

5923

2013-2014 Regular Sessions

I N S E N A T E

August 7, 2013

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

AN ACT to amend the insurance law, in relation to the licensing of agents of authorized title insurance corporations; and to repeal certain provisions of such law relating thereto

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

1 Section 1. The opening paragraph of subsection (k) of section 2101 of
2 the insurance law, as added by chapter 687 of the laws of 2003, is
3 amended to read as follows:

4 In this article, "insurance producer" means an insurance agent, TITLE
5 INSURANCE AGENT, insurance broker, reinsurance intermediary, excess
6 lines broker, or any other person required to be licensed under the laws
7 of this state to sell, solicit or negotiate insurance. Such term shall
8 not include:

9 S 2. Paragraph 4 of subsection (k) of section 2101 of the insurance
10 law is REPEALED and paragraphs 5, 6, 7, 8, 9, 10, 11 and 12 are renum-
11 bered paragraphs 4, 5, 6, 7, 8, 9, 10 and 11.

12 S 3. Section 2101 of the insurance law is amended by adding a new
13 subsection (y) to read as follows:

14 (Y) (1) IN THIS CHAPTER, "TITLE INSURANCE AGENT" MEANS ANY AUTHORIZED
15 OR ACKNOWLEDGED AGENT OF A TITLE INSURANCE CORPORATION, WHICH EVALUATES
16 THE TITLE SEARCH TO DETERMINE INSURABILITY OF TITLE AND PERFORMS
17 SUBSTANTIALLY ALL OF THE FOLLOWING FUNCTIONS:

18 (A) PREPARES AND ISSUES A TITLE INSURANCE COMMITMENT OR CERTIFICATE OF
19 TITLE FOR THE PURPOSE OF ISSUING A TITLE INSURANCE POLICY;

20 (B) CLEARS UNDERWRITING EXCEPTIONS IN CONNECTION WITH THE ISSUANCE OF
21 A TITLE INSURANCE POLICY;

22 (C) ITSELF OR BY ITS DESIGNEE MARKS UP THE TITLE INSURANCE COMMITMENT
23 OR CERTIFICATE OF TITLE TO BIND A TITLE INSURANCE CORPORATION;

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

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1 (D) PREPARES AND ISSUES A TITLE INSURANCE POLICY ON BEHALF OF A TITLE
2 INSURANCE CORPORATION;

3 (E) COLLECTS THE TITLE INSURANCE PREMIUM, A PORTION OF WHICH IS REMIT-
4 TED TO THE TITLE INSURANCE CORPORATION.

5 (2) NO TITLE INSURANCE CORPORATION DOING BUSINESS IN THIS STATE, AND
6 NO AGENT OR OTHER REPRESENTATIVE THEREOF, SHALL PAY ANY PERCENTAGE OF
7 THE TITLE INSURANCE PREMIUM OR FEES COLLECTED TO ANY PERSON, FIRM, ASSO-
8 CIATION OR CORPORATION FOR PERFORMING ANY OF THE FUNCTIONS OF A TITLE
9 INSURANCE AGENT, EXCEPT TO A LICENSED TITLE INSURANCE AGENT.

10 (3) SUCH TERM SHALL NOT INCLUDE ANY REGULAR SALARIED OFFICER OR
11 EMPLOYEE OF AN AUTHORIZED TITLE INSURANCE CORPORATION OR OF A LICENSED
12 TITLE INSURANCE AGENT.

13 S 4. Subparagraph (A) of paragraph 1 of subsection (a) of section 2102
14 of the insurance law, as amended by section 8 of part I of chapter 61 of
15 the laws of 2011, is amended to read as follows:

16 (A) No person, firm, association or corporation shall act as an insur-
17 ance producer, insurance adjuster OR TITLE INSURANCE AGENT or life
18 settlement broker in this state without having authority to do so by
19 virtue of a license issued and in force pursuant to the provisions of
20 this chapter.

21 S 5. Subsection (a) of section 2109 of the insurance law, paragraph 3
22 as amended by chapter 687 of the laws of 2003, is amended to read as
23 follows:

24 (a) The superintendent may issue a temporary insurance agent's
25 LICENSE, TITLE INSURANCE AGENT'S LICENSE or insurance broker's license,
26 or both, AN INSURANCE AGENT'S AND INSURANCE BROKER'S LICENSE, without
27 requiring the applicant to pass a written examination or to satisfy the
28 requirements of subsection (c) of section two thousand one hundred four
29 of this article except as to age, in the case of a license issued pursu-
30 ant to paragraph two [hereof] OF THIS SUBSECTION, in the following
31 cases:

32 (1) in the case of the death of a person who at the time of his death
33 was a licensed accident and health insurance agent under subsection (a)
34 of section two thousand one hundred three of this article, a licensed
35 insurance agent under subsection (b) of such section, A LICENSED TITLE
36 INSURANCE AGENT or a licensed insurance broker:

37 (A) to the executor or administrator of the estate of such deceased
38 agent or broker;

39 (B) to a surviving next of kin of such deceased agent or broker, where
40 no administrator of his estate has been appointed and no executor has
41 qualified under his duly probated will;

42 (C) to the surviving member or members of a firm or association, which
43 at the time of the death of a member was such a licensed insurance
44 agent, LICENSED TITLE INSURANCE AGENT or licensed insurance broker; or

45 (D) to an officer or director of a corporation upon the death of the
46 only officer or director who was qualified as a sub-licensee or to the
47 executor or administrator of the estate of such deceased officer or
48 director;

49 (2) to any person who may be designated by a person licensed pursuant
50 to this chapter as an insurance agent, TITLE INSURANCE AGENT or an
51 insurance broker, or both AN INSURANCE AGENT AND INSURANCE BROKER, and
52 who is absent because of service in any branch of the armed forces of
53 the United States, including a partnership or corporation which is
54 licensed pursuant to this chapter as an insurance agent, TITLE INSURANCE
55 AGENT or as an insurance broker, or both AN INSURANCE AGENT AND INSUR-
56 ANCE BROKER, in a case where the sub-licensee or all sub-licensees, if

1 more than one, named in the license or licenses issued to such partner-
2 ship or corporation is or are absent because of service in any branch of
3 the armed forces of the United States; and

4 (3) to the next of kin of a person who has become totally disabled and
5 prevented from pursuing any of the duties of his or her occupation, and
6 who at the commencement of his or her disability was a licensed accident
7 and health insurance agent under subsection (a) of section two thousand
8 one hundred three of this article, a licensed insurance agent under
9 subsection (b) of such section, A LICENSED TITLE INSURANCE AGENT or a
10 licensed insurance broker.

