§ 2119. Insurance agents, brokers, consultants, life settlement brokers, and title insurance agents; written contract for compensation; excess charges prohibited.

(a) (1) No person licensed as an insurance agent, broker or consultant may receive any fee, commission or thing of value for examining, appraising, reviewing or evaluating any insurance policy, bond, annuity or pension or profit-sharing contract, plan or program or for making recommendations or giving advice with regard to any of the above, unless such compensation is based upon a written memorandum signed by the party to be charged and specifying or clearly defining the amount or extent of such compensation.

(2) A copy of every such memorandum or contract shall be retained by the licensee for not less than three years after such services have been fully performed.

(b) (1) No person licensed as an insurance agent, broker or a consultant may receive any compensation, direct or indirect, as a result of the sale of insurance or annuities to, or the use of securities or trusts in connection with pensions for, any person to whom any such licensee has performed any related consulting service for which he has received a fee or contracted to receive a fee within the preceding twelve months unless such compensation is provided for in the memorandum or contract required pursuant to subsection (a) hereof.

(2) This chapter shall not prohibit the offset, in whole or in part, of compensation payable under subsection (a) hereof by compensation otherwise payable to such consultant as agent or broker as a result of such sale of insurance or annuities or the use of securities or trusts in connection with pensions, if any such offset is provided for in the written memorandum or contract required under subsection (a) hereof.

(c) (1) No insurance broker may receive any compensation, other than commissions deductible from premiums on insurance policies or contracts, from any insured or prospective insured for or on account of the sale, solicitation or negotiation of, or other services in connection with, any contract of insurance made or negotiated in this state or for any other services on account of such insurance policies or contracts, including adjustment of claims arising therefrom, unless such compensation is based upon a written memorandum, signed by the party to be charged, and specifying or clearly defining the amount or extent of

such compensation.

(2) A copy of every such memorandum shall be retained by the broker for not less than three years after such services have been fully performed.

(3) This subsection shall not affect the right of any such broker to recover from the insured the amount of any premium or premiums for insurance effectuated by or through such broker.

(4) This subsection shall not affect the requirements of subsection (a) or (b) hereof, subsection (g) of section two thousand one hundred one or section two thousand one hundred eight of this article.

(d) No insurance broker shall, in connection with the sale, solicitation or negotiation, issuance, delivery or transfer in this state of any contract of insurance made or negotiated in this state, directly or indirectly charge, or receive from, the insured or prospective insured therein any greater sum than the rate of premium fixed therefor by the insurer obligated as such therein, unless such broker has a right to compensation for services created in the manner specified in subsection (c) of this section.

(e)(1) No person licensed as a life settlement broker may receive any compensation for examining, appraising, reviewing or evaluating any life settlement contract or for making recommendations or giving advice with regard to such contract; or receive any compensation from any owner or proposed owner for or on account of the solicitation or negotiation of, or other services in connection with, any life settlement contract subject to this chapter or for any other services on account of such contract; unless such compensation is based upon a written memorandum signed by the party to be charged and specifying or clearly defining the amount or extent of such compensation. A copy of every such memorandum shall be retained by the licensee for not less than three years after such services have been fully performed.

(2) No person licensed as a life settlement broker may receive any compensation, direct or indirect, for or on account of the solicitation or negotiation of, or other services in connection with a life settlement contract subject to this chapter from any person for whom any such licensee has performed any related consulting service for which the licensee has received a fee or contracted to receive a fee within the preceding twelve months unless such compensation is provided for in the

written memorandum required pursuant to paragraph one of this subsection.

(3) No person licensed as a life settlement broker may receive any compensation, direct or indirect, from a life settlement provider or any other person with respect to any life settlement contract if the life settlement broker has already received or will receive compensation, direct or indirect from, or on behalf of, the owner with respect to that life settlement contract.

(f) No title insurance agent may receive any compensation or fee, direct or indirect, for or on account of services performed in connection with the issuance of a title insurance policy, unless such compensation is: (1) for ancillary services not encompassed in the rate of premium approved by the superintendent; and (2) based upon a written memorandum signed by the party to be charged, and specifying or clearly defining the amount or extent of such compensation to be charged for each ancillary service as well as the total amount or extent of the compensation to be charged. A copy of every such memorandum shall be retained by the licensee for not less than three years after such services have been fully performed. For purposes of this subsection, legal services performed by a New York state licensed attorney who is also engaged as a title insurance agent shall not be considered ancillary services.