

STATE OF NEW YORK

2929

2019-2020 Regular Sessions

IN SENATE

January 30, 2019

Introduced by Sen. BRESLIN -- 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 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:

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

4 (d) (1) No title insurance corporation, title insurance agent, or any
5 other person acting for or on behalf of the title insurance corporation
6 or title insurance agent, shall offer or make, directly or indirectly,
7 any rebate of any portion of the fee, premium or charge made, or pay or
8 give to any applicant, or to any person, firm, or corporation acting as
9 agent, representative, attorney, or employee of the owner, lessee, mort-
10 gagee or the prospective owner, lessee, or mortgagee of the real proper-
11 ty or any interest therein, either directly or indirectly, any commis-
12 sion, any part of its fees or charges, or any other consideration or
13 valuable thing, as an inducement for, or as compensation for, any title
14 insurance business, nor shall any applicant, or any person, firm, or
15 corporation acting as agent, representative, attorney, or employee of
16 the owner, lessee, mortgagee or of the prospective owner, lessee, or
17 mortgagee of the real property or anyone having any interest in real
18 property knowingly receive, directly or indirectly, any such rebate or
19 other consideration or valuable thing. Any person or entity who violates
20 this section shall be subject to a penalty of [~~(1)~~] (i) five thousand
21 dollars; or [~~(2)~~] (ii) up to ten times the amount of any compensation or
22 rebate received or paid in the case of a title insurance corporation or
23 title insurance agent; or [~~(3)~~] (iii) up to five times the amount of any
24 compensation or rebate received or paid; or [~~(4)~~] (iv) in the case of an
25 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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1 nantly for residential purposes, and which consists of not more than
2 four dwelling units, other than hotels and motels, an amount not to
3 exceed the compensation or rebate received or paid, when such applicant
4 knew that it was a violation to receive such rebate, or other consider-
5 ation or valuable thing; provided, however, if such applicant did not
6 know that it was a violation to receive such rebate, or other consider-
7 ation or valuable thing, he or she shall not be assessed a penalty under
8 this ~~[subdivision]~~ subsection.

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

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

22 (ii) Meals and beverages in connection with the entertainment of pres-
23 ent or prospective customers where one or more employees or represen-
24 tatives of the title insurance corporation or title insurance agent are
25 present and title insurance business is discussed;

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

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

32 (v) Charitable contributions in the name of the title insurance corpo-
33 ration or title insurance agent.

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

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

44 § 3. This act shall take effect immediately.