

PART V

30 Section 1. The opening paragraph of subsection (k) of section 2101 of
31 the insurance law, as added by chapter 687 of the laws of 2003, is
32 amended to read as follows:

33 In this article, "insurance producer" means an insurance agent, title
34 insurance agent, insurance broker, reinsurance intermediary, excess
35 lines broker, or any other person required to be licensed under the laws
36 of this state to sell, solicit or negotiate insurance. Such term shall
37 not include: 38 § 2. Paragraph 4 of subsection (k) of section 2101
of the insurance 39 law is REPEALED and paragraphs 5, 6, 7, 8, 9, 10,
11, and 12 are renu- 40 bered paragraphs 4, 5, 6, 7, 8, 9, 10, and 11.

41 § 3. Section 2101 of the insurance law is amended by adding a new
42 subsection (y) to read as follows:

43 (y)(1) In this chapter, "title insurance agent" means any authorized
44 or acknowledged agent of a title insurance corporation, and any subagent
45 or other representative of such an agent, who or which for commission,
46 compensation, or any other thing of value, performs the following acts
47 in conjunction with the issuance of a title insurance policy:

48 (A) sells, or negotiates the sale of a title insurance policy;

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1 (B) evaluates the insurability of title, based upon the performance or
2 review of a title search; and

3 (C) performs one or more of the following functions:

4 (i) collects, remits or disburses title insurance premiums, escrows or
5 other related funds;

6 (ii) prepares, amends, marks up or delivers a title insurance commit-
7 ment or certificate of title for the purpose of the issuance of a title
8 insurance policy by a title insurance corporation;

9 (iii) prepares, amends or delivers a title insurance policy on behalf
10 of a title insurance corporation; or

11 (iv) negotiates the clearance of title exceptions, in connection with
12 the issuance of a title insurance policy.

13 (2) Such term shall not include any regular salaried officer or
14 employee of an authorized title insurance corporation or of a licensed
15 title insurance agent, who does not receive a commission or other
16 compensation for services, which commission or other compensation is
17 directly dependent upon the amount of title insurance business done.

18 § 4. Subsection (a) of section 2109 of the insurance law, paragraph 3
19 as amended by chapter 687 of the laws of 2003, is amended to read as
20 follows:

21 (a) The superintendent may issue a temporary insurance agent's
22 license, title insurance agent's license or insurance broker's license,
23 or both an insurance agent's and insurance broker's license, without
24 requiring the applicant to pass a written examination or to satisfy the
25 requirements of subsection (c) of section two thousand one hundred four
26 of this article except as to age, in the case of a license issued pursu-
27 ant to paragraph two [~~hereof~~] of this subsection, in the following
28 cases:

29 (1) in the case of the death of a person who at the time of his death
30 was a licensed accident and health insurance agent under subsection (a)
31 of section two thousand one hundred three of this article, a licensed
32 insurance agent or licensed title insurance agent under subsection (b)
33 of such section or a licensed insurance broker:

34 (A) to the executor or administrator of the estate of such deceased
35 agent or broker;

36 (B) to a surviving next of kin of such deceased agent or broker, where
37 no administrator of his estate has been appointed and no executor has
38 qualified under his duly probated will;

39 (C) to the surviving member or members of a firm or association, which
40 at the time of the death of a member was such a licensed insurance
41 agent, licensed title insurance agent or licensed insurance broker; or

42 (D) to an officer or director of a corporation upon the death of the

43 only officer or director who was qualified as a sub-licensee or to the
44 executor or administrator of the estate of such deceased officer or
45 director;

46 (2) to any person who may be designated by a person licensed pursuant
47 to this chapter as an insurance agent, title insurance agent or an
48 insurance broker, or both an insurance agent and insurance broker, and
49 who is absent because of service in any branch of the armed forces of
50 the United States, including a partnership or corporation [~~which~~] that
51 is licensed pursuant to this chapter as an insurance agent, title insur-
52 ance agent or as an insurance broker, or both an insurance agent and
53 insurance broker, in a case where the sub-licensee or all sub-licensees,
54 if more than one, named in the license or licenses issued to such part-
55 nership or corporation is or are absent because of service in any branch
56 of the armed forces of the United States; and

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1 (3) to the next of kin of a person who has become totally disabled and
2 prevented from pursuing any of the duties of his or her occupation, and
3 who at the commencement of his or her disability was a licensed accident
4 and health insurance agent under subsection (a) of section two thousand
5 one hundred three of this article, a licensed insurance agent under
6 subsection (b) of such section, a licensed title insurance agent or a
7 licensed insurance broker.