11 S 6. Subsection (c) of section 2109 of the insurance law is amended to
12 read as follows:

13 (c) Such license or licenses shall authorize the person or persons
14 named therein to renew the business of the deceased, absent or disabled
15 INSURANCE agent, TITLE INSURANCE AGENT, or INSURANCE broker, or both AN
16 INSURANCE AGENT AND INSURANCE BROKER, as the case may be, or of the firm
17 or, in the case of a license issued pursuant to paragraph one or three
18 of subsection (a) [hereof] OF THIS SECTION, the association whose busi-
19 ness is being continued thereunder, each such agent, broker, firm or
20 association being referred to in this section as "original licensee",
21 expiring during the period in which such temporary license or licenses
22 are in force, to collect premiums due and payable to the original licen-
23 see or, in the case of a license issued pursuant to paragraph one of
24 subsection (a) [hereof] OF THIS SECTION, to his estate, and to perform
25 such other acts as an insurance agent, TITLE INSURANCE AGENT or as an
26 insurance broker, or both AN INSURANCE AGENT AND INSURANCE BROKER, as
27 the case may be, as are incidental to the continuance of the insurance
28 business of such original licensee.

29 S 7. Paragraph 4 of subsection (e) of section 2109 of the insurance
30 law, as amended by chapter 687 of the laws of 2003, is amended to read
31 as follows:

32 (4) No person or persons so licensed, EXCEPT FOR A TITLE INSURANCE
33 AGENT, shall, by virtue of such license, be authorized to solicit, nego-
34 tiate or sell new insurance.

35 S 8. Paragraph 3 of subsection (f) of section 2109 of the insurance
36 law is amended to read as follows:

37 (3) No person so licensed, EXCEPT FOR A TITLE INSURANCE AGENT, shall
38 solicit new business under such license.

39 S 9. Paragraph 2 of subsection (g) of section 2109 of the insurance
40 law, as amended by chapter 687 of the laws of 2003, is amended to read
41 as follows:

42 (2) No person or persons so licensed, EXCEPT FOR A TITLE INSURANCE
43 AGENT, shall, by virtue of such license, be authorized to solicit, nego-
44 tiate or sell new insurance.

45 S 10. The section heading and subsections (a) and (b) of section 2110
46 of the insurance law, as amended by chapter 499 of the laws of 2009, are
47 amended to read as follows:

48 Revocation or suspension of license of insurance producer, insurance
49 consultant, adjuster [or], life settlement broker OR TITLE INSURANCE
50 AGENT. (a) The superintendent may refuse to renew, revoke, or may
51 suspend for a period the superintendent determines the license of any
52 insurance producer, TITLE INSURANCE AGENT, insurance consultant, adjus-
53 ter or life settlement broker, if, after notice and hearing, the super-
54 intendent determines that the licensee or any sub-licensee has:

55 (1) violated any insurance laws, or violated any regulation, subpoena
56 or order of the superintendent or of another state's insurance commis-

1 sioner, or has violated any law in the course of his or her dealings in
2 such capacity;

3 (2) provided materially incorrect, materially misleading, materially
4 incomplete or materially untrue information in the license application;

5 (3) obtained or attempted to obtain a license through misrepresen-
6 tation or fraud;

7 (4)(A) used fraudulent, coercive or dishonest practices;

8 (B) demonstrated incompetence;

9 (C) demonstrated untrustworthiness; or

10 (D) demonstrated financial irresponsibility in the conduct of business
11 in this state or elsewhere;

12 (5) improperly withheld, misappropriated or converted any monies or
13 properties received in the course of business in this state or else-
14 where;

15 (6) intentionally misrepresented the terms of an actual or proposed
16 insurance contract, life settlement contract or application for insur-
17 ance;

18 (7) has been convicted of a felony;

19 (8) admitted or been found to have committed any insurance unfair
20 trade practice or fraud;

21 (9) had an insurance producer license, a life settlement broker
22 license, TITLE INSURANCE AGENT LICENSE, or its equivalent, denied,
23 suspended or revoked in any other state, province, district or territo-
24 ry;

25 (10) forged another's name to an application for insurance or life
26 settlement contract or to any document related to an insurance or life
27 settlement transaction;

28 (11) improperly used notes or any other reference material to complete
29 an examination for an insurance license or life settlement broker
30 license;

31 (12) knowingly accepted insurance business from an individual who is
32 not licensed;

33 (13) failed to comply with an administrative or court order imposing a
34 child support obligation;

35 (14) failed to pay state income tax or comply with any administrative
36 or court order directing payment of state income tax;

37 (15) while acting as a life settlement broker, failed to protect the
38 privacy of the insured or owner or other person for whom the life
39 settlement broker was required to provide protection pursuant to article
40 seventy-eight of this chapter; or

41 (16) ceased to meet the requirements for licensure under this chapter.

42 (b) Before revoking or suspending the license of any insurance produc-
43 er, TITLE INSURANCE AGENT, life settlement broker or other licensee
44 pursuant to the provisions of this article, the superintendent shall,
45 except when proceeding pursuant to subsection (f) of this section, give
46 notice to the licensee and to every sub-licensee and shall hold, or
47 cause to be held, a hearing not less than ten days after the giving of
48 such notice.

49 S 11. Subsections (a) and (d) of section 2112 of the insurance law,
50 subsection (a) as amended by chapter 540 of the laws of 1996 and
51 subsection (d) as amended by chapter 687 of the laws of 2003, are
52 amended to read as follows:

53 (a) Every insurer, fraternal benefit society or health maintenance
54 organization doing business in this state shall file a certificate of
55 appointment in such form as the superintendent may prescribe in order to

1 appoint insurance agents OR TITLE INSURANCE AGENTS to represent such
2 insurer, fraternal benefit society or health maintenance organization.

3 (d) Every insurer, fraternal benefit society or health maintenance
4 organization or insurance producer or the authorized representative of
5 the insurer, fraternal benefit society, health maintenance organization
6 or insurance producer doing business in this state shall, upon termi-
7 nation of the certificate of appointment as set forth in subsection (a)
8 of this section of any insurance agent OR TITLE INSURANCE AGENT licensed
9 in this state, or upon termination for cause for activities as set forth
10 in subsection (a) of section two thousand one hundred ten of this arti-
11 cle, of the certificate of appointment, of employment, of a contract or
12 other insurance business relationship with any insurance producer, file
13 with the superintendent within thirty days a statement, in such form as
14 the superintendent may prescribe, of the facts relative to such termi-
15 nation for cause. The insurer, fraternal benefit society, health mainte-
16 nance organization, insurance producer or the authorized representative
17 of the insurer, fraternal benefit society, health maintenance organiza-
18 tion or insurance producer shall provide, within fifteen days after
19 notification has been sent to the superintendent, a copy of the state-
20 ment filed with the superintendent to the insurance producer at his, or
21 her or its last known address by certified mail, return receipt
22 requested, postage prepaid or by overnight delivery using a nationally
23 recognized carrier. Every statement made pursuant to this subsection
24 shall be deemed a privileged communication.

