

**A Proposal of the New York State Land Title Association  
(as completed October 17, 2005, based upon the  
Executive Committee's decisions on October 11, 2005)**

AN ACT to amend the insurance law  
in relation to licensing of agents of  
title insurance corporations.

Section 1. The insurance law is amended by adding a new article 21-A, to read as follows:

**ARTICLE 21-A**

**Title Insurance Agents**

- §2151. Definitions
- §2152. Acting without a license
- §2153. Title insurance agents; licensing
- §2154. Temporary license in case of death, service in armed forces or disability
- §2155. Revocation or suspension of license of title insurance agent or certificate of appointment of a sub-licensee or an attorney acting as a title insurance agent
- §2156. Penalties for violations
- §2157. Revoked licenses
- §2158. Certificate of appointment and notice of termination of a title insurance agent, sub-licensee or attorney
- §2159. Commissions; premium splitting and other prohibited payments or receipts of payments
- §2160. Acting for or aiding unlicensed or unauthorized title insurance corporations
- §2161. Controlled business
- §2162. Fiduciary capacity of licensees
- §2163. Advertising by licensees
- §2164. Stay or suspension of superintendent's determination
- §2165. Impersonation at examinations prohibited
- §2166. Continuing education
- §2167. Change of address
- §2168. Administration of certain functions

## §2151. Definitions

In this article:

(a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(b) "Controlled business" means any portion of a title insurance agent's business that is referred to it by an originator of title insurance business, where the originator has a financial interest in the title insurance agent.

(c) "Core title services" in connection with the activities governed by this article means:

(1) the examination of the title search to determine insurability of the title;

(2) the preparation and issuance of a title insurance commitment;

(3) the clearance of title exceptions in connection with the issuance of a title insurance policy;

(4) the collection of a title insurance premium; and

(5) the marking up of a title insurance commitment to bind a title insurance corporation or the preparation and issuance of a title insurance policy on behalf of a title insurance corporation.

(d) "Financial interest" means a direct or indirect interest, legal or beneficial, wherein the holder is or will be entitled to any portion of the profits or net worth of the person in which the interest is held.

(e) "Licensee" means a title insurance agent to whom a license has been issued pursuant to section two thousand one hundred fifty-three.

(f) "Negotiate" or "negotiation" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular title insurance policy concerning any of the substantive benefits, terms or conditions of the policy, provided that the person engaged in that act sells title insurance.

(g) "Originator" means a person, or employee of such person, having a financial interest in any business entity engaged in the business of or who is individually engaged in the business of:

(1) buying or selling any interest in real property;

(2) making loans secured by any interest in real property; or

(3) acting as a real estate broker or agent, mortgage lender, mortgage banker, mortgage broker,

or an agent, representative or attorney of a person which leases, buys or sells any interest in, or which lends or borrows money secured by an interest in real property.

(h) "Person" means an individual or a business entity.

(i) "Real property" means any interest in real or personal property or any interest in a unit under a plan of cooperative ownership for which a title insurance policy may be issued in this state.

(j) "Referral" means the directing or influencing, or the exercising of any power to direct or influence the placement of title insurance business.

(k) "Sell" or "sale" means to exchange a title insurance policy by any means, for money or its equivalent, on behalf of a licensed title insurance corporation.

(l) "Solicit" or "solicitation" means attempting to sell title insurance or asking or urging a person to apply for a particular kind of title insurance from a particular licensed title insurance corporation.

(m) "Sub-licensee" means an individual, other than an originator, who is a member, manager, partner, director, officer or employee of a business entity licensed as a title insurance agent designated by such title insurance agent to act on its behalf and to fulfill continuing education requirements on behalf of the title insurance agent.

(n) "Title insurance agent" means an authorized person, other than an employee of a title insurance corporation who, on behalf of the title insurance corporation, performs the following acts, in conjunction with the issuance of a title insurance commitment or policy:

(1) determines insurability and issues title insurance commitments or policies, or both, based upon the performance or review of a title search; and

(2) performs one or more of the following functions:

(A) collects or disburses premiums or other funds; or

(B) solicits or negotiates the issuance of a title insurance policy.

(o) "Title insurance commitment" means a report, binder, certificate or other document issued prior to the issuance of a title insurance policy which contains the terms, conditions and exceptions pursuant to which a title insurance policy is to be issued.

(p) "Title insurance corporation" means a corporation organized in compliance with article sixty-four of this chapter.

(q) "Title insurance policy" or "title insurance" means any policy or contract insuring or guaranteeing the owners of real property and chattels real and other persons interested therein, or

having liens thereon, against loss by reason of encumbrances thereon and defective titles, and any substantially similar kind of insurance.

(r) "Title search" means a written synopsis or summary of instruments affecting titles to real property, chattels real, and cooperative units and proprietary leases, and of liens or charges affecting the same.

### **§2152. Acting without a license**

(a) No person shall act as a title insurance agent in this state without having authority to do so by virtue of a license issued and in force pursuant to the provisions of this chapter.

(b) No person shall accept any fee, compensation, commission or other valuable consideration for acting as a title insurance agent in this state, or with respect to the issuance of a title insurance policy, if that person is required to be licensed under this article and is not so licensed.

(c) A title insurance corporation or a title insurance agent may pay or assign fees, compensation, commissions or other valuable consideration to a title insurance agent or to persons who do not act as a title insurance agent in this state, unless the payment would violate any provision of this chapter.

(d) Every licensee shall notify the superintendent upon changing his, her or its legal name. Except for an individual licensee's own legal name, no licensee shall use any name, in conducting a business regulated by this article, that has not been previously approved by the superintendent.