8 § 5. Subsection (c) of section 2109 of the insurance law is amended to
9 read as follows:

10 (c) Such license or licenses shall authorize the person or persons
11 named therein to renew the business of the deceased, absent or disabled
12 insurance agent, title insurance agent, or insurance broker, or both an
13 insurance agent and insurance broker, as the case may be, or of the firm
14 or, in the case of a license issued pursuant to paragraph one or three
15 of subsection (a) [~~hereof~~] of this section, the association whose busi-
16 ness is being continued thereunder, each such agent[~~7~~] or broker[~~7~~ ~~firm~~
17 ~~or association~~] being referred to in this section as "original licen-
18 see", expiring during the period in which such temporary license or
19 licenses are in force, to collect premiums due and payable to the
20 original licensee or, in the case of a license issued pursuant to para-
21 graph one of subsection (a) [~~hereof~~] of this section, to his or her
22 estate, and to perform such other acts as an insurance agent, a title
23 insurance agent or [~~as~~] an insurance broker, or both an insurance agent
24 or insurance broker, as the case may be, as are incidental to the
25 continuance of the insurance business of such original licensee.

26 § 6. Section 2109 of the insurance law is amended by adding a new
27 subsection (h) to read as follows:

28 (h) (1) In the case of a person seeking a temporary license to act as
29 a title insurance agent pursuant to subsection (a) of this section, the
30 superintendent may issue a license for a term not to exceed one hundred
31 eighty days to such person provided the person:

32 (A) demonstrates to the satisfaction of the superintendent that a
33 title insurance corporation is willing to appoint him or her;

34 (B) submits to the next available title insurance agent examination;
35 and

36 (C) demonstrates to the satisfaction of the superintendent that he or
37 she is qualified, competent, experienced and trustworthy to act as a
38 title insurance agent.

39 (2) Any person issued a license pursuant to this subsection shall, by
40 virtue of such license, be authorized to solicit, negotiate or sell new
41 policies of title insurance.

42 § 7. Subsections (a), (c), and (d) of section 2112 of the insurance
43 law, subsection (a) as amended by chapter 540 of the laws of 1996,
44 subsection (c) as amended by chapter 647 of the laws of 1992 and
45 subsection (d) as amended by chapter 687 of the laws of 2003, are
46 amended to read as follows:

47 (a) Every insurer, fraternal benefit society or health maintenance
48 organization doing business in this state shall file a certificate of
49 appointment in such form as the superintendent may prescribe in order to
50 appoint insurance agents or, in the case of a title insurance corpo-

51 ration, title insurance agents, to represent such insurer, fraternal
52 benefit society or health maintenance organization.

53 (c) Certificates of appointment shall be valid until [~~(1)~~] (1) termi-
54 nated by the appointing insurer or title insurance agent after a termi-
55 nation in accordance with the provisions of the agency contract; [~~(1)~~]
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1 (2) the license is suspended or revoked by the superintendent; or
2 [~~(1)~~] (3) the license expires and is not renewed.

3 (d) Every insurer, fraternal benefit society or health maintenance
4 organization or insurance producer or the authorized representative of
5 the insurer, fraternal benefit society, health maintenance organization
6 or insurance producer doing business in this state shall, upon termi-
7 nation of the certificate of appointment as set forth in subsection (a)
8 of this section of any insurance agent, or title insurance agent
9 licensed in this state, or upon termination for cause for activities as
10 set forth in subsection (a) of section two thousand one hundred ten of
11 this article, of the certificate of appointment, of employment, of a
12 contract or other insurance business relationship with any insurance
13 producer, file with the superintendent within thirty days a statement,
14 in such form as the superintendent may prescribe, of the facts relative
15 to such termination for cause. The insurer, fraternal benefit society,
16 health maintenance organization, insurance producer or the authorized
17 representative of the insurer, fraternal benefit society, health mainte-
18 nance organization or insurance producer shall provide, within fifteen
19 days after notification has been sent to the superintendent, a copy of
20 the statement filed with the superintendent to the insurance producer at
21 his, or her or its last known address by certified mail, return receipt
22 requested, postage prepaid or by overnight delivery using a nationally
23 recognized carrier. Every statement made pursuant to this subsection
24 shall be deemed a privileged communication.