25 S 12. The insurance law is amended by adding a new section 2113 to
26 read as follows:

27 S 2113. TITLE INSURANCE AGENTS; PROHIBITED PAYMENTS. (A) NO TITLE
28 INSURANCE AGENT OR ANY REPRESENTATIVE OF SUCH AGENT DOING BUSINESS IN
29 THIS STATE, SHALL PAY ANY PERCENTAGE OF THE TITLE INSURANCE PREMIUM OR
30 FEES COLLECTED TO ANY OTHER TITLE INSURANCE AGENT OR ANY REPRESENTATIVE
31 OF SUCH AGENT.

32 (B) A TITLE INSURANCE AGENT SHALL NOT DIRECTLY OR INDIRECTLY ACCEPT
33 ANY PAYMENT FOR OR REIMBURSEMENT OF ANY FEE, FINE OR PENALTY IMPOSED BY
34 THE SUPERINTENDENT ON THE TITLE INSURANCE AGENT PURSUANT TO THIS CHAP-
35 TER.

36 S 13. The section heading and subsections (a) and (c) of section 2120
37 of the insurance law are amended to read as follows:

38 Fiduciary capacity of insurance agents, TITLE INSURANCE AGENTS, insur-
39 ance brokers and reinsurance intermediaries. (a) Every insurance agent,
40 TITLE INSURANCE AGENT and [every] insurance broker acting as such in
41 this state shall be responsible in a fiduciary capacity for all funds
42 received or collected as insurance agent, TITLE INSURANCE AGENT or
43 insurance broker, and shall not, without the express consent of his, HER
44 or its principal, mingle any such funds with his, HER or its own funds
45 or with funds held by him, HER or it in any other capacity.

46 (c) This section shall not require any such INSURANCE agent, TITLE
47 INSURANCE AGENT, INSURANCE broker or reinsurance intermediary to main-
48 tain a separate bank deposit for the funds of each such principal, if
49 and as long as the funds so held for each such principal are reasonably
50 ascertainable from the books of account and records of such agent,
51 broker or reinsurance intermediary, as the case may be.

52 S 14. The section heading and subsection (a) of section 2122 of the
53 insurance law are amended to read as follows:

54 Advertising by insurance [agents and brokers] PRODUCERS. (a) (1) No
55 insurance [agent or insurance broker] PRODUCER shall make or issue in
56 this state any advertisement, sign, pamphlet, circular, card or other

1 public announcement purporting to make known the financial condition of
2 any insurer, unless the same shall conform to the requirements of
3 section one thousand three hundred thirteen of this chapter.

4 (2) No insurance [agent, insurance broker] PRODUCER or other person,
5 shall, by any advertisement or public announcement in this state, call
6 attention to any unauthorized insurer or insurers.

7 S 15. Subsections (a) and (b) of section 2128 of the insurance law are
8 amended to read as follows:

9 (a) Notwithstanding the provisions of sections two thousand three
10 hundred twenty-four and four thousand two hundred twenty-four of this
11 chapter, no [insurance agent, insurance broker, insurance consultant,
12 excess line broker, reinsurance intermediary or insurance adjuster]
13 LICENSEE SUBJECT TO THIS CHAPTER shall receive any commissions or fees
14 or shares thereof in connection with insurance coverages placed for or
15 insurance services rendered to the state, its agencies and departments,
16 public benefit corporations, municipalities and other governmental
17 subdivisions in this state, unless such [insurance agent, insurance
18 broker, insurance consultant, excess line broker, reinsurance interme-
19 diary or insurance adjuster] LICENSEE actually placed insurance cover-
20 ages on behalf of or rendered insurance services to the state, its agen-
21 cies and departments, public benefit corporations, municipalities and
22 other governmental subdivisions in this state.

23 (b) The superintendent shall, by regulation, require [insurance
24 agents, insurance brokers, insurance consultants, excess line brokers,
25 reinsurance intermediaries and insurance adjusters] LICENSEES SUBJECT TO
26 THIS CHAPTER to file disclosure statements with the insurance department
27 and the most senior official of the governmental unit involved, with
28 respect to any insurance coverages placed for or insurance services
29 rendered to the state, its agencies and departments, public benefit
30 corporations, municipalities and other governmental subdivisions in this
31 state, EXCEPT THAT TITLE INSURANCE CORPORATIONS AND TITLE INSURANCE
32 AGENTS SHALL ONLY BE REQUIRED TO FILE DISCLOSURE STATEMENTS ANNUALLY.
33 ANY SUBMISSIONS MADE PURSUANT TO THIS SECTION SHALL BE DEEMED TRADE
34 SECRETS WHICH IF DISCLOSED TO ANY THIRD PARTY WOULD CAUSE SUBSTANTIAL
35 INJURY TO THE COMPETITIVE POSITION OF THE SUBMITTER. AS SUCH, SAID
36 DISCLOSURES ARE EXEMPT FROM FREEDOM OF INFORMATION LAW REQUESTS PURSUANT
37 TO PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION EIGHT-SEVEN OF THE PUBLIC
38 OFFICERS LAW.

39 S 16. Subsection (b) of section 2132 of the insurance law, as amended
40 by chapter 499 of the laws of 2009, is amended to read as follows:

41 (b) This section shall not apply to:

42 (1) those persons holding licenses for which an examination is not
43 required by the laws of this state;

44 (2) any limited licensees or any other licensees as the superintendent
45 may exempt subject to any continuing education requirements deemed
46 appropriate by the superintendent; [or]

47 (3) for purposes of the continuing education requirements for life
48 settlements, an insurance producer with a life line of authority who is
49 acting as a life settlement broker pursuant to section two thousand one
50 hundred thirty-seven of this article[.]; OR

51 (4) FOR PURPOSES OF A TITLE INSURANCE AGENT LICENSE, AN ATTORNEY
52 LICENSED TO PRACTICE LAW IN THIS STATE, PROVIDED SAID ATTORNEY IS IN
53 GOOD STANDING WITH THE NEW YORK STATE OFFICE OF COURT ADMINISTRATION.