(e) Sub-sections (a) and (b) of this section shall not apply to:

(1) a title insurance corporation, or to any officer or employee of such title insurance corporation acting in their capacity as such in discharging the duties of their office or employment, other than an originator, notwithstanding the manner in which the officer or employee may be compensated;

(2) an individual, other than an originator, employed by a title insurance agent, acting on a full-time or part-time basis in the capacity of and within the scope of his duties as such an employee under the supervision of a licensee, notwithstanding the manner in which such employee or sub-licensee may be compensated;

(3) an individual, other than an originator, engaged to represent a title insurance corporation or title insurance agent at the closing of title, and acting in such capacity, provided such individual is paid no more than the reasonable and customary compensation for services actually rendered at such closing, but only with respect to such engagement;

(4) a person, other than an originator, acting in the capacity of an independent contractor for a title insurance agent or for a title insurance corporation, who receives compensation from such

agent or corporation for services actually rendered in an amount not in excess of the reasonable and customary compensation therefor, but only with respect to such services;

(f) Subsections (a) and (b) of this section shall not apply to an attorney licensed to practice law in this state who holds a valid certificate of appointment issued to and in force with respect to such attorney pursuant to section two thousand one hundred fifty-eight of this article by the title insurance corporation for which such attorney is acting as a title insurance agent in this state.

### **§2153. Title insurance agents; licensing**

(a) The superintendent may issue a license to any person who or which has complied with the requirements of this chapter, authorizing such licensee to act as a title insurance agent, on behalf of one or more licensed title insurance corporations.

(b)(1) A license issued to a business entity shall designate at least:

(A) one sub-licensee to act as a title insurance agent thereunder and to fulfill the continuing education requirement under section two thousand one hundred sixty-six who has filed with the superintendent a certificate of appointment pursuant to section two thousand one hundred fifty-eight, or

(B) one attorney licensed to practice law in this state to act as a title insurance agent thereunder who has filed with the superintendent a certificate of appointment pursuant to section two thousand one hundred fifty-eight.

(2) At least one such designated sub-licensee or attorney must have a financial interest in the licensee. A license issued to a business entity shall authorize only the designated sub-licensee or sub-licensees or the designated attorney or attorneys to act on behalf of the title insurance agent, and every such designated sub-licensee or attorney shall be authorized to act only in the name of the licensee.

(c) Every individual applicant for a license under this section and every designated sub-licensee and attorney shall be eighteen years of age or over at the time of the issuance of such license.

(d) Before any original title insurance agent's license is issued there shall be on file in the office of the superintendent:

(1) an application by the prospective licensee in such form or forms and supplements, and containing information the superintendent prescribes and for each business entity, the sub-licensee, sub-licensees, attorney or attorneys named in the application shall be designated responsible for the business entity's compliance with the insurance laws, rules and regulations of this state. The application shall include the names and addresses of each designated sub-licensee or attorney, each person that has a financial interest in the applicant, and each such person that is or will be an originator, and with respect to each such sub-licensee, attorney and originator, his, her or its financial interest in the applicant and in every other title insurance agent or insurance agent whose license had at any time been suspended or revoked, and any other information the

superintendent prescribes.

(2) a certificate of appointment issued by a title insurance corporation pursuant to section two thousand one hundred fifty-eight of this article, stating that it has made such investigation of the prospective licensee and its sub-licensees and attorneys as it deems appropriate and that such title insurance corporation appoints such prospective licensee to act as its agent if a license as a title insurance agent is issued by the superintendent to the prospective licensee.

(e)(1) The superintendent shall, in order to determine the competency of every individual applicant and of every proposed sub-licensee of an applicant business entity to have the license applied for, require such individual to submit to a personal written examination and to pass the same to the satisfaction of the superintendent. Such examination shall be held at such times and places as the superintendent shall from time to time determine. Every individual applying to take any written examination shall, at the time of applying therefor, pay to the superintendent, or, at the discretion of the superintendent, directly to any organization that is under contract to provide examination services, an examination fee of an amount which is the actual documented administrative cost of conducting said qualifying examination as certified by the superintendent from time to time. An examination fee represents an administrative expense and is not refundable. The superintendent may accept, in lieu of any such examination, the result of any previous written examination, given by the superintendent, which in his judgment is equivalent to the examination for which it is substituted.

(2) No individual shall be deemed qualified to take the examination unless he shall have successfully completed a course or courses, approved as to method and content by the superintendent, covering at least the core title services and the title insurance policies and requiring not less than forty-five hours of classroom work or the equivalent in correspondence work or similar instruction. Such course or courses either shall have been given by a degree conferring college or university which has, when such course is taken by such individual, a curriculum or curricula registered with the state education department, whether such course be given as part of any such curricula or separately, or by any other institution, agents' association, trade association, bar association or title insurance corporation, which maintains equivalent standards of instruction and which shall have been approved for such purpose by the superintendent.

(f) No such written examination shall be required:

(1) in the discretion of the superintendent, of any individual whose license has been revoked or suspended;

(2) in connection with any certificate of appointment for an additional title insurance corporation;

(3) of any applicant who has passed the written examination given by the superintendent for a title insurance agent's license and was licensed as such, or of an applicant who was licensed as a title insurance agent but did not pass such an examination, provided the applicant applies within

two years following the date of termination of his license; or

(4) of an attorney licensed to practice law in this state.

(g) Notwithstanding any other provision of this section, no course of study or written examination shall be required with respect to any applicant who files an application under this section within one year after the effective date of this article and who demonstrates to the satisfaction of the superintendent that such prospective licensee or its prospective sub-licensee has regularly and continuously performed the functions of a title insurance agent for a period of at least five years immediately preceding the filing of such application.

(h) The superintendent may refuse to issue any title insurance agent's license if, in his judgment, the proposed licensee or any sub-licensee or attorney is not trustworthy and competent to act as such agent, or has given cause for the revocation or suspension of such a license, or has failed to comply with any prerequisite for the issuance of such license.

(i)(1) The superintendent may require from every applicant and from every proposed sub-licensee, before or after issuing any such license, a statement subscribed and affirmed as true under the penalties of perjury as to the ownership of any interest in an applicant business entity and as to facts indicating whether any applicant has been by reason of an existing license, if any, or will, by reason of the license applied for, be receiving any benefit or advantage in violation of section two thousand three hundred twenty-four of this chapter, and also as to such facts as the superintendent may deem pertinent to the requirements of this subsection. The superintendent may refuse to issue, suspend or revoke a license, as the case may be, to or of any applicant and any licensee if the superintendent finds that such applicant or licensee has been or will be, as aforesaid, receiving any benefit or advantage in violation of section two thousand three hundred twenty-four of this chapter, or if the superintendent finds that an originator having a financial interest in the applicant or licensee will be or has been the sole source of business of the applicant or licensee or that the applicant or licensee does not or will not have significant and multiple sources of business;

(2) Nothing herein disqualifies any applicant by reason of acts done or facts existing at a time when the same did not, under the law then in force, constitute or contribute to constituting such a disqualification.

