- DO NOT agree upon setting rates, fees, or pricing with competing organizations or entities.
- DO NOT exchange or discuss any competitive information (in person, via email, or on social media) when dealing or meeting with fellow agencies and underwriters. This includes prices, payment terms, costs, wages/salaries, or profit levels.
- DO NOT discriminate in your treatment of potential customers or vendors.
- DO NOT discuss allocating or dividing regions or customers, etc.

AREAS OF CAUTION

- Standard setting can be pro-competitive, but require careful anti-trust planning
- Standardized forms are generally permitted, but they should not be mandatory, avoid discussions about current or prospective pricing, and include the option to adjust the scope of coverage.

- LTAC cannot exclude potential members because of the way they compete or advertise in the market. Follow LTAC Bylaws at all times in terms of accepting new members and suspending or terminating existing members.

DO NOT try to guess what the law is; when in doubt, get help.

Approved by the LTAC Board of Directors
_____, 20__