54 S 17. The insurance law is amended by adding a new section 2139 to
55 read as follows:

1 S 2139. TITLE INSURANCE AGENTS; LICENSING. (A) THE SUPERINTENDENT MAY
2 ISSUE A LICENSE TO ANY PERSON, FIRM, ASSOCIATION OR CORPORATION WHO OR
3 WHICH HAS COMPLIED WITH THE REQUIREMENTS OF THIS CHAPTER, AUTHORIZING
4 THE LICENSEE TO ACT AS A TITLE INSURANCE AGENT OF ANY AUTHORIZED TITLE
5 INSURANCE CORPORATION.

6 (B) ANY SUCH LICENSE ISSUED TO A FIRM OR ASSOCIATION SHALL AUTHORIZE
7 ONLY THE MEMBERS THEREOF, NAMED IN SUCH LICENSE AS SUB-LICENSEES, TO ACT
8 INDIVIDUALLY AS TITLE INSURANCE AGENTS THEREUNDER, AND ANY SUCH LICENSE
9 ISSUED TO A CORPORATION SHALL AUTHORIZE ONLY THE OFFICERS AND DIRECTORS
10 THEREOF, NAMED IN SUCH LICENSE AS SUB-LICENSEES, TO ACT INDIVIDUALLY AS
11 TITLE INSURANCE AGENTS THEREUNDER. EVERY SUB-LICENSEE ACTING AS A TITLE
12 INSURANCE AGENT PURSUANT TO SUCH A LICENSE SHALL BE AUTHORIZED SO TO ACT
13 ONLY IN THE NAME OF THE LICENSEE. IN THE CASE OF A LICENSE ISSUED TO A
14 TITLE INSURANCE AGENT, AT LEAST ONE DESIGNATED SUB-LICENSEE MUST HAVE A
15 FINANCIAL OR OTHER BENEFICIAL INTEREST IN THE LICENSEE.

16 (C) EVERY INDIVIDUAL APPLICANT FOR A LICENSE UNDER THIS SECTION AND
17 EVERY PROPOSED LICENSEE SHALL BE EIGHTEEN YEARS OF AGE OR OLDER AT THE
18 TIME OF THE ISSUANCE OF SUCH LICENSE.

19 (D)(1) BEFORE ANY ORIGINAL TITLE INSURANCE AGENT'S LICENSE IS ISSUED,
20 THERE SHALL BE ON FILE IN THE OFFICE OF THE SUPERINTENDENT AN APPLICA-
21 TION BY THE PROSPECTIVE LICENSEE IN SUCH FORM OR FORMS AND SUPPLEMENTS
22 THERETO, ALONG WITH A FEE IN THE AMOUNT OF FORTY DOLLARS FOR EACH YEAR
23 OR FRACTION OF A YEAR IN WHICH THE LICENSE SHALL BE VALID, AND CONTAIN-
24 ING INFORMATION THE SUPERINTENDENT PRESCRIBES. FOR EACH BUSINESS ENTITY,
25 THE SUB-LICENSEE OR SUB-LICENSEES NAMED IN THE APPLICATION SHALL BE
26 DESIGNATED RESPONSIBLE FOR THE BUSINESS ENTITY'S COMPLIANCE WITH THIS
27 CHAPTER AND REGULATION PROMULGATED THEREUNDER.

28 (2) THE SUPERINTENDENT MAY REQUIRE ANY INDIVIDUAL NAMED IN THE APPLI-
29 CATION FOR SUCH LICENSE TO SUBMIT A SET OF FINGERPRINTS. SUCH FINGER-
30 PRINTS SHALL BE SUBMITTED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES
31 FOR A STATE A CRIMINAL HISTORY RECORD CHECK. FOR THE PURPOSES OF THIS
32 PARAGRAPH, "CRIMINAL HISTORY RECORD" SHALL MEAN A RECORD OF ALL
33 CONVICTIONS OF CRIMES AND ANY PENDING CRIMINAL CHARGES MAINTAINED ON AN
34 INDIVIDUAL BY THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL
35 BUREAU OF INVESTIGATION. ALL SUCH CRIMINAL HISTORY RECORDS SENT TO THE
36 SUPERINTENDENT PURSUANT TO THIS PARAGRAPH SHALL BE CONFIDENTIAL PURSUANT
37 TO THE APPLICABLE FEDERAL AND STATE LAWS, RULES AND REGULATIONS, AND
38 SHALL NOT BE PUBLISHED OR IN ANY WAY DISCLOSED TO PERSONS OTHER THAN THE
39 SUPERINTENDENT, UNLESS OTHERWISE AUTHORIZED BY LAW. THE SUPERINTENDENT
40 SHALL PROVIDE SUCH APPLICANT WITH A COPY OF HIS OR HER CRIMINAL HISTORY
41 RECORD, IF ANY, TOGETHER WITH A COPY OF ARTICLE TWENTY-THREE-A OF THE
42 CORRECTION LAW, AND INFORM SUCH APPLICANT OF HIS OR HER RIGHT TO SEEK
43 CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSU-
44 ANT TO REGULATIONS AND PROCEDURES ESTABLISHED BY THE DIVISION OF CRIMI-
45 NAL JUSTICE SERVICES. ALL DETERMINATIONS TO GRANT OR DENY CLEARANCE FOR
46 LICENSURE PURSUANT TO THIS SECTION SHALL BE IN ACCORDANCE WITH SUBDIVI-
47 SION SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND
48 ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW. WHEN THE SUPERINTENDENT
49 DENIES AN APPLICATION, WRITTEN NOTICE OF SUCH DETERMINATION SHALL BE
50 GIVEN TO THE PROSPECTIVE APPLICANT WHO SHALL BE AFFORDED NOTICE AND THE
51 RIGHT TO BE HEARD AND OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION.