(j)(1) Every license issued to a business entity pursuant to this section shall expire on June thirtieth of even numbered years. Every license issued pursuant to this section to an individual, who was born in an odd numbered year, shall expire on the individual's birthday in each odd-numbered year. Every license issued pursuant to this section to an individual, who was born in an even numbered year, shall expire on the individual's birthday in each even numbered year. Every such license may be renewed for the ensuing period of twenty-four months upon the filing of an application in conformity with this subsection.

(2) Such licenses may be issued for all of such two year terms, or, upon application made during any such term, for the balance thereof.

(3) Any license shall be considered in good standing within the license term unless:

(A) revoked or suspended by the superintendent pursuant to this article.

(B) all certificates of appointment have been terminated by the title insurance corporations, at which time the license becomes inactive.

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

(4) Before the renewal of any title insurance agent's license shall be issued, the following requirements shall have been met:

(A) The licensee shall have filed a completed renewal application in such form or forms and supplements thereto and containing such information as the superintendent may prescribe.

(B) The licensee shall have paid such fees as are prescribed in this section.

(5) If the agent's license is deemed to be in an inactive status at the time of renewal, a renewal application may be completed and filed with the superintendent for the ensuing term of a license; however, if a certificate of appointment is not filed on the agent's behalf within the term of the renewal, the license will expire and will not be renewed at the end of the license term. During the term of the license for which no certificate of appointment was on file, it shall be deemed to be inactive.

(6) If an application for a renewal license shall have been filed with the superintendent before the expiration of such license, the license sought to be renewed shall continue in full force and effect either until the issuance by the superintendent of the renewal license applied for or until five days after the superintendent shall have refused to issue such renewal license and shall have given notice of such refusal to the applicant and to each proposed sub-licensee. Before refusing to renew any such license, the superintendent shall notify the applicant of his intention to do so and shall give such applicant a hearing.

(7) (A) The superintendent may in issuing a renewal license dispense with the requirements of a verified application by any individual licensee who, by reason of being engaged in any military service for the United States, is unable to make personal application for such renewal license, upon the filing of an application on behalf of such individual, in such form as the superintendent shall prescribe, by some person or persons who in his judgment have knowledge of the facts and who make affidavit showing such military service and the inability of such title insurance agent to make personal application.

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

(8) In addition to any examination fee required by subsection (e) of this section, there shall be paid to the superintendent for each license applicant for the term of the license, except any license applicant under subsection (k) of this section, the sum of three hundred dollars and for each proposed sub-licensee the sum of forty dollars for each year or fraction of a year in which a license shall be valid. If, however, the license applicant should withdraw the application or the superintendent should deny the application before the license applied for is issued, the superintendent may refund the fee paid by the applicant for the license applied for with the exception of any examination fees required pursuant to subsection (e) of this section.

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

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

(11) Except where a business entity licensed as a title insurance agent is applying to add a sub-licensee, or the date of the expiration of the license is changed, or a change is applied for pursuant to subsection (l) of this section, there shall be no fee required for the issuance of an amended license.

(12) The license shall contain the licensee's name, address, personal identification number, the date of issuance, the expiration date and any other information the superintendent deems necessary.

(k) Any licensee may at any time while such license is in force apply to the superintendent for an additional license or licenses authorizing such licensee, and the sub-licensees named in such existing license, to act as title insurance agent for one or more additional title insurance corporations. The superintendent may, after the requirements of this chapter have been complied with and after a certificate of appointment has been filed with the superintendent by each such additional title insurance corporation, as provided in section two thousand one hundred fifty-eight of this article, issue such additional license or licenses. There shall be a fee of fifteen dollars paid to the superintendent for the issuance of each additional license pursuant to this subsection.

(l) Within sixty days of any change in the identity of any of its sub-licensees, or change in any person having a financial interest in the title insurance agent, the title insurance agent shall apply to the superintendent for an amendment to the license on a form prescribed by the superintendent containing any information the superintendent deems necessary. There shall be paid to the superintendent for each such application the sum of ten dollars.

(m) The superintendent may issue a replacement for a currently in force license which has been lost or destroyed. Before such replacement license shall be issued, there shall be on file in the office of the superintendent a written application for such replacement license, affirming under

penalty of perjury that the original license has been lost or destroyed, together with a fee of fifteen dollars.

**§2154. Temporary license in case of death, service in armed forces or disability**

(a) The superintendent may issue a temporary title insurance agent's license, without requiring the applicant to pass a written examination, in the case of a license issued pursuant to paragraph two hereof, in the following cases:

(1) in the case of the death of a person who at the time of his death was a licensed title insurance agent under subsection (a) of section two thousand one hundred fifty-three of this article:

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

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

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

(D) to an officer or director of a corporation upon the death of the only officer or director who was qualified as a sub-licensee or to the executor or administrator of the estate of such deceased officer or director;

(2) to any person who may be designated by a person licensed pursuant to this article as a title insurance agent, and who is absent because of service in any branch of the armed forces of the United States, including a partnership or corporation which is licensed pursuant to this article as a title insurance agent, in a case where the sub-licensee or all sub-licensees, if more than one, named in the license or licenses issued to such partnership or corporation is or are absent because of service in any branch of the armed forces of the United States; and

(3) to the next of kin of a person who has become totally disabled and prevented from pursuing any of the duties of his or her occupation, and who at the commencement of his or her disability was a licensed title insurance agent under subsection (a) of section two thousand one hundred fifty-three of this article.

(b)(1) Before any such license or licenses shall be issued, there shall be filed in the office of the superintendent a written application by the person or persons desiring such license or licenses, together with a written designation of such person or persons, in the case of a license issued pursuant to paragraph two of subsection (a) hereof, in such form or forms and supplements thereto, and containing such information, as the superintendent prescribes.

(2) No fee shall be charged for any such license or any renewal thereof, except that fees for the renewals of any license issued pursuant to paragraph two of subsection (a) hereof shall be one-half of the fees otherwise required by this chapter for such license.

