



New York State Land Title Association, Inc.

Tradition, Excellence, Knowledge and Vision

**Title Insurance:
Protecting Your Piece of the Planet**

August 20, 2009

By e-mail srowland@ins.state.ny.us

Stacey Rowland, Deputy Superintendent
For Intergovernmental and Legislative Affairs

Dear Ms. Rowland:

The New York State Land Title Association, Inc. (NYSLTA) appreciates the opportunity to comment on the proposed title-agent licensing legislation being considered by the New York State Insurance Department. NYSLTA has been developing an agent licensing proposal since 2002, and is looking forward to working with the Department in promoting legislation that will safeguard consumers in the State of New York.

There is a basic and fundamental difference in how casualty or health insurance agents and title insurance agents operate and conduct their respective businesses. For example, casualty and health insurance agents primarily write policies to insure against chance or nature, whereas title insurance agents write policies to insure against prior human error(s) or malfeasance; casualty and health insurance agents renew their policies on an annual basis, whereas title agents sell their policies only upon the happening of an event such as the purchase of real property or the refinancing of real property; where casualty/health insurance agents may advise their client on how to minimize risks after a policy is written, title agents devote substantial effort and time minimizing and or eliminating risks by resolving title problems and correcting the public record on behalf of their clients.

These basic and fundamental differences between the title insurance industry and the casualty/health insurance industries require that title insurance agents be regulated under a different and separate article (21A). The NYSLTA has studied the issue of licensing for a period of years seeking and obtaining input from the various aspects of the title industry. The mere amendment of Article 21 of the Insurance Law to include title insurance agents will have an adverse and deleterious effect on title agents in the State of New York and their ability to conduct business. There are too many differences in the manner in which the business of title insurance is conducted (especially in the amount of research and work performed before a policy is written) and the business of casualty/life/health insurance. In addition, casualty/life/health insurance agents benefit from annual renewal of policies, whereas there is no renewal of a title insurance policy. Once purchased, the title insurance policy remains in effect until the consumer/purchaser sells or conveys the real property.

If Article 21 were amended to include title insurance agents, NYSLTA, as well as the underwriters doing business in the State of New York, would be required to devote substantial resources in evaluating every proposed change in the rules and regulations governing insurance agents to make sure that an innocent change or improvement with respect to casualty/life/health agents will not adversely affect title agents.

By way of illustration of some ways that the mere amendment of Article 21 would affect title insurance agents, we ask that the Department consider the following scenarios:

1. In the event of death or disability of a casualty/life/health insurance agent, the agency can continue to do business but is prohibited from accepting "new business". Unfortunately, title agents do not have continuing business. All of our business is new. This requirement in effect mandates the termination of an agency upon the death or disability of the principal agent. The NYSLTA proposed bill would prevent this from happening.
2. The Department's bill provides for penalties for agents for violations of the rules and regulations. While the monetary amount of the penalty, two thousand five hundred dollars (\$2,500.00) might be an effective enforcement technique within the casualty/health insurance business; it is not an effective deterrent within the title insurance industry where for example, a \$2,500.00 penalty may be considered the cost of doing business with respect to underwriting the title insurance for a large real estate transaction. The NYSLTA's recommendation in its proposed legislation is that the entire premium due to the agent on the transaction be forfeited. Clearly this is a much stricter and more effective deterrent.

This is by no means a complete list of all problems that would result from combining title agency licensing with that of other insurance licensing under Article 21. It does however highlight the seriousness of the differences in the types of insurance industries. More importantly title agents may be adversely affected in the future by innocent amendments to the law regarding casualty/health agents. A separate article will prevent this.

We look forward to the opportunity to work together with the Department in finalizing the legislation to license title insurance agents with meaningful controls for the Department to insure the viability of real-estate transactions in the State of New York and the protection of New York State consumers. We are willing to continue to meet with you to discuss the differences in the proposed Bills with the hope of being able to jointly support one Bill in cooperation with the Department.

Thank you again for the opportunity to comment on this issue.

Sincerely,

Sharon Sabol
Executive Vice President