STATE OF NEW YORK

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6704

2017-2018 Regular Sessions

IN SENATE

June 14, 2017
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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 prohibition of commissions and rebates

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) For the purposes of this subsection, "an inducement for, or as
10 compensation for, any title insurance business" shall mean a benefit
11 given with the intention to compensate or offer compensation, directly
12 or indirectly, for any past or present placement for a particular piece
13 of title insurance business to any applicant, or person, firm, or corpo-
14 ration acting as agent, representative, attorney, or employee of the
15 owner, lessee, mortgagee or the prospective owner, lessee, or mortgagee
16 of the real property or any interest therein. Nothing contained in para-
17 graph one of this subsection to the contrary shall prohibit any title
18 insurance corporation or title insurance agent, or any other person
19 acting for or on behalf of the title insurance corporation or title
20 insurance agent, from undertaking any usual and customary marketing
21 activity aimed at acquainting present and prospective customers with the
22 advantages of using a particular title insurer or title insurance agent
23 that are not intended for the purpose of a reward for the future place-
24 ment of, or the past placement, of a particular piece of title insurance
25 business.
26   § 2. This act shall take effect immediately.