(c) Such license or licenses shall authorize the person or persons named therein to renew the business of the deceased, absent or disabled agent, as the case may be, or of the firm or, in the case of a license issued pursuant to paragraph one or three of subsection (a) hereof, the association whose business is being continued thereunder, each such agent, firm or association being referred to in this section as "original licensee", expiring during the period in which such temporary license or licenses are in force, to collect premiums due and payable to the original licensee or, in the case of a license issued pursuant to paragraph one of subsection (a) hereof, to his estate, and to perform such other acts as a title insurance agent, as the case may be, as are incidental to the continuance of the title insurance business of such original licensee.

(d) A person eligible for such a temporary title insurance agent's license may be licensed only as a title insurance agent of the title insurance corporation or corporations which such original licensee was licensed to represent at the time of such death, entrance upon military or naval duty or disability.

(e)(1) In the case of a license or licenses issued pursuant to paragraph one of subsection (a) of this section, the license or licenses may be issued for a term not exceeding ninety days from the death of such deceased, and the superintendent may in his discretion renew such license or licenses for an additional term or terms of ninety days each, not exceeding in the aggregate fifteen months.

(2) The superintendent may issue renewal licenses for an additional term or terms of ninety days each exceeding the aggregate period of fifteen months when in his judgment it will best serve the interests of any person serving in the armed forces of the United States.

(3) A license issued to the next of kin shall not be renewed if, before the expiration of its term, an administrator or executor of the deceased shall have applied for and qualified for such a license.

(4) Except as provided in subsection (h) of this section, no person or persons so licensed shall, by virtue of such license, be authorized to solicit, negotiate or sell new title insurance.

(f)(1) In the case of a license or licenses issued pursuant to paragraph two of subsection (a) hereof, the license or licenses may be issued for a term not exceeding six months, and the superintendent may in his discretion renew such license or licenses for an additional term or terms of six months each.

(2) The term of any such license or renewal shall in no event extend beyond sixty days after the final discharge of such absent title insurance agent from military or naval duty, and each such license or renewal shall expire on such day as if that were the day specified therein for the expiration thereof.

(3) Except as provided in subsection (h) of this section, no person so licensed shall solicit new business under such license.

(g)(1) In the case of a license or licenses issued pursuant to paragraph three of subsection (a) hereof, the license or licenses may be issued for a term not exceeding ninety days from the disability of such person, and the superintendent may in his discretion renew such license or licenses for an additional term or terms of ninety days each, not exceeding in the aggregate fifteen months.

(2) Except as provided in subsection (h) of this section, no person or persons so licensed shall, by virtue of such license, be authorized to solicit, negotiate or sell new title insurance.

(h) A title insurance corporation for whom a deceased person, a disabled person or a person absent because of service in any branch of the armed forces of the United States had been acting as a licensed title insurance agent or its sub-licensee, may give a person or persons issued a temporary license pursuant to this section written approval to solicit, negotiate and sell new title insurance and such person or persons may thereafter do so under such temporary license, including any renewal or extension thereof, unless and until such approval is revoked in writing by the title insurance corporation.

**§2155. Revocation or suspension of license of title insurance agent or certificate of appointment of an attorney acting as a title insurance agent**

(a) The superintendent may refuse to renew, revoke, or may suspend for a period the superintendent determines the license of any title insurance agent, if, after notice and hearing, the superintendent determines that the licensee or any sub-licensee has:

(1) violated any insurance laws, or violated any regulation, subpoena or order of the superintendent of insurance or of another state's insurance commissioner, or has violated any law in the course of his dealings in such capacity;

(2) provided materially incorrect, materially misleading, materially incomplete or materially untrue information in the license application;

(3) obtained or attempted to obtain a license through misrepresentation or fraud;

(4) (A) used fraudulent, coercive or dishonest practices;

(B) demonstrated incompetence;

(C) demonstrated untrustworthiness; or

(D) demonstrated financial irresponsibility in the conduct of business in this state or elsewhere;

(5) improperly withheld, misappropriated or converted any monies or properties received in the course of business in this state or elsewhere;

(6) intentionally misrepresented the terms of an actual or proposed title insurance contract or application for title insurance;

(7) has been convicted of a felony;

(8) admitted or been found to have committed any insurance unfair trade practice or fraud;

(9) had a title insurance agent license, or an insurance agent license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) forged another's name to an application for title insurance or for any other insurance or to any document related to a title insurance transaction or to any other insurance transaction;

(11) improperly used notes or any other reference material to complete an examination for an insurance license;

(12) failed to comply with an administrative or court order imposing a child support obligation;  
or

(13) failed to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(b) Before revoking or suspending the license of any title insurance agent pursuant to the provisions of this article, the superintendent shall, except when proceeding pursuant to subsection (f) of this section, give notice to the licensee and to every sub-licensee and shall hold, or cause to be held, a hearing not less than ten days after the giving of such notice.

(c) If a title insurance agent's license pursuant to the provisions of this article is revoked or suspended by the superintendent, he shall forthwith give notice to the licensee.

(d) The revocation or suspension of any title insurance agent's license pursuant to the provisions of this article shall terminate forthwith such title insurance agent's license and the authority conferred thereby upon all sub-licensees and attorneys.

(e)(1) No individual or business entity, whose license as a title insurance agent subject to subsection (a) of this section has been revoked, and no business entity of which such individual is a member, officer or director, shall be entitled to obtain any license under the provisions of this chapter for a period of one year after such revocation, or, if such revocation be judicially reviewed, for one year after the final determination thereof affirming the action of the superintendent in revoking such license.

(2) If any such license held by a business entity be revoked, no member, officer or director of such business entity shall be entitled to obtain any license, or to be named as a sub-licensee in any such license, for the same period of time, unless the superintendent determines, after notice and hearing, that such member, officer or director was not personally at fault in the matter on account of which such license was revoked.

(f) If any licensed title insurance agent or any person aggrieved shall file with the

superintendent a verified complaint setting forth facts tending to show sufficient ground for the revocation or suspension of any title insurance agent's license, the superintendent shall, after notice and a hearing, determine whether such license shall be suspended or revoked.

(g) The superintendent shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter against any individual or business entity who is under investigation for or charged with a violation of this chapter, even if the individual's or business entity's license has been surrendered, or has expired or has lapsed by operation of law.