52 (E) THE SUPERINTENDENT SHALL, IN ORDER TO DETERMINE THE COMPETENCY OF
53 EVERY INDIVIDUAL APPLICANT AND OF EVERY PROPOSED SUB-LICENSEE FOR THE
54 TITLE INSURANCE AGENT LICENSE, REQUIRE SUCH INDIVIDUAL TO SUBMIT TO A
55 PERSONAL WRITTEN EXAMINATION AND TO PASS THE SAME TO THE SATISFACTION OF
56 THE SUPERINTENDENT. THE EXAMINATION SHALL BE HELD AT SUCH TIMES AND

1 PLACES AS THE SUPERINTENDENT SHALL FROM TIME TO TIME DETERMINE. EVERY
2 INDIVIDUAL APPLYING TO TAKE ANY WRITTEN EXAMINATION SHALL, AT THE TIME
3 OF APPLYING THEREFOR, PAY TO THE SUPERINTENDENT OR, AT THE DISCRETION OF
4 THE SUPERINTENDENT, DIRECTLY TO ANY ORGANIZATION THAT IS UNDER CONTRACT
5 TO PROVIDE EXAMINATION SERVICES, AN EXAMINATION FEE OF AN AMOUNT THAT IS
6 THE ACTUAL DOCUMENTED ADMINISTRATIVE COST OF CONDUCTING SAID QUALIFYING
7 EXAMINATION AS CERTIFIED BY THE SUPERINTENDENT FROM TIME TO TIME. AN
8 EXAMINATION FEE REPRESENTS AN ADMINISTRATIVE EXPENSE AND SHALL NOT BE
9 REFUNDABLE. THE SUPERINTENDENT MAY ACCEPT, IN LIEU OF ANY SUCH EXAMINA-
10 TION, THE RESULT OF ANY PREVIOUS WRITTEN EXAMINATION, GIVEN BY THE
11 SUPERINTENDENT, WHICH IN THE SUPERINTENDENT'S JUDGMENT, IS EQUIVALENT TO
12 THE EXAMINATION FOR WHICH IT IS SUBSTITUTED.

13 (F) EVERY INDIVIDUAL SEEKING TO QUALIFY TO OBTAIN A LICENSE UNDER
14 SUBSECTION (B) OF THIS SECTION SHALL BE REQUIRED TO PASS THE TYPE OR
15 TYPES OF EXAMINATION PRESCRIBED BY THE SUPERINTENDENT FOR WHICH THE
16 LICENSE IS SOUGHT.

17 (G) NO SUCH WRITTEN EXAMINATION OR PRE-LICENSING EDUCATION SHALL BE
18 REQUIRED OF ANY:

19 (1) APPLICANT WHO HAS PASSED THE WRITTEN EXAMINATION GIVEN BY THE
20 SUPERINTENDENT FOR A TITLE INSURANCE AGENT'S LICENSE AND WAS LICENSED AS
21 SUCH, OR OF ANY APPLICANT WHO WAS LICENSED AS A TITLE INSURANCE AGENT
22 BUT DID NOT PASS SUCH AN EXAMINATION; PROVIDED THE APPLICANT APPLIES
23 WITHIN TWO YEARS FOLLOWING THE DATE OF TERMINATION OF THE APPLICANT'S
24 LICENSE;

25 (2) APPLICANT SEEKING TO OBTAIN A LICENSE AS A TITLE INSURANCE AGENT,
26 WHEN SUCH APPLICANT IS A LICENSED ATTORNEY-AT-LAW IN THIS STATE PROVIDED
27 SAID ATTORNEY IS IN GOOD STANDING WITH THE NEW YORK STATE OFFICE OF
28 COURT ADMINISTRATION;

29 (3) INDIVIDUAL SEEKING TO BE NAMED A LICENSEE OR SUB-LICENSEE, WHO IS
30 A NON-RESIDENT AND HAS BEEN A TITLE INSURANCE AGENT IN THE INDIVIDUAL'S
31 HOME STATE FOR AT LEAST FIVE YEARS; PROVIDED, HOWEVER, THAT THE INDIVID-
32 UAL'S HOME STATE GRANTS NON-RESIDENT LICENSES TO RESIDENTS OF THIS STATE
33 ON THE SAME BASIS.

34 (H) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NO COURSE OF
35 STUDY OR WRITTEN EXAMINATION SHALL BE REQUIRED WITH RESPECT TO ANY
36 APPLICANT WHO FILES AN APPLICATION UNDER THIS SECTION WITHIN ONE YEAR
37 AFTER THE EFFECTIVE DATE OF THIS ARTICLE AND WHO DEMONSTRATES TO THE
38 SATISFACTION OF THE SUPERINTENDENT THAT SUCH PROSPECTIVE LICENSEE OR ITS
39 PROSPECTIVE SUB-LICENSEE HAS REGULARLY AND CONTINUOUSLY PERFORMED THE
40 FUNCTIONS OF A TITLE INSURANCE AGENT IN THIS STATE FOR A PERIOD OF AT
41 LEAST FIVE YEARS IMMEDIATELY PRECEDING THE FILING OF SUCH APPLICATION.

42 (I) THE SUPERINTENDENT MAY REFUSE TO ISSUE TO AN APPLICATION A TITLE
43 INSURANCE AGENT'S LICENSE IF, IN THE SUPERINTENDENT'S JUDGMENT, THE
44 PROPOSED LICENSEE OR ANY SUB-LICENSEE: IS NOT TRUSTWORTHY AND COMPETENT
45 TO ACT AS SUCH AGENT; HAS GIVEN CAUSE FOR THE REVOCATION OR SUSPENSION
46 OF SUCH A LICENSE; OR HAS FAILED TO COMPLY WITH ANY PREREQUISITE FOR THE
47 ISSUANCE OF SUCH LICENSE.

48 (J) (1) EVERY LICENSE ISSUED TO A BUSINESS ENTITY PURSUANT TO
49 SUBSECTION (A) OF THIS SECTION SHALL EXPIRE ON JUNE THIRTIETH OF
50 ODD-NUMBERED YEARS.

51 (2) EVERY LICENSE ISSUED TO AN INDIVIDUAL BORN IN AN ODD-NUMBERED YEAR
52 SHALL EXPIRE ON THE INDIVIDUAL'S BIRTHDAY IN EACH ODD-NUMBERED YEAR.
53 LICENSES ISSUED TO INDIVIDUALS BORN IN EVEN-NUMBERED YEARS SHALL EXPIRE
54 ON THE INDIVIDUAL'S BIRTHDAY IN EACH EVEN-NUMBERED YEAR. EVERY SUCH
55 LICENSE MAY BE RENEWED FOR THE ENSUING PERIOD OF TWENTY-FOUR MONTHS UPON
56 THE FILING OF AN APPLICATION IN CONFORMITY WITH THIS SUBSECTION.

(3) THE LICENSE MAY BE ISSUED FOR ALL OF SUCH TWO YEAR TERMS, OR UPON APPLICATION MADE DURING ANY SUCH TERM, FOR THE BALANCE THEREOF.

(4) ANY LICENSE SHALL BE CONSIDERED IN GOOD STANDING WITHIN THE LICENSE TERM UNLESS:

(A) REVOKED OR SUSPENDED BY THE SUPERINTENDENT PURSUANT TO THIS ARTICLE; OR

(B) IF AT THE EXPIRATION DATE OF THE LICENSE TERM, THE LICENSEE FAILS TO FILE A RENEWAL APPLICATION, PROVIDED THE LICENSE WAS IN GOOD STANDING DURING THE TERM.