25 § 8. The insurance law is amended by adding a new section 2113 to read
26 as follows:

27 § 2113. Title insurance agent commissions; disclosure. (a) No insurer
28 doing business in this state, and no agent or other representative ther-
29 eof, shall pay any commission or other compensation to any person, firm,
30 association or corporation for acting as a title insurance agent in this
31 state, except to a licensed title insurance agent.

32 (b) At the time of the application, a title insurance agent shall
33 provide to every applicant for insurance, a written good faith estimate
34 of the premium on the policy or policies to be issued and a breakdown of
35 the amount of all fees and service costs, including all filing fees,
36 recording charges, and closing costs, and any other ancillary or discre-
37 tionary charges to be incurred, and the amount of any commission or
38 other compensation to be paid to such agent by the title insurance
39 corporation. If no title insurance agent is utilized, the title insurer
40 shall provide the disclosures. If the applicant is represented by an
41 attorney, the written good faith estimate shall be provided to the
42 attorney.

43 (c) Nothing in this chapter shall be deemed to or be construed in a
44 manner to authorize or permit any activity or practice, with respect to
45 the business of title insurance, that is prohibited by section four
46 hundred eighty-four or four hundred ninety-five of the judiciary law, or
47 otherwise prohibited by law, including the unauthorized practice of law.

48 (d) Except as provided in subsection (f) of this section, no person or
49 entity who acts as an agent, representative, attorney, or employee of
50 the owner, lessee, or mortgagee, or of the prospective owner, lessee, or
51 mortgagee of the real property or any interest therein and who or whose
52 spouse also is a member, employee, or director of a title insurance
53 agent, owns any interest in a title insurance agent, or is a subsidiary
54 or affiliate of any title insurance agent, shall refer an applicant for
55 insurance to such agent, and no such title insurance agent shall accept
56 any such referral of title insurance business, unless the referral is

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1 made in accordance with section six thousand four hundred nine of this
2 chapter and such person or entity, at the time of making a referral,

3 provides, at a minimum, the following written disclosure to the appli-
4 cant:

5 (1) the nature of the relationship between the person or entity and
6 the title insurance agent;

7 (2) that the applicant is not required to use the services of the
8 title insurance agent or the title insurance corporation to which the
9 applicant is being referred;

10 (3) that any money or other thing of value directly or indirectly paid
11 by the title insurance agent or title insurance corporation to the
12 person or entity is based on the person or entity's financial interest
13 in the title insurance agent, and is not related to the amount of title
14 insurance business the person or entity refers to the title insurance
15 agent;

16 (4) that the person or entity is not required to refer a specified
17 amount of title insurance business to the title insurance agency;

18 (5) the amount or value of any compensation or other thing of value
19 that the person or entity expects to receive in connection with the
20 services to be provided by the title insurance agent or the title insur-
21 ance corporation to which the party is being referred; and

22 (6) any relevant disclosures required by the federal real estate
23 settlement procedures act of 1974, as amended.

24 (e) For the purposes of this chapter, an attorney or his or her law
25 firm may represent a client in a matter and may also act as a title
26 insurance agent in such matter subject to applicable law.

27 (f) Where a licensed attorney represents an applicant in a real estate
28 transaction and the applicant also retains the attorney as the title
29 insurance agent, the attorney shall not be required to make the written
30 disclosure required by subsection (d) of this section provided the
31 attorney advises the client that the client is not required to use the
32 attorney as the title insurance agent.

33 (g) As used in this section, "applicant" means the person, firm,
34 limited liability company or corporation for whom the purchase of the
35 property that is the subject of the title insurance policy is financed
36 or to whom a mortgage loan is made or who owns the property, or to a
37 person who is an attorney-in-fact for such person.

