



THE CAPITOL

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ROBERT A. BUTTERWORTH  
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Reply to:

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March 2, 2000

Mr. Scott Pierce  
Old Republic National Title  
Insurance Company  
Suite 700  
100 South Ashley Drive  
Tampa, Florida 33602-5300

Dear Mr. Pierce:

Thank you for your letter of February 28, 2000.

In response to your questions regarding Rule 61J2-10.028, Florida Administrative Code, it is my opinion that the payment of a fee by a closing agent to the real estate licensee for the completion of an order sheet would constitute a "kickback" per the rule. Therefore, disclosure of such kickback would be required. The fact a 1099 is issued does not change my opinion.

However, it is also my opinion that s.475.278, Fla. Stat., regarding the accounting for all funds does not also require disclosure. This provision pertains to funds entrusted to the licensee from one of the parties to the transaction. It does not encompass third party fees paid to the licensee.

Your suggestion that this topic be part of my column in the Florida Real Estate Commission News & Report is a good one and I will endeavor to cover it in the near future.

Be advised the above is my opinion only and is not to be considered an opinion of the Attorney General.

Sincerely,

James R. Mitchell  
Assistant Attorney General  
Counsel for the Florida Real  
Estate Commission

JRM:jk