S T A T E O F N E W Y O R K

4920

2011-2012 Regular Sessions

I N S E N A T E

April 29, 2011

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to disclosing title service charges by a title insurance provider to the customer upon receipt of an application for a title

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The insurance law is amended by adding a new section 6412 to read as follows:

S 6412. DISCLOSURE OF TITLE SERVICE CHARGES BY A TITLE INSURANCE PROVIDER. (A) DEFINITIONS. (1) "TITLE INSURANCE PROVIDER" SHALL MEAN A TITLE INSURANCE CORPORATION, AS DEFINED IN SUBSECTION (A) OF SECTION SIXTY-FOUR HUNDRED ONE OF THIS ARTICLE, AND ANY AGENT, APPROVED ATTORNEY OR EXAMINING COUNSEL WHICH IS ISSUING A TITLE INSURANCE POLICY, AS DEFINED IN SUBSECTION (B) OF SECTION SIXTY-FOUR HUNDRED ONE OF THIS ARTICLE, ON BEHALF OF A TITLE INSURANCE CORPORATION.

(2) "TITLE SERVICES" OR "TITLE SERVICE" SHALL MEAN EVERY SERVICE ORDERED OR TO BE ORDERED BY A CUSTOMER FROM A TITLE INSURANCE PROVIDER, WHETHER SUCH SERVICE IS RENDERED BY A TITLE INSURANCE PROVIDER OR OBTAINED BY A TITLE INSURANCE PROVIDER THROUGH A THIRD PARTY, THE CHARGE FOR WHICH IS IMPOSED ON A CUSTOMER AND IS NOT REGULATED BY THE DEPARTMENT, INCLUDING, WITHOUT LIMITATION, THE OBTAINING OF GOVERNMENTAL RECORDS, THE ORDERING OF A SURVEY OR A SURVEY INSPECTION, AND THE RECORDING OR FILING OF INSTRUMENTS IN THE OFFICE OF A RECORDING OFFICER AS DEFINED IN SECTION TWO HUNDRED NINETY OF THE REAL PROPERTY LAW OR IN ANY OTHER STATE, COUNTY OR MUNICIPAL OFFICE.

(3) "SERVICE CHARGES" OR "SERVICE CHARGE" SHALL MEAN AN AMOUNT CHARGED TO A CUSTOMER BY A TITLE INSURANCE PROVIDER FOR PROVIDING ONE OR MORE TITLE SERVICES; PROVIDED, HOWEVER, THAT "SERVICE CHARGES" OR "SERVICE CHARGE" SHALL NOT INCLUDE A CHARGE FOR THE SEARCH AND EXAMINATION OF TITLE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(4) "APPLICANT" SHALL MEAN THE PERSON OR ENTITY ORDERING TITLE INSURANCE OR TITLE SERVICES, OR THE DULY AUTHORIZED REPRESENTATIVE THEREOF.

(5) "CUSTOMER" SHALL MEAN ANY PERSON OR ENTITY PAYING A TITLE INSURANCE PROVIDER TITLE INSURANCE PREMIUMS AND SERVICE CHARGES FOR TITLE SERVICES FOR REAL PROPERTY IMPROVED BY A ONE-TO-FOUR FAMILY RESIDENCE, OR THE DULY AUTHORIZED REPRESENTATIVE THEREOF.

(B) ON RECEIPT OF AN APPLICATION FOR A POLICY OF TITLE INSURANCE FOR REAL PROPERTY IMPROVED BY A ONE-TO-FOUR FAMILY RESIDENCE, A TITLE INSURANCE PROVIDER SHALL ISSUE TO THE APPLICANT A LIST OF SERVICE CHARGES FOR ALL TITLE SERVICES APPLICABLE TO THE TRANSACTION. THE TITLE INSURANCE PROVIDER SHALL ONLY BE REQUIRED TO PROVIDE THE AMOUNTS OF SERVICE CHARGES APPLICABLE TO THE TRANSACTION BASED UPON THE FACTS KNOWN TO THE TITLE INSURANCE PROVIDER AT THE TIME OF THE APPLICATION.

(C) A STATEMENT OF CHARGES ISSUED BY A TITLE INSURANCE PROVIDER TO A CUSTOMER SHALL CLEARLY AND SEPARATELY ITEMIZE:

(1) EACH SERVICE CHARGE TO BE PAID BY A CUSTOMER TO A TITLE INSURANCE PROVIDER, WHICH THE TITLE INSURANCE PROVIDER WILL PAY TO A THIRD PARTY FOR TITLE SERVICES RENDERED BY SUCH THIRD PARTY;

(2) EACH SERVICE CHARGE TO BE PAID BY A CUSTOMER TO A TITLE INSURANCE PROVIDER FOR TITLE SERVICES RENDERED BY SUCH TITLE INSURANCE PROVIDER; AND

(3) ANY OTHER SERVICE CHARGES IMPOSED BY A TITLE INSURANCE PROVIDER ON A CUSTOMER FOR ANY OTHER TITLE SERVICE.

(D) IN THE EVENT OF A WILLFUL FAILURE TO COMPLY WITH THIS SECTION, A CUSTOMER SHALL BE ENTITLED TO RECOVER FROM THE TITLE INSURANCE PROVIDER RENDERING THE TITLE SERVICES THE LESSER OF:

(1) FIFTEEN HUNDRED DOLLARS; OR

(2) THREE TIMES THE AMOUNT OF EACH SERVICE CHARGE BILLED TO THE CUSTOMER IN VIOLATION OF THIS SECTION.

(E) NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED AS PERMITTING ANY PRACTICE OR CONDUCT OTHERWISE PROHIBITED BY LAW.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.