38 (h) The superintendent shall promulgate regulations to enforce the
39 disclosure requirements of subdivision (d) of this section and in doing
40 so shall consider the relevant standards of the federal real estate
41 settlement procedures act of 1974, as amended.

42 § 9. The section heading of section 2119 of the insurance law, as
43 amended by chapter 499 of the laws of 2009, is amended and a new
44 subsection (f) is added to read as follows:

45 Insurance agents, brokers, consultants, [and] life settlement brokers,
46 and title insurance agents; written contract for compensation; excess
47 charges prohibited.

48 (f) No title insurance agent may receive any compensation or fee,
49 direct or indirect, for or on account of services performed in
50 connection with the issuance of a title insurance policy, unless such
51 compensation is: (1) for ancillary services not encompassed in the rate
52 of premium approved by the superintendent; and (2) based upon a written
53 memorandum signed by the party to be charged, and specifying or clearly
54 defining the amount or extent of such compensation to be charged for
55 each ancillary service as well as the total amount or extent of the
56 compensation to be charged. A copy of every such memorandum shall be

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1 retained by the licensee for not less than three years after such
2 services have been fully performed. For purposes of this subsection,
3 legal services performed by a New York state licensed attorney who is
4 also engaged as a title insurance agent shall not be considered ancil-
5 lary services.

6 § 10. The section heading and subsections (a) and (c) of section 2120
7 of the insurance law are amended to read as follows:

8 Fiduciary capacity of insurance agents, title insurance agents, insur-
9 ance brokers and reinsurance intermediaries. (a) Every insurance agent,

10 title insurance agent, and ~~[every]~~ insurance broker acting as such in
11 this state shall be responsible in a fiduciary capacity for all funds
12 received or collected as insurance agent or insurance broker, and shall
13 not, without the express consent of his, her or its principal, mingle
14 any such funds with his, her or its own funds or with funds held by him,
15 her or it in any other capacity.

16 (c) This section shall not require any such insurance agent, title
17 insurance agent, insurance broker or reinsurance intermediary to main-
18 tain a separate bank deposit for the funds of each such principal, if
19 and as long as the funds so held for each such principal are reasonably
20 ascertainable from the books of account and records of such agent,
21 broker or reinsurance intermediary, as the case may be.

22 § 11. The section heading and subsection (a) of section 2122 of the
23 insurance law are amended to read as follows:

24 Advertising by insurance ~~[agents and brokers]~~ producers. (a) (1) No
25 insurance ~~[agent or insurance broker]~~ producer shall make or issue in
26 this state any advertisement, sign, pamphlet, circular, card or other
27 public announcement purporting to make known the financial condition of
28 any insurer, unless the same shall conform to the requirements of
29 section one thousand three hundred thirteen of this chapter.

30 (2) No insurance ~~[agent, insurance broker]~~ producer or other person,
31 shall, by any advertisement or public announcement in this state, call
32 attention to any unauthorized insurer or insurers.

33 § 12. Subsections (a) and (b) of section 2128 of the insurance law,
34 subsection (b) as further amended by section 104 of part A of chapter 62
35 of the laws of 2011, are amended to read as follows:

36 (a) Notwithstanding the provisions of sections two thousand three
37 hundred twenty-four and four thousand two hundred twenty-four of this
38 chapter, no ~~[insurance agent, insurance broker, insurance consultant,
39 excess line broker, reinsurance intermediary or insurance adjuster]~~
40 licensee subject to this article shall receive any commissions or fees
41 or shares thereof in connection with insurance coverages placed for or
42 insurance services rendered to the state, its agencies and departments,
43 public benefit corporations, municipalities and other governmental
44 subdivisions in this state, unless such ~~[insurance agent, insurance
45 broker, insurance consultant, excess line broker, reinsurance interme-
46 diary or insurance adjuster]~~ licensee actually placed insurance cover-
47 ages on behalf of or rendered insurance services to the state, its agen-
48 cies and departments, public benefit corporations, municipalities and
49 other governmental subdivisions in this state.