(5) BEFORE THE RENEWAL OF ANY TITLE INSURANCE AGENT'S LICENSE SHALL BE ISSUED, THE LICENSEE SHALL HAVE:

(A) FILED A COMPLETED RENEWAL APPLICATION IN SUCH FORM OR FORMS, AND SUPPLEMENTS THERETO, AND CONTAINING SUCH INFORMATION AS THE SUPERINTENDENT MAY PRESCRIBE;

(B) SUBMITTED EVIDENCE OF COMPLIANCE WITH CONTINUING EDUCATION REQUIREMENT PURSUANT TO SECTION TWO THOUSAND ONE HUNDRED FORTY OF THIS ARTICLE.

(C) PAID SUCH FEES AS ARE PRESCRIBED IN THIS SECTION.

(6) IF AN APPLICATION FOR A RENEWAL LICENSE SHALL HAVE BEEN FILED WITH THE SUPERINTENDENT BEFORE THE EXPIRATION OF SUCH LICENSE, THEN THE LICENSE SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND EFFECT EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL LICENSE APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT SHALL HAVE REFUSED TO ISSUE SUCH RENEWAL LICENSE AND SHALL HAVE GIVEN NOTICE OF SUCH REFUSAL TO THE APPLICANT AND TO EACH PROPOSED SUB-LICENSEE. BEFORE REFUSING TO RENEW ANY SUCH LICENSE, EXCEPT ON THE GROUND OF FAILURE TO PASS A WRITTEN EXAMINATION, THE SUPERINTENDENT SHALL NOTIFY THE APPLICANT OF THE SUPERINTENDENT'S INTENTION TO DO SO AND SHALL GIVE THE APPLICANT A HEARING.

(7) THE SUPERINTENDENT MAY, IN ISSUING A RENEWAL LICENSE, DISPENSE WITH THE REQUIREMENTS OF A VERIFIED APPLICATION BY ANY INDIVIDUAL LICENSEE OR SUB-LICENSEE WHO, BY REASON OF BEING ENGAGED IN ANY MILITARY SERVICE FOR THE UNITED STATES, IS UNABLE TO MAKE PERSONAL APPLICATION FOR SUCH RENEWAL LICENSE, UPON THE FILING OF AN APPLICATION ON BEHALF OF SUCH INDIVIDUAL, IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE, BY SOME PERSON OR PERSONS WHO IN HIS JUDGMENT HAVE KNOWLEDGE OF THE FACTS AND WHO MAKE AFFIDAVIT SHOWING SUCH MILITARY SERVICE AND THE INABILITY OF SUCH TITLE INSURANCE AGENT TO MAKE A PERSONAL APPLICATION.

(8) AN INDIVIDUAL LICENSEE OR SUB-LICENSEE WHO IS UNABLE TO COMPLY WITH LICENSE RENEWAL PROCEDURES DUE TO OTHER EXTENUATING CIRCUMSTANCES, SUCH AS A LONG-TERM MEDICAL DISABILITY, MAY REQUEST A WAIVER OF SUCH PROCEDURES, IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE. THE LICENSEE OR SUB-LICENSEE MAY ALSO REQUEST A WAIVER OF ANY EXAMINATION REQUIREMENT OR ANY OTHER FINE OR SANCTION IMPOSED FOR FAILURE TO COMPLY WITH RENEWAL PROCEDURES.

(9) AN APPLICATION FOR THE RENEWAL OF A LICENSE SHALL BE FILED WITH THE SUPERINTENDENT NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE THE LICENSE EXPIRES OR THE APPLICANT SHALL BE SUBJECT TO A FURTHER FEE OF TEN DOLLARS FOR LATE FILING.

(10) NO LICENSE FEE SHALL BE REQUIRED OF ANY PERSON WHO SERVED AS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES AT ANY TIME, AND WHO SHALL HAVE BEEN DISCHARGED THEREFROM UNDER CONDITIONS OTHER THAN DISHONORABLE, IN A CURRENT LICENSING PERIOD FOR THE DURATION OF SUCH PERIOD.

(11) EXCEPT WHERE A CORPORATION, ASSOCIATION OR FIRM LICENSED AS A TITLE INSURANCE AGENT IS APPLYING TO ADD A SUB-LICENSEE, OR THE DATE OF

1 THE EXPIRATION OF THE LICENSE IS CHANGED, THERE SHALL BE NO FEE REQUIRED
2 FOR THE ISSUANCE OF AN AMENDED LICENSE.

3 (12) THE SUPERINTENDENT MAY ISSUE A REPLACEMENT LICENSE FOR A CURRENT-
4 LY IN-FORCE LICENSE THAT HAS BEEN LOST OR DESTROYED. BEFORE SUCH
5 REPLACEMENT LICENSE SHALL BE ISSUED, THERE SHALL BE ON FILE IN THE
6 OFFICE OF THE SUPERINTENDENT A WRITTEN APPLICATION FOR SUCH REPLACEMENT
7 LICENSE, AFFIRMING UNDER PENALTY OF PERJURY THAT THE ORIGINAL LICENSE
8 HAS BEEN LOST OR DESTROYED, TOGETHER WITH A FEE OF FIFTEEN DOLLARS.

9 (K) THE SUPERINTENDENT MAY REFUSE TO ISSUE A LICENSE OR RENEWAL
10 LICENSE, AS THE CASE MAY BE, TO ANY APPLICANT IF THE SUPERINTENDENT
11 FINDS THAT SUCH APPLICANT HAS BEEN OR WILL BE, AS AFORESAID, RECEIVING
12 ANY BENEFIT OR ADVANTAGE IN VIOLATION OF SECTION SIX THOUSAND FOUR
13 HUNDRED NINE OF THIS CHAPTER, OR IF THE SUPERINTENDENT FINDS THAT MORE
14 THAN TEN PERCENT OF THE AGGREGATE NET COMMISSIONS RECEIVED DURING THE
15 TERM OF THE EXISTING LICENSE, IF ANY, OR TO BE RECEIVED DURING THE TERM
16 OF THE LICENSE APPLIED FOR, BY THE APPLICANT, RESULTED OR WILL RESULT
17 FROM INSURANCE ON THE PROPERTY AND RISKS SET FORTH IN SUBPARAGRAPHS (A),
18 (B) AND (C) OF PARAGRAPH ONE OF SUBSECTION (I) OF SECTION TWO THOUSAND
19 ONE HUNDRED THREE OF THIS ARTICLE.

20 (L) ALL LICENSED TITLE INSURANCE AGENTS SHALL BE ENTITLED TO THE DUE
21 PROCESS PROVISIONS AS PROVIDED BY THE STATE ADMINISTRATIVE PROCEDURE
22 ACT.