(h) A licensee subject to this article shall report to the superintendent any administrative action taken against the licensee in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

(i) Within thirty days of the initial pretrial hearing date, a licensee subject to this article shall report to the superintendent any criminal prosecution of the licensee taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

(j) (1) The superintendent may revoke or may suspend for a period the superintendent determines the certificate of appointment of any sub-licensee or attorney issued pursuant to section two thousand one hundred fifty-eight of this article, if, after notice and hearing, the superintendent determines that such sub-licensee or attorney has committed any act specified in paragraphs (1) through (13) of subsection (a) of this section or if such attorney's license to practice law in this state is suspended or revoked.

(2) No sub-licensee or attorney whose certificate of appointment has been revoked shall be entitled to obtain a certificate of appointment or license under the provisions of this article for one year after such revocation, or, if such revocation be judicially reviewed, for one year after the final determination thereof affirming the action of the superintendent in revoking such certificate.

(3) The imposition of any penalty under this article against an attorney shall not limit the authority of any court to impose any discipline against the attorney pursuant to any other law or rule.

### **§2156. Penalties for violations**

(a) The superintendent, in lieu of revoking or suspending the license of a licensee or a certificate of appointment of a sub-licensee or an attorney in accordance with the provisions of this article, may in any one proceeding by order, require the licensee, sub-licensee or attorney to pay to the people of this state a penalty in a sum not exceeding five hundred dollars for each offense, and a penalty in a sum not exceeding twenty-five hundred dollars in the aggregate for all offenses.

(b) Upon the failure of such a licensee, sub-licensee or attorney to pay such penalty ordered

pursuant to subsection (a) hereof within twenty days after the mailing of such order, postage prepaid, registered, and addressed to the last known place of business of such licensee, sub-licensee or attorney, unless such order is stayed by an order of a court of competent jurisdiction, the superintendent may revoke the license of such licensee or the certificate of appointment of such sub-licensee or attorney issued under this article or may suspend the same for such period as he determines.

(c) In addition to or in lieu of revoking or suspending the license of a licensee or a certificate of appointment of a sub-licensee or an attorney in accordance with the provisions of this article, and in addition to or in lieu of any penalty imposed pursuant to subsection (a) of this section, the superintendent may require a licensee, sub-licensee or attorney to pay the people of this state a penalty in a sum equal to the title insurance premium or other compensation received by the person found to have violated section two thousand one hundred fifty-five of this article, in connection with any transaction which the superintendent finds to have constituted a ground for such a violation, except that such sum shall not include any portion of a premium due to a title insurance corporation.

(d) Nothing in this article shall limit the authority of the superintendent to maintain an action for the purpose of obtaining an injunction pursuant to section three hundred twenty-seven of this chapter.

#### **§2157. Revoked licensees**

(a)(1) No person subject to the provisions of this chapter whose license under this article has been revoked, or whose license to engage in the business of insurance in any capacity has been revoked by any other state or territory of the United States shall become employed or appointed by a title insurance agent as an officer, director, manager, controlling person or for other services, without the prior written approval of the superintendent, unless such services are for maintenance or are clerical or ministerial in nature.

(2) No person subject to the provisions of this chapter shall knowingly employ or appoint any person whose license issued under this article has been revoked, or whose license to engage in the business of insurance in any capacity has been revoked by any other state or territory of the United States, as an officer, director, manager, controlling person or for other services, without the prior written approval of the superintendent, unless such services are for maintenance or are clerical or ministerial in nature.

(3) No corporation or partnership subject to the provisions of this chapter shall knowingly permit any person whose license issued under this article has been revoked, or whose license to engage in the business of insurance in any capacity has been revoked by any other state, or territory of the United States, to be a shareholder or have an interest in such corporation or partnership, nor shall any such person become a shareholder or partner in such corporation or partnership, without the prior written approval of the superintendent.

(4) For the purpose of this section a "controlling person" is any person who or which, directly or

indirectly, has the power to direct or cause to be directed the management, control or activities of such licensee.

(b) The superintendent may approve the employment, appointment or participation of any such person whose license has been revoked:

(1) if he determines that the duties and responsibilities of such person are subject to appropriate supervision and that such duties and responsibilities will not have an adverse effect upon the public, other licensees, or the licensee proposing employment or appointment of such person; or

(2) if such person has filed an application for relicensing pursuant to this article and the application for relicensing has not been approved or denied within one hundred twenty days following the filing thereof, unless the superintendent determines within the said time that employment or appointment of such person by a licensee in the conduct of an insurance business would not be in the public interest.

(c) The provisions of this section shall not apply to the ownership of shares of any corporation licensed pursuant to this chapter if the shares of such corporation are publicly held and traded in the over-the-counter market or upon any national or regional securities exchange.

(d) The provisions of this section shall apply to relationships created or proposed on or after the effective date of this section, as well as to any person whose license is revoked on or after such date.

**2158. Certificate of appointment and notice of termination of a title insurance agent, sub-licensee or attorney**

(a) Every title insurance corporation doing business in this state shall file a certificate of appointment in such form as the superintendent may prescribe in order to appoint title insurance agents or attorneys licensed to practice law in this state to act as title insurance agents on behalf of such title insurance corporations.

(b) (1) To appoint a title insurance agent, the appointing title insurance corporation shall file, in a format approved by the superintendent, a certificate of appointment stating that it has made such investigation of the prospective title insurance agent as it deems appropriate and that such title insurance corporation appoints such prospective licensee so named to act as its agent if a license as a title insurance agent is issued by the superintendent to the prospective licensee. Such certificate shall be subscribed by an officer of the title insurance corporation and affirmed by such officer as true under penalty of perjury.

(2) To appoint an attorney licensed to practice law in this state to act as a title insurance agent in this state, pursuant to subsection (f) of section two thousand one hundred fifty-two of this article, or to act under a license issued to a business entity, pursuant to section two thousand one hundred fifty-three of this article, the appointing title insurance corporation shall file, in a format approved by the superintendent, a certificate of appointment stating that it has made such

investigation of the attorney as it deems appropriate and that such title insurance corporation appoints such attorney so named to act as its agent. Such certificate shall be subscribed by an officer of the title insurance corporation and affirmed by such officer as true under penalty of perjury.

