STATE OF NEW YORK

2223

2019-2020 Regular Sessions

IN ASSEMBLY

January 22, 2019

Introduced by M. of A. CAHILL -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to allowable expenses for title insurance corporations and title insurance agents

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subsection (d) of section 6409 of the insurance law, as amended by section 17 of part V of chapter 57 of the laws of 2014, is amended to read as follows:

(d) **(1)** No title insurance corporation, title insurance agent, or any other person acting for or on behalf of the title insurance corporation or title insurance agent, shall offer or make, directly or indirectly, any rebate of any portion of the fee, premium or charge made, or pay or give to any applicant, or to any person, firm, or corporation acting as agent, representative, attorney, or employee of the owner, lessee, mortgagee or the prospective owner, lessee, or mortgagee of the real property or any interest therein, either directly or indirectly, any commission, any part of its fees or charges, or any other consideration or valuable thing, as an inducement for, or as compensation for, any title insurance business, nor shall any applicant, or any person, firm, or corporation acting as agent, representative, attorney, or employee of the owner, lessee, mortgagee or of the prospective owner, lessee, or mortgagee of the real property or anyone having any interest in real property knowingly receive, directly or indirectly, any such rebate or other consideration or valuable thing. Any person or entity who violates this section shall be subject to a penalty of [~~(1)~~] **(i)** five thousand dollars; or [~~(2)~~] **(ii)** up to ten times the amount of any compensation or rebate received or paid in the case of a title insurance corporation or title insurance agent; or [~~(3)~~] **(iii)** up to five times the amount of any compensation or rebate received or paid; or [~~(4)~~] **(iv)** in the case of an applicant for title insurance that covers real property used predomi-

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

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nantly for residential purposes, and which consists of not more than four dwelling units, other than hotels and motels, an amount not to exceed the compensation or rebate received or paid, when such applicant knew that it was a violation to receive such rebate, or other consideration or valuable thing; provided, however, if such applicant did not know that it was a violation to receive such rebate, or other consideration or valuable thing, he or she shall not be assessed a penalty under this [~~subdivision~~] subsection.

(2) Nothing contained in paragraph one of this subsection to the contrary shall prohibit any title insurance corporation or title insurance agent, or any other person acting for or on behalf of the title insurance corporation or title insurance agent, from undertaking any usual and customary marketing activity aimed at acquainting present and prospective customers with the advantages of using a particular title insurer or title insurance agent that are not intended for the purpose of a reward for the future placement of, or the past placement, of a particular piece of title insurance business, including the following expressly permitted activities:

(i) Advertising or marketing in any publication, event or media, at market rates, including sponsorships, advertising gifts, promotional items and consumables;

(ii) Meals and beverages in connection with the entertainment of present or prospective customers where one or more employees or representatives of the title insurance corporation or title insurance agent are present and title insurance business is discussed;

(iii) Entertainment of present or prospective customers, including tickets to or participation in sporting events, cultural or other charity events, concerts, shows or artistic performances where one or more employees or representatives of the title insurance corporation or title insurance agent are present and title insurance business is discussed;

(iv) Continuing legal education course materials or instruction; and

(v) Charitable contributions in the name of the title insurance corporation or title insurance agent.

§ 2. Subsection (e) of section 6409 of the insurance law, as amended by section 17 of part V of chapter 57 of the laws of 2014, is amended to read as follows:

(e) Premium rates for coverage shall fully reflect the foregoing prohibitions of subsection (d) of this section. The superintendent may provide that certain marketing expenses, including those permitted in paragraph two of subsection (d) of this section, should be excluded by a title insurance corporation as an allowable expense as part of the calculation of title insurance rates pursuant to article twenty-three of this chapter.

§ 3. This act shall take effect immediately.