

8404

2009-2010 Regular Sessions

I N   A S S E M B L Y

May 19, 2009

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Introduced by M. of A. BRADLEY -- read once and referred 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:

1     Section 1. The insurance law is amended by adding a new section 6412  
2     to read as follows:  
3     S 6412. DISCLOSURE OF TITLE SERVICE CHARGES BY A TITLE INSURANCE  
4     PROVIDER. (A) DEFINITIONS. (1) "TITLE INSURANCE PROVIDER" SHALL MEAN A  
5     TITLE INSURANCE CORPORATION, AS DEFINED IN SUBSECTION (A) OF SECTION  
6     SIXTY-FOUR HUNDRED ONE OF THIS ARTICLE, AND ANY AGENT, APPROVED ATTORNEY  
7     OR EXAMINING COUNSEL WHICH IS ISSUING A TITLE INSURANCE POLICY, AS  
8     DEFINED IN SUBSECTION (B) OF SECTION SIXTY-FOUR HUNDRED ONE OF THIS  
9     ARTICLE, ON BEHALF OF A TITLE INSURANCE CORPORATION.  
10    (2) "TITLE SERVICES" OR "TITLE SERVICE" SHALL MEAN EVERY SERVICE  
11    ORDERED OR TO BE ORDERED BY A CUSTOMER FROM A TITLE INSURANCE PROVIDER,  
12    WHETHER SUCH SERVICE IS RENDERED BY A TITLE INSURANCE PROVIDER OR  
13    OBTAINED BY A TITLE INSURANCE PROVIDER THROUGH A THIRD PARTY, THE CHARGE  
14    FOR WHICH IS IMPOSED ON A CUSTOMER AND IS NOT REGULATED BY THE DEPART-  
15    MENT, INCLUDING, WITHOUT LIMITATION, THE OBTAINING OF GOVERNMENTAL  
16    RECORDS, THE ORDERING OF A SURVEY OR A SURVEY INSPECTION, AND THE  
17    RECORDING OR FILING OF INSTRUMENTS IN THE OFFICE OF A RECORDING OFFICER  
18    AS DEFINED IN SECTION TWO HUNDRED NINETY OF THE REAL PROPERTY LAW OR IN  
19    ANY OTHER STATE, COUNTY OR MUNICIPAL OFFICE.  
20    (3) "SERVICE CHARGES" OR "SERVICE CHARGE" SHALL MEAN AN AMOUNT CHARGED  
21    TO A CUSTOMER BY A TITLE INSURANCE PROVIDER FOR PROVIDING ONE OR MORE  
22    TITLE SERVICES; PROVIDED, HOWEVER, THAT "SERVICE CHARGES" OR "SERVICE  
23    CHARGE" SHALL NOT INCLUDE A CHARGE FOR THE SEARCH AND EXAMINATION OF  
24    TITLE.

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

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1 (4) "APPLICANT" SHALL MEAN THE PERSON OR ENTITY ORDERING TITLE INSUR-  
2 ANCE OR TITLE SERVICES, OR THE DULY AUTHORIZED REPRESENTATIVE THEREOF.

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

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

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

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

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

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

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

27 (1) FIFTEEN HUNDRED DOLLARS; OR

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

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

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