(3) To appoint a sub-licensee to act as a title insurance agent under a license issued to a business entity, pursuant to section two thousand one hundred fifty-three of this article, the appointing title insurance corporation shall file, in a format approved by the superintendent, a certificate of appointment stating that it has made such investigation of the sub-licensee as it deems appropriate and that such title insurance corporation appoints such individual so named to act as such sub-licensee. Such certificate shall be subscribed by an officer of the title insurance corporation and affirmed by such officer as true under penalty of perjury.

(c) Certificates of appointment shall be valid until (i) terminated by the appointing title insurance corporation after a termination in accordance with the provisions of the agency contract; (ii) the license or the certificate of appointment is suspended or revoked by the superintendent; or (iii) the license expires and is not renewed.

(d) Every title insurance corporation or the authorized representative of the title insurance corporation doing business in this state shall, upon termination of the certificate of appointment as set forth in subsection (c) of this section of any title insurance agent licensed in this state, or of any sub-licensee, or of any attorney licensed to practice law in this state, or upon termination for cause for activities as set forth in subsection (a) of section two thousand one hundred fifty-five of this article, of the certificate of appointment of any title insurance agent, sub-licensee or attorney, file with the superintendent within thirty days a statement, in such form as the superintendent may prescribe, of the facts relative to such termination for cause. The title insurance corporation, or its authorized representative shall provide, within fifteen days after notification has been sent to the superintendent, a copy of the statement filed with the superintendent to the title insurance agent, sub-licensee or attorney at his last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier. Every statement made pursuant to this subsection shall be deemed a privileged communication.

(e) The title insurance corporation, or its authorized representative shall promptly notify the superintendent in a format acceptable to the superintendent if, upon further review or investigation, the title insurance corporation or its authorized representative discovers additional information that would have been reportable to the superintendent had the title insurance corporation then known of its existence. Every statement made pursuant to this subsection shall be deemed a privileged communication.

(f)(1) Within fifteen days after making the notification required by subsection (e) of this section the title insurance corporation or its authorized representative shall mail a copy of the notification to the title insurance agent, sub-licensee or attorney at his last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(2) Within thirty days after the title insurance agent, sub-licensee or attorney has received the original or additional notification, the title insurance agent, sub-licensee or attorney may file written comments concerning the substance of the notification with the superintendent. The title insurance agent, sub-licensee or attorney shall, by the same means, simultaneously send a copy of the comments to the reporting title insurance corporation or its authorized representative and the comments shall become a part of the superintendent's file and accompany every copy of a report distributed or disclosed for any reason about the title insurance agent, sub-licensee or attorney as permitted by section one hundred ten of this chapter.

(g)(1) In the absence of fraud, bad faith or gross negligence, a title insurance corporation or its authorized representative, a title insurance agent, a sub-licensee, an attorney, the superintendent, or an organization of which the superintendent is a member and that compiles the information and makes it available to other insurance superintendents or commissioners or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the superintendent, from a title insurance corporation, a title insurance agent, a sub-licensee or an attorney, or the authorized representative of any of them, or a statement by a terminating title insurance corporation or the authorized representative of the title insurance corporation, or a title insurance agent, sub-licensee or attorney to a title insurance corporation or the authorized representative of the title insurance corporation, title insurance agent, sub-licensee or attorney limited solely and exclusively to whether a termination for cause was reported to the superintendent, provided that the propriety of any termination for cause is certified in writing by an officer or authorized representative of the title insurance corporation terminating the relationship.

(2) In any action brought against a person that may have immunity under paragraph one of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the superintendent, the party bringing the action shall plead specifically in any allegation that paragraph one of this subsection does not apply because the person making the statement or providing the information did so fraudulently, in bad faith or through gross negligence.

(3) Paragraphs one and two of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

(h)(1) Any documents, materials or other information in the control or possession of the superintendent that are furnished by a title insurance corporation, title insurance agent, sub-licensee or attorney or an employee or agent thereof acting on behalf thereof, relating to the termination of a title insurance agent, sub-licensee or attorney pursuant to this section or obtained by the superintendent in an investigation pursuant to this section shall be confidential by law and privileged, shall not be subject to freedom of information requests, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the superintendent is authorized to use the documents, materials or other information in furtherance of any regulatory or legal action brought as a part of the superintendent's duties. Further, this paragraph shall not apply to any documents, materials or

other information in the control or possession of any person or entity other than the superintendent or the department, regardless of whether or not such documents, materials or other information are identical or similar to documents, materials or other information in the superintendent's control or possession to which the confidentiality restrictions of this paragraph apply.

(2) Neither the superintendent nor any person who received documents, materials or other information while acting under the authority of the superintendent shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to the provisions of paragraph one of this subsection.

(3) Nothing in this article shall prohibit the superintendent from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to article six of the public officers law to a data base or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

(i) A title insurance corporation, a title insurance agent, a sub-licensee or an attorney that fails to report as required under the provisions of this section or that is found to have reported fraudulently, in bad faith or through gross negligence by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of appointment issued under this chapter suspended or revoked and may be fined in accordance with the provisions of this chapter, provided, however, that a title insurance corporation may be fined up to five thousand dollars. In the case of a domestic title insurance corporation, the provisions of article seventy-four of this chapter shall all also apply.

**§ 2159. Commissions; premium splitting and other prohibited payments or receipts of payments.**

(a) No title insurance corporation doing business in this state, and no agent or other representative thereof, except as provided in subsection (b) hereof, shall pay any commission or other compensation to any person for acting as a title insurance agent in this state, except to a person licensed or otherwise authorized to act as a title insurance agent of such title insurance corporation.

(b) No title insurance agent shall receive any commissions or fees or shares thereof in connection with insurance coverages placed for or insurance services rendered to the state, its agencies and departments, public benefit corporations, municipalities and other governmental subdivisions in this state, unless such title insurance agent actually placed insurance coverages on behalf of or rendered insurance services to the state, its agencies and departments, public benefit corporations, municipalities and other governmental subdivisions in this state.

(c) The superintendent shall, by regulation, require title insurance agents to file disclosure statements with the insurance department and the most senior official of the governmental unit involved, with respect to any insurance coverages placed for or insurance services rendered to the state, its agencies and departments, public benefit corporations, municipalities and other

governmental subdivisions in this state.