50 (b) The superintendent shall, by regulation, require ~~[insurance
51 agents, insurance brokers, insurance consultants, excess line brokers,
52 reinsurance intermediaries and insurance adjusters]~~ licensees subject to
53 this article to file disclosure statements with the department of finan-
54 cial services and the most senior official of the governmental unit
55 involved, with respect to any insurance coverages placed for or insur-
56 ance services rendered to the state, its agencies and departments,

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1 public benefit corporations, municipalities and other governmental
2 subdivisions in this state, except that neither a title insurance corpo-
3 ration nor a title insurance agent shall be required to file a disclo-
4 sure statement if an industrial development agency, state of New York
5 mortgage agency or its successor, or any similar type of entity, is the
6 named insured under the policy and is a mortgagee with respect to the
7 property insured.

8 § 13. Subsections (a) and (b) of section 2132 of the insurance law, as
9 amended by chapter 499 of the laws of 2009, are amended to read as
10 follows:

11 (a) This section shall apply to resident and non-resident persons
12 licensed pursuant to this article with respect to:

13 (1) life insurance, annuity contracts, variable annuity contracts and
14 variable life insurance;

15 (2) sickness, accident and health insurance;

16 (3) all lines of property and casualty insurance; ~~[and]~~

17 (4) life settlements~~[-]~~; and

18 (5) title insurance.
19 (b) This section shall not apply to:
20 (1) those persons holding licenses for which an examination is not
21 required by the laws of this state;
22 (2) any limited licensees or any other licensees as the superintendent
23 may exempt subject to any continuing education requirements deemed
24 appropriate by the superintendent; ~~[or]~~
25 (3) for purposes of the continuing education requirements for life
26 settlements, an insurance producer with a life line of authority who is
27 acting as a life settlement broker pursuant to section two thousand one
28 hundred thirty-seven of this article; or
29 (4) for purposes of a title insurance agent license, an attorney
30 licensed to practice law in this state, provided that such attorney is
31 in good standing with the New York state office of court administration.
32 § 14. The insurance law is amended by adding a new section 2139 to
33 read as follows:

34 § 2139. Title insurance agents; licensing. (a) The superintendent may
35 issue a license to any person, firm, association or corporation that has
36 complied with the requirements of this chapter, authorizing the licensee
37 to act as a title insurance agent of any authorized title insurance
38 corporation.

39 (b) Any such license issued to a firm or association shall authorize
40 only the members thereof, named in such license as sub-licensees, to act
41 individually as title insurance agents thereunder, and any such license
42 issued to a corporation shall authorize only the officers and directors
43 thereof, named in such license as sub-licensees, to act individually as
44 title insurance agents thereunder. Every sub-licensee acting as title
45 insurance agent pursuant to such a license shall be authorized so to act
46 only in the name of the licensee. At least one designated sub-licensee
47 must have a financial or other beneficial interest in the licensee.

48 (c) Every individual applicant for a license under this section and
49 every proposed licensee shall be eighteen years of age or older at the
50 time of the issuance of such license.

51 (d) Before any original title insurance agent's license is issued,
52 there shall be on file in the office of the superintendent an applica-
53 tion by the prospective licensee in such form or forms and supplements
54 thereto, along with a fee in the amount of forty dollars for each year
55 or fraction of a year in which the license shall be valid, and contain-
56 ing information the superintendent prescribes.

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1 (e) The superintendent shall, in order to determine the competency of
2 every individual applicant and of every proposed sub-licensee for the
3 title insurance agent license, require such individual to submit to a
4 personal written examination and to pass the same to the satisfaction of
5 the superintendent. The examination shall be held at such times and
6 places as the superintendent shall from time to time determine. Every
7 individual applying to take any written examination shall, at the time
8 of applying therefor, pay to the superintendent or, at the discretion of
9 the superintendent, directly to any organization that is under contract
10 to provide examination services, an examination fee of an amount that is
11 the actual documented administrative cost of conducting said qualifying
12 examination as certified by the superintendent from time to time. An
13 examination fee represents an administrative expense and shall not be
14 refundable. The superintendent may accept, in lieu of any such examina-
15 tion, the result of any previous written examination, given by the
16 superintendent, which in the superintendent's judgment, is equivalent to
17 the examination for which it is substituted.