23 S 18. The insurance law is amended by adding a new section 2140 to
24 read as follows:

25 S 2140. CONTINUING EDUCATION FOR TITLE INSURANCE AGENTS. (A) THIS
26 SECTION SHALL APPLY TO TITLE INSURANCE AGENTS LICENSED PURSUANT TO THIS
27 ARTICLE WHO ARE NATURAL PERSONS AND TO INDIVIDUALS DESIGNATED AS A SUB-
28 LICENSEE TO FULFILL THE CONTINUING EDUCATION REQUIREMENTS FOR AN ENTITY
29 LICENSED UNDER THIS ARTICLE.

30 (B) THE FOLLOWING INDIVIDUALS SHALL BE EXEMPT FROM THESE REQUIREMENTS:

31 (1) AN ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE PROVIDED SAID
32 ATTORNEY IS IN GOOD STANDING WITH THE OFFICE OF COURT ADMINISTRATION;

33 (2) ANY LICENSEES AS THE SUPERINTENDENT MAY EXEMPT SUBJECT TO ANY
34 CONTINUING EDUCATION REQUIREMENTS DEEMED APPROPRIATE BY THE SUPERINTEN-
35 DENT.

36 (C) PERSONS LICENSED PURSUANT TO THIS ARTICLE AND NOT EXEMPT UNDER
37 THIS ARTICLE, SHALL BIENNIALY SATISFACTORILY COMPLETE SUCH COURSES OR
38 PROGRAMS OF INSTRUCTION AS MAY BE APPROVED BY THE SUPERINTENDENT, AS
39 FOLLOWS:

40 (1) ANY PERSON HOLDING A LICENSE ISSUED PURSUANT TO THIS ARTICLE AND
41 NOT EXEMPT UNDER SUBSECTION (B) OF THIS SECTION SHALL, DURING EACH FULL
42 BIENNIAL LICENSING PERIOD, SATISFACTORILY COMPLETE COURSES OR PROGRAMS
43 OF INSTRUCTION OR ATTEND SEMINARS AS MAY BE APPROVED BY THE SUPERINTEN-
44 DENT EQUIVALENT TO FIFTEEN CREDIT HOURS OF INSTRUCTION.

45 (2) EXCESS CREDIT HOURS ACCUMULATED DURING ANY BIENNIAL LICENSING
46 PERIOD SHALL NOT CARRY FORWARD TO THE NEXT BIENNIAL LICENSING PERIOD.

47 (D)(1) THE COURSES OR PROGRAMS OF INSTRUCTION SUCCESSFULLY COMPLETED,
48 WHICH SHALL BE DEEMED TO MEET THE SUPERINTENDENT'S STANDARDS FOR CONTIN-
49 UING EDUCATION REQUIREMENTS, SHALL BE COURSES, PROGRAMS OF INSTRUCTION
50 OR SEMINARS, APPROVED AS TO METHOD AND CONTENT BY THE SUPERINTENDENT,
51 RELATED TO TITLE INSURANCE, AND GIVEN BY A DEGREE CONFERRING COLLEGE OR
52 UNIVERSITY WHOSE CURRICULUM IS REGISTERED WITH THE STATE EDUCATION
53 DEPARTMENT AT THE TIME THE PERSON TAKES THE COURSE, WHETHER SUCH COURSE
54 BE GIVEN AS PART OF SUCH CURRICULUM OR SEPARATELY, OR BY ANY OTHER
55 INSTITUTION, AGENTS' ASSOCIATION, TRADE ASSOCIATION, BAR ASSOCIATION OR
56 TITLE INSURANCE CORPORATION, WHICH MAINTAINS EQUIVALENT STANDARDS OF

1 INSTRUCTION AND WHICH SHALL HAVE BEEN APPROVED FOR SUCH PURPOSE BY THE
2 SUPERINTENDENT.

3 (2) THE NUMBER OF CREDIT HOURS ASSIGNED TO EACH OF THE COURSES OR
4 PROGRAMS OF INSTRUCTION SET FORTH IN PARAGRAPH ONE OF THIS SUBSECTION
5 SHALL BE DETERMINED BY THE SUPERINTENDENT.

6 (E) A PERSON WHO TEACHES ANY APPROVED COURSE OF INSTRUCTION OR WHO
7 LECTURES AT ANY APPROVED SEMINAR, AND WHO IS SUBJECT TO THIS SECTION,
8 SHALL BE GRANTED THREE CREDIT HOURS FOR EACH FIFTY MINUTES OF PRESENTA-
9 TION AND ONE CREDIT FOR EACH FIFTY MINUTES OF REPEAT PRESENTATIONS
10 DURING ANY BIENNIAL LICENSING PERIOD.

11 (F) EVERY PERSON SUBJECT TO THIS SECTION SHALL FURNISH, IN A FORM
12 SATISFACTORY TO THE SUPERINTENDENT, CERTIFICATION ATTESTING TO THE
13 COURSE OR PROGRAMS OF INSTRUCTION TAKEN AND SUCCESSFULLY COMPLETED BY
14 SUCH PERSON PURSUANT TO SUBSECTION (D) OF THIS SECTION.

15 (G) (1) ANY PERSON FAILING TO MEET THE REQUIREMENTS IMPOSED BY THIS
16 SECTION SHALL NOT BE ELIGIBLE TO RENEW THE LICENSE.

17 (2) ANY PERSON WHOSE LICENSE WAS NOT RENEWED SHALL NOT BE ELIGIBLE TO
18 BECOME RELICENSED DURING THE NEXT BIENNIAL LICENSING PERIOD UNTIL THAT
19 PERSON HAS DEMONSTRATED TO THE SATISFACTION OF THE SUPERINTENDENT THAT
20 CONTINUING EDUCATION REQUIREMENTS FOR THE LAST BIENNIAL LICENSING PERIOD
21 WERE MET.

22 (3) ANY PERSON WHOSE LICENSE WAS NOT RENEWED PURSUANT TO PARAGRAPH ONE
23 OF THIS SUBSECTION, WHO ACCUMULATES SUFFICIENT CREDIT HOURS FOR THE
24 PRIOR LICENSING PERIOD TO QUALIFY FOR RELICENSING IN THE BIENNIAL PERIOD
25 FOLLOWING SUCH NON-RENEWAL, MAY NOT APPLY THOSE SAME CREDIT HOURS TOWARD
26 THE CONTINUING EDUCATION REQUIREMENTS FOR THE CURRENT BIENNIAL LICENSING
27 PERIOD.