(d) No title insurance agent or its sub-licensees, employees, or any other person acting for or on its behalf, shall, except as permitted in section two thousand three hundred twenty-four of this chapter: (1) make any rebate of any portion of the fee, premium or charge made, or (2) pay or give either directly or indirectly, any commission, any part of its fees or charges, or any other consideration or valuable thing, as an inducement for, or as compensation for, any title insurance business to any applicant for insurance or to any person acting as agent, representative, attorney, or employee of the owner, lessee, mortgagee or the prospective owner, lessee, or mortgagee of the real property which is the subject of a title insurance policy.

(e) A person, other than a title insurance corporation or a title insurance agent who is not an originator, who performs one or more, but less than all, of the core title services shall not be paid, by a title insurance corporation or a title insurance agent, more than the reasonable and customary compensation for the services actually rendered.

(f) A title insurance agent shall not directly or indirectly accept any payment for or reimbursement of any fee, fine or penalty imposed by the superintendent on the title insurance agent pursuant to this chapter.

#### **§2160. Acting for or aiding unlicensed or unauthorized title insurance corporations**

No person shall in this state act as agent for any title insurance corporation which is not licensed or authorized to do a title insurance business in this state, in the doing of any title insurance business in this state or in soliciting, negotiating or effectuating any title insurance, or shall in this state in any way or manner, except by providing a title search, aid any such title insurance corporation in effecting any title insurance policy.

#### **§2161. Controlled business**

A title insurance agent shall not allow an originator to hold a financial interest in such title insurance agent unless all of the following requirements are met at the time of the acquisition of such financial interest and at all times thereafter:

(a) The originator making a referral of title insurance business, at or prior to the time of the referral, discloses in writing to the party being referred:

(1) that the originator has a financial interest in the title insurance agent;

(2) an estimate of the cost of the services of the title insurance agent, including, without limitation, the title insurance premiums;

(3) that the party being referred is not required to use the title insurance agent to which the party is being referred.

(b) The originator is not the sole source of business of the title insurance agent.

(c) The title insurance agent has significant and multiple sources of business.

(d) Any money or other thing of value paid by the title insurance agent to the originator is based on the originator's financial interest in the title insurance agent and is not related to the amount of title insurance business such originator refers to the title insurance agent.

#### **§2162. Fiduciary capacity of licensees**

(a) Every licensee shall be responsible in a fiduciary capacity for all funds received or collected as a title insurance agent and shall not, without the express consent of his or its principal, mingle any such funds with his or its own funds or with funds held by him or it in any other capacity.

(b) This section shall not require any such agent to maintain a separate bank deposit for the funds of each such principal, if and as long as the funds so held for each such principal are reasonably ascertainable from the books of account and records of such agent.

#### **§ 2163. Advertising by licensees**

(a)(1) No licensee shall make or issue in this state any advertisement, sign, pamphlet, circular, card or other public announcement purporting to make known the financial condition of any title insurance corporation, unless the same shall conform to the requirements of section one thousand three hundred thirteen of this chapter.

(2) No licensee or other person shall, by any advertisement or public announcement in this state, call attention to any unauthorized title insurance corporation.

(b) Every licensee shall, in all advertisements, public announcements, signs, pamphlets, circulars and cards, which refer to a title insurance corporation, set forth therein the name in full of the title insurance corporation referred to.

#### **§ 2164. Stay or suspension of superintendent's determination**

The commencement of a proceeding under article seventy-eight of the civil practice law and rules, to review the action of the superintendent in suspending or revoking or refusing to renew any license under this article, shall stay such action of the superintendent for a period of thirty days. Such stay shall not be extended for a longer period unless the court shall determine, after a preliminary hearing of which the superintendent is notified forty-eight hours in advance, that a stay of the superintendent's action pending the final determination or further order of the court will not unduly injure the interests of the people of the state.

#### **§2165. Impersonation at examinations prohibited**

No person shall impersonate any other person, or permit or aid in any manner any other person to impersonate him, in connection with any examination held in accordance with the provisions of this article.

### **§ 2166. Continuing education**

(a) This section shall apply to persons licensed pursuant to this article and to individuals designated as a sub-licensee to fulfill the continuing education requirements for an entity licensed under this article.

(b) This section shall not apply to:

(1) an attorney licensed to practice law in this state;

(2) any licensees as the superintendent may exempt subject to any continuing education requirements deemed appropriate by the superintendent.

(c) Persons licensed pursuant to this article and not exempt under this article, shall biennially satisfactorily complete such courses or programs of instruction as may be approved by the superintendent, as follows:

(1) Any person holding a license issued pursuant to this article and not exempt under subsection (b) of this section shall, during each full biennial licensing period, satisfactorily complete courses or programs of instruction or attend seminars as may be approved by the superintendent equivalent to fifteen credit hours of instruction.

(2) Excess credit hours accumulated during any biennial licensing period shall not carry forward to the next biennial licensing period.

(d)(1) The courses or programs of instruction successfully completed, which shall be deemed to meet the superintendent's standards for continuing education requirements, shall be courses, programs of instruction or seminars, approved as to method and content by the superintendent, related to title insurance, and given by a degree conferring college or university whose curriculum is registered with the state education department at the time the person takes the course, whether such course be given as part of such curriculum or separately, or by any other institution, agents' association, trade association, bar association or title insurance corporation, which maintains equivalent standards of instruction and which shall have been approved for such purpose by the superintendent.

(2) The number of credit hours assigned to each of the courses or programs of instruction set forth in paragraph one of this subsection shall be determined by the superintendent.

(e) A person who teaches any approved course of instruction or who lectures at any approved seminar, and who is subject to this section, shall be granted the same number of credit hours as would be granted to a person taking and successfully completing such course, seminar or

program, provided that such credit hours shall be credited only once per approved course during any biennial licensing period.

(f) Every person subject to this section shall furnish, in a form satisfactory to the superintendent, certification attesting to the course or programs of instruction taken and successfully completed by such person pursuant to subsection (d) of this section.

(g)(1) Any person failing to meet the requirements imposed by this section shall not be eligible to renew the license.

(2) Any person whose license was not renewed shall not be eligible to become relicensed during the next biennial licensing period until that person has demonstrated to the satisfaction of the superintendent that continuing education requirements for the last biennial licensing period were met.