18 (f) Every individual seeking to qualify to obtain a license under
19 subsection (b) of this section shall be required to pass the type or
20 types of examination prescribed by the superintendent. An individual
21 shall not be deemed qualified to take the examination unless the indi-
22 vidual has successfully completed a course or courses, approved as to
23 method and content by the superintendent, covering the title insurance
24 business and requiring not less than twenty hours of classroom work or

25 the equivalent in correspondence work or similar instruction. Such
26 course or courses shall have been given by an institution meeting the
27 standards prescribed by subparagraph (A) of paragraph one of subsection
28 (C) of section two thousand one hundred four of this article.

29 (g) No such written examination or pre-licensing education shall be
30 required of any:

31 (1) applicant who files an application under this section within one
32 year after the effective date of this subsection and who demonstrates to
33 the satisfaction of the superintendent that such applicant or its
34 prospective sub-licensee has, without interruption, regularly and
35 continuously performed the functions of a title insurance agent for a
36 period of at least five years immediately preceding the filing of such
37 application and is competent and trustworthy to act as a title insurance
38 agent;

39 (2) applicant who has passed the written examination given by the
40 superintendent for a title insurance agent's license and was licensed as
41 such, or of an applicant who was licensed as a title insurance agent but
42 did not pass such an examination, provided the applicant applies within
43 two years following the date of termination of the applicant's license;
44 or

45 (3) applicant seeking to obtain a license as a title insurance agent,
46 when such applicant is a licensed attorney-at-law in this state provided
47 that such attorney is in good standing with the New York state office of
48 court administration.

49 (h) The superintendent may refuse to issue to an applicant a title
50 insurance agent's license if, in the superintendent's judgment, the
51 proposed licensee or any sub-licensee:

52 (1) is not trustworthy and competent to act as such agent;

53 (2) has given cause for the revocation or suspension of such a
54 license; or

55 (3) has failed to comply with any prerequisite for the issuance of
56 such license.

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1 (i) (1) Every license issued to a business entity pursuant to
2 subsection (a) of this section shall expire on June thirtieth of odd-
3 numbered years.

4 (2) Every license issued to an individual born in an odd-numbered year
5 shall expire on the individual's birthday in each odd-numbered year.
6 Licenses issued to individuals born in even-numbered years shall expire
7 on the individual's birthday in each even-numbered year.

8 (3) Every license may be renewed for the ensuing period of twenty-four
9 months upon the filing of an application in conformity with this
10 subsection.

11 (4) The license may be issued for all of such two year terms, or upon
12 application made during any such term, for the balance thereof.

13 (5) Any license shall be considered in good standing within the
14 license term unless:

15 (A) revoked or suspended by the superintendent pursuant to this arti-
16 cle; or

17 (B) if at the expiration date of the license term, the licensee fails
18 to file a renewal application, provided the license was in good standing
19 during the term.

20 (6) Before the renewal of any title insurance agent's license shall be
21 issued, the licensee shall have:

22 (A) filed a completed renewal application in such form or forms, and
23 supplements thereto, and containing such information as the superinten-
24 dent may prescribe; and

25 (B) paid such fees as are prescribed in this section.

26 (7) If an application for a renewal license shall have been filed with
27 the superintendent before the expiration of such license, then the
28 license sought to be renewed shall continue in full force and effect
29 either until the issuance by the superintendent of the renewal license
30 applied for or until five days after the superintendent shall have
31 refused to issue such renewal license and shall have given notice of

32 such refusal to the applicant and to each proposed sub-licensee. Before
33 refusing to renew any such license, except on the ground of failure to
34 pass a written examination, the superintendent shall notify the appli-
35 cant of the superintendent's intention to do so and shall give the
36 applicant a hearing.

37 (8) The superintendent may, in issuing a renewal license, dispense
38 with the requirements of a verified application by any individual licen-
39 see or sub-licensee who, by reason of being engaged in any military
40 service for the United States, is unable to make personal application
41 for such renewal license, upon the filing of an application on behalf of
42 such individual, in such form as the superintendent shall prescribe, by
43 some person or persons who in his or her judgment have knowledge of the
44 facts and who make affidavit showing such military service and the
45 inability of such title insurance agent to make personal application.