28 (H)(1) ANY ENTITY ELIGIBLE TO PROVIDE COURSES, PROGRAMS OF INSTRU-
29 CTION, OR SEMINARS IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION,
30 MUST FILE FOR APPROVAL BY THE SUPERINTENDENT ON A BIENNIAL BASIS, TO
31 CONFORM WITH ITS AREA OF INSTRUCTION, A PROVIDER ORGANIZATION APPLICA-
32 TION AND A COURSE SUBMISSION APPLICATION FOR EACH COURSE, PROGRAM AND
33 SEMINAR, AND COURSES MAY BE ADDED ON APPROVAL BY THE SUPERINTENDENT
34 DURING THE PERIOD ON NOTIFICATION TO THE SUPERINTENDENT AND PAYMENT OF
35 THE APPROPRIATE FILING FEE.

36 (2) THE PROVIDER ORGANIZATION APPLICATION SHALL INCLUDE THE NAMES OF
37 ALL INSTRUCTORS TO BE USED DURING THE CONTRACT PERIOD, AND INSTRUCTORS
38 MAY BE ADDED DURING THE PERIOD BY NOTIFYING THE SUPERINTENDENT AND
39 PAYING THE APPROPRIATE FILING FEE.

40 (3) THE COMPLETED APPLICATIONS SHALL BE RETURNED IN A TIMELY MANNER,
41 AS SPECIFIED BY THE SUPERINTENDENT, WITH A NON-REFUNDABLE FILING FEE OF
42 TWO HUNDRED DOLLARS PER ORGANIZATION, FIFTY DOLLARS PER COURSE, PROGRAM
43 AND SEMINAR, AND FIFTY DOLLARS PER INSTRUCTOR.

44 (4) APPROVAL OF THE APPLICATION SHALL BE AT THE DISCRETION OF THE
45 SUPERINTENDENT.

46 (I) EACH LICENSEE SHALL PAY A BIENNIAL FEE OF TEN DOLLARS PER LICENSE,
47 FOR CONTINUING EDUCATION CERTIFICATE FILING AND RECORDING CHARGES, TO
48 THE SUPERINTENDENT OR, AT THE DISCRETION OF THE SUPERINTENDENT, DIRECTLY
49 TO AN ORGANIZATION UNDER CONTRACT TO PROVIDE CONTINUING EDUCATION ADMIN-
50 ISTRAIVE SERVICES.

51 S 19. Section 2314 of the insurance law is amended to read as follows:

52 S 2314. Charging of rates. No authorized insurer [shall, and], no
53 licensed insurance agent, NO TITLE INSURANCE AGENT, no employee or other
54 representative of an authorized insurer, and no licensed insurance
55 broker shall knowingly, charge or demand a rate or receive a premium
56 which departs from the rates, rating plans, classifications, schedules,

1 rules and standards in effect on behalf of the insurer, or shall issue
2 or make any policy or contract involving a violation thereof.

3 S 20. Subsection (e) of section 2324 of the insurance law is amended
4 to read as follows:

5 (e) This section shall not apply to any policy or contract of reinsur-
6 ance nor to any contract or policy of life insurance, accident insurance
7 or health insurance which is subject to the provisions of section four
8 thousand two hundred twenty-four of this chapter, NOR TO ANY CONTRACT OR
9 POLICY OF TITLE INSURANCE, nor to any contract or policy of marine
10 insurance, other than contracts or policies of automobile insurance, or
11 of marine protection and indemnity insurance, nor to any insurance
12 contract, or rate of insurance in connection with any insurance contract
13 either against loss or damage to, or legal liability in connection with,
14 any property located wholly outside of this state or any activity
15 carried on outside of this state or any motor vehicle or aircraft prin-
16 cipally garaged and used outside of this state.

17 S 21. Subsection (d) of section 6409 of the insurance law is amended
18 to read as follows:

19 (d) No title insurance corporation OR TITLE INSURANCE AGENT, or any
20 other person acting for or on behalf of it, shall make any rebate of any
21 portion of the fee, premium or charge made, or pay or give to any appli-
22 cant for insurance, or to any person, firm, or corporation acting as
23 agent, representative, attorney, or employee of the owner, lessee, mort-
24 gagee or the prospective owner, lessee, or mortgagee of the real proper-
25 ty or any interest therein, either directly or indirectly, any commis-
26 sion, any part of its fees or charges, or any other consideration or
27 valuable thing, as an inducement for, or as compensation for, any title
28 insurance business. Any person or entity who accepts or receives such a
29 commission or rebate shall be subject to a penalty equal to the greater
30 of [one] FIVE thousand dollars or five times the amount [thereof] OF THE
31 REBATE, AND ANY PERSON OR ENTITY WHO OTHERWISE VIOLATES THIS SUB-SECTION
32 SHALL BE SUBJECT TO A PENALTY EQUAL TO THE GREATER OF FIVE THOUSAND
33 DOLLARS OR THE AMOUNT OF THE TITLE INSURANCE PREMIUM EARNED ON THE TRAN-
34 SACTION ON WHICH THE VIOLATION OCCURRED, EXCEPT, AS TO A TITLE INSURANCE
35 AGENT, SUCH SUM SHALL NOT INCLUDE THAT PORTION OF THE PREMIUM PAID OR
36 PAYABLE TO THE TITLE INSURANCE CORPORATION.

37 S 22. Subsection (a) of section 107 of the insurance law is amended by
38 adding a new paragraph 54 to read as follows:

39 (54) "TITLE INSURANCE AGENT" SHALL HAVE THE MEANING ASCRIBED TO IT BY
40 PARAGRAPH ONE OF SUBSECTION (Y) OF SECTION TWO THOUSAND ONE HUNDRED ONE
41 OF THIS CHAPTER.

42 S 23. This act shall take effect on the one hundred eightieth day
43 after it shall have become a law, provided, however, that effective
44 immediately:

45 (1) the addition, amendment and/or repeal of any rule or regulation
46 necessary for the implementation of this act on its effective date are
47 authorized and directed to be made and completed on or before such
48 effective date;

49 (2) the superintendent of financial services shall promulgate applica-
50 tion forms for persons, firms and corporations seeking to obtain a
51 license as a title insurance agent; and

52 (3) each person, firm or corporation who has filed an application for
53 a license as a title insurance agent on or before January 1, 2014 or
54 within 90 days after the superintendent of financial services has
55 promulgated application forms pursuant to this act, whichever date is
56 later, may act as such licensee without a license issued pursuant to

1 sections 2138, 2139, or 2140 of the insurance law until the superinten-
2 dent of financial services has made a final determination on the appli-
3 cation for such license filed by such person, firm or corporation.