(3) Any person whose license was not renewed pursuant to paragraph one of this subsection, who accumulates sufficient credit hours for the prior licensing period to qualify for relicensing in the biennial period following such non-renewal, may not apply those same credit hours toward the continuing education requirements for the current biennial licensing period.

(h)(1) Any entity eligible to provide courses, programs of instruction, or seminars in accordance with subsection (d) of this section, must file for approval by the superintendent on a biennial basis, to conform with its area of instruction, a provider organization application and a course submission application for each course, program and seminar.

(2) The provider organization application shall include the names of all instructors to be used during the contract period, and instructors may be added during the period by notifying the superintendent and paying the appropriate filing fee.

(3) The completed applications shall be returned in a timely manner, as specified by the superintendent, with a non-refundable filing fee of two hundred dollars per organization, fifty dollars per course, program and seminar, and fifty dollars per instructor.

(4) Approval of the application shall be at the discretion of the superintendent.

(i) Each licensee shall pay a biennial fee of ten dollars per license, for continuing education certificate filing and recording charges, to the superintendent or, at the discretion of the superintendent, directly to an organization under contract to provide continuing education administrative services.

### **§2167. Change of address**

A licensee under this article shall inform the superintendent by a means acceptable to the superintendent of a change of address within thirty days of the change.

## §2168. Administration of certain functions

The superintendent may designate the National Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC oversees to perform ministerial functions, including the collection of fees, related to licensing under this article that the superintendent may deem appropriate.

§2. Subsection (a) of section one hundred seven of the insurance law is amended to add a new paragraph (54) to read as follows:

(54) “Title insurance agent” has the meaning ascribed to it by section two thousand one hundred fifty-one of this chapter.

§3. Subsection (b) of section three hundred four of the insurance law is amended to read as follows:

(b) The person conducting such hearing shall have power to administer oaths, examine and cross-examine witnesses and receive documentary evidence, and shall report his findings, orally or in writing, to the superintendent with or without recommendation. Such report, if adopted by the superintendent or by his authority may be the basis of any determination made by the superintendent or by his authority. One hundred twenty days after the effective date of a determination of liability for a civil penalty pursuant to section four hundred three, two thousand one hundred two [or], two thousand one hundred thirty-three, two thousand one hundred fifty-six or two thousand one hundred fifty-eight of this chapter, such determination of liability for a civil penalty may be entered as a judgment and enforced, without court proceedings, in the same manner as the enforcement of a money judgment in civil actions in any court of competent jurisdiction or any other place provided for the entry of civil judgment within the state of New York.

§4. Subsection (b) of section three hundred five of the insurance law is amended to read as follows:

(b) No insurer, insurance agent, title insurance agent, insurance broker or other person subject to the provisions of this chapter whose conduct, condition or practices are being investigated, and no officer, director or employee of any such person, shall be entitled to witness or mileage fees.

§5. Subsection (b) of section three hundred twenty-six of the insurance law is amended to read as follows:

(b) Except as provided in section two thousand one hundred twenty-four and section two thousand one hundred sixty-four of this chapter, the commencement of such proceeding shall not affect the enforcement or validity of the superintendent's order, regulation or decision under review unless the court shall determine, after a preliminary hearing of which the superintendent is notified at least forty-eight hours in advance, that a stay of enforcement pending the proceeding or until further direction of the court will not unduly injure the interests of the people of the state, in which case a stay of execution may be granted.

§6. Subsection (a) of section three hundred twenty-seven of the insurance law is amended to read as follows:

(a) The superintendent may maintain and prosecute, in the name of the people of the state, an action against any insurer, its officers, directors, trustees or agents or against any person unlawfully acting as a title insurance agent or against any broker or adjuster or against any other person subject to the provisions of this chapter, for the purpose of obtaining an injunction restraining such person or persons from doing any acts in violation of the provisions of this chapter.

§7. Subsections (a) and (b) of section 2324 of the insurance law are amended to read as follows:

(a) No authorized insurer, no licensed insurance agent, no licensed title insurance agent, no licensed insurance broker, and no employee or other representative of any such insurer, agent or broker shall make, procure or negotiate any contract of insurance other than as plainly expressed in the policy or other written contract issued or to be issued as evidence thereof, or shall directly or indirectly, by giving or sharing a commission or in any manner whatsoever, pay or allow or offer to pay or allow to the insured or to any employee of the insured, either as an inducement to the making of insurance or after insurance has been effected, any rebate from the premium which is specified in the policy, or any special favor or advantage in the dividends or other benefit to accrue thereon, or shall give or offer to give any valuable consideration or inducement of any kind, directly or indirectly, which is not specified in such policy or contract, other than any article of merchandise not exceeding fifteen dollars in value which shall have conspicuously stamped or printed thereon the advertisement of the insurer, agent or broker, or shall give, sell or purchase, or offer to give, sell or purchase, as an inducement to the

making of such insurance or in connection therewith, any stock, bond or other securities or any dividends or profits accrued thereon, nor shall the insured, his agent or representative knowingly receive directly or indirectly, any such rebate or special favor or advantage, provided, however, a licensed insurance agent, a licensed title insurance agent or a licensed insurance broker may retain the usual commission or underwriting fee on insurance placed on his own property or risks, if the aggregate of such commissions or underwriting fees will not exceed five percent of the total net commissions or underwriting fees received by such licensed insurance agent, licensed title insurance agent or insurance broker during the calendar year.

(b) Within the meaning of subsection (a) hereof, the sharing of a commission with the insured shall be deemed to include any case in which a licensed insurance agent, licensed title insurance agent or a licensed insurance broker which is a subsidiary corporation of, or a corporation affiliated with, any corporation insured, received commissions for the negotiation or procurement of any policy or contract of insurance for the insured.

§8. This act shall take effect immediately; provided that sections one through seven of this act shall take effect July 1, 2006; provided, further, that subsections (a) and (b) of section two thousand one hundred fifty-two of the insurance law, as added by section 1 of this act, shall take effect on January 1, 2007; provided, however, that the superintendent of insurance is authorized to promulgate such rules and regulations and take any other measures as may be necessary for the timely implementation of sections one through seven of this act.