46 (9) An individual licensee or sub-licensee who is unable to comply
47 with license renewal procedures due to other extenuating circumstances,
48 such as a long-term medical disability, may request a waiver of such
49 procedures, in such form as the superintendent shall prescribe. The
50 licensee or sub-licensee may also request a waiver of any examination
51 requirement or any other fine or sanction imposed for failure to comply
52 with renewal procedures.

53 (10) An application for the renewal of a license shall be filed with
54 the superintendent not less than sixty days prior to the date the
55 license expires or the applicant shall be subject to a further fee of
56 ten dollars for late filing.

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1 (11) No license fee shall be required of any person who served as a
2 member of the armed forces of the United States at any time, and who
3 shall have been discharged therefrom under conditions other than
4 dishonorable, in a current licensing period for the duration of such
5 period.

6 (12) Except where a corporation, association or firm licensed as a
7 title insurance agent is applying to add a sub-licensee or the date of
8 the expiration of the license is changed, there shall be no fee required
9 for the issuance of an amended license.

10 (13) The superintendent may issue a replacement license for a current-
11 ly in-force license that has been lost or destroyed. Before such
12 replacement license shall be issued, there shall be on file in the
13 office of the superintendent a written application for such replacement
14 license, affirming under penalty of perjury that the original license
15 has been lost or destroyed, together with a fee of fifteen dollars.

16 (j) The superintendent may refuse to issue a license or renewal
17 license, as the case may be, to any applicant if the superintendent
18 finds that the applicant has been or will be:

19 (1) receiving any benefit or advantage in violation of section six
20 thousand four hundred nine of this chapter; or

21 (2) acting in a manner inconsistent with:

22 (A) regulations by the superintendent which are promulgated in accord-
23 ance with the relevant provisions of the federal real estate settlement
24 procedures act of 1974, as amended; or

25 (B) section twenty-one hundred thirteen of this article.

26 (k) For the purposes of this chapter, any person or entity performing
27 any activity related to the procurement or issuance of a title insurance
28 policy, as the result of an authorization or request from a licensed
29 title agent or title insurance corporation, shall be presumed to be
30 acting under the authority of such licensed agent or title insurance
31 corporation, for the purpose of performing such activity so authorized
32 or requested.

33 § 15. Section 2314 of the insurance law is amended to read as follows:

34 § 2314. Charging of rates. No authorized insurer shall, and no
35 licensed insurance agent, no title insurance agent, no employee or other
36 representative of an authorized insurer, and no licensed insurance
37 broker shall knowingly, charge or demand a rate or receive a premium
38 ~~which~~ that departs from the rates, rating plans, classifications,
39 schedules, rules and standards in effect on behalf of the insurer, or

40 shall issue or make any policy or contract involving a violation there-
41 of.

42 § 16. Subsection (a) of section 107 of the insurance law is amended by
43 adding a new paragraph 54 to read as follows:

44 (54) "Title insurance agent" shall be deemed to have the same meaning
45 as paragraph one of subsection (y) of section two thousand one hundred
46 one of this chapter.

47 § 17. Section 6409 of the insurance law, subsection (c) as added by
48 chapter 955 of the laws of 1984, is amended to read as follows:

49 § 6409. Filing of policy forms; rates; classification of risks;
50 commissions and rebates prohibited. (a) No title insurance policy shall
51 be issued or delivered in this state, unless [~~and until a copy of the~~
52 ~~form thereof shall have~~] it has been filed with the superintendent [~~for~~
53 ~~his information~~] in accordance with article twenty-three of this
54 chapter.

55 (b) [~~Every title insurance corporation shall file with the superinten-~~
56 ~~dent its rate manual, if any, its basic schedule of rates and classi-~~
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1 ~~fication of risks, its rating plan and rules in connection with the~~
2 ~~writing or issuance of policies of title insurance and shall thereafter~~
3 ~~likewise file any changes therein. After any such filing no such corpo-~~
4 ~~ration shall, in connection with the writing or issuance of any such~~
5 ~~policy, deviate from the rates, classifications of risks and rules last~~
6 ~~filed by it, either by making any reduction in rates without having~~
7 ~~filed the same as herein provided, or by way of any discriminations in~~
8 ~~favor of or against any insured. The superintendent shall have the~~
9 ~~powers specified in article twenty-three of this chapter applicable to~~
10 ~~title insurers.] Title insurance rates and rate filings shall be subject
11 to article twenty-three of this chapter.~~

12 (c) Notwithstanding any other provision of this article, every title
13 insurance [~~company~~] corporation shall [~~be required to~~] offer, at or
14 prior to title closing, an optional policy form [~~which will insure~~] that
15 insures the title of owner-occupied real property used predominantly for
16 residential purposes [~~which~~] that consists of not more than four dwell-
17 ing units for an amount equal to the market value of the property at the
18 time a loss is discovered. Such policy form shall be filed with, and
19 approved by, the superintendent [~~pursuant to subsection (a) of this~~
20 ~~section~~] in accordance with article twenty-three of this chapter. Rates
21 for such coverage shall be filed and approved pursuant to [~~subsection~~
22 ~~(b) of this section~~] article twenty-three of this chapter.

23 (d) No title insurance corporation, title insurance agent, or any
24 other person acting for or on behalf of [~~it~~] the title insurance corpo-
25 ration or title insurance agent, shall offer or make, directly or indi-
26 rectly, any rebate of any portion of the fee, premium or charge made, or
27 pay or give to any applicant [~~for insurance~~], or to any person, firm, or
28 corporation acting as agent, representative, attorney, or employee of
29 the owner, lessee, mortgagee or the prospective owner, lessee, or mort-
30 gagee [~~or the prospective owner, lessee, or mortgagee~~] of the real prop-
31 erty or any interest therein, either directly or indirectly, any commis-
32 sion, any part of its fees or charges, or any other consideration or
33 valuable thing, as an inducement for, or as compensation for, any title
34 insurance business, nor shall any applicant, or any person, firm, or
35 corporation acting as agent, representative, attorney, or employee of
36 the owner, lessee, mortgagee or of the prospective owner, lessee, or
37 mortgagee of the real property or anyone having any interest in real
38 property knowingly receive, directly or indirectly, any such rebate or
39 other consideration or valuable thing. Any person or entity who
40 [~~accepts or receives such a commission or rebate~~] violates this section
41 shall be subject to a penalty [equal to the greater of one thousand
42 dollars or five times the amount thereof] of (1) five thousand dollars;
43 or (2) up to ten times the amount of any compensation or rebate received
44 or paid in the case of a title insurance corporation or title insurance
45 agent; or (3) up to five times the amount of any compensation or rebate
46 received or paid; or (4) in the case of an applicant for title insurance
47 that covers real property used predominantly for residential purposes,

48 and which consists of not more than four dwelling units, other than
49 hotels and motels, an amount not to exceed the compensation or rebate
50 received or paid, when such applicant knew that it was a violation to
51 receive such rebate, or other consideration or valuable thing; provided,
52 however, if such applicant did not know that it was a violation to
53 receive such rebate, or other consideration or valuable thing, he or she
54 shall not be assessed a penalty under this subdivision. 55 (e)

Premium rates for coverage shall fully reflect the foregoing 56
prohibitions of subsection (d) [~~hereof~~] of this section.

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1 § 18. This act shall take effect on the one hundred eightieth day
2 after it shall have become a law, provided, however, that effective
3 immediately:

4 (1) the addition, amendment, or repeal of any rule or regulation
5 necessary for the implementation of this act on its effective date is
6 authorized and directed to be made and completed on or before such
7 effective date;

8 (2) the superintendent of financial services shall promulgate applica-
9 tion forms for persons, firms, associations, and corporations seeking to
10 obtain a license as a title insurance agent; and

11 (3) each person, firm, association, or corporation that has filed an
12 application for a license as a title insurance agent, on or before Janu-
13 ary 1, 2015 or within 90 days after the superintendent of financial
14 services has promulgated application forms pursuant to this act, which-
15 ever date is later, may act as such licensee without a license issued
16 pursuant to section 2139 of the insurance law, as added by section four-
17 teen of this act, until the superintendent of financial services has
18 made a final determination on the application for such license filed by
19 such person, firm, association, or corporation.