

SENATE, No. 2229

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED OCTOBER 12, 2006

Sponsored by:
Senator RAYMOND J. LESNIAK
District 20 (Union)

SYNOPSIS

Permits title insurance companies and agents to offer certain inducements in connection with the business of title insurance.

CURRENT VERSION OF TEXT

As introduced.



S2229 LESNIAK

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1 AN ACT concerning the use of inducements in connection with the
2 business of title insurance and amending P.L.1944, c.27 and
3 P.L.1975, c.106.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 15 of P.L.1944, c.27 (C.17:29A-15) is amended to
9 read as follows:

10 15. No insurer or employee thereof, and no broker or agent shall
11 knowingly charge, demand or receive a premium for any policy of
12 insurance except in accordance with the respective rating-systems
13 on file with and approved by the commissioner [or, as required by
14 the commissioner, to be used on an interim basis in accordance with
15 subsection e. of section 14 of P.L.1944, c.27 (C.17:29A-14)]. No
16 insurer or employee thereof, and no broker or agent shall pay,
17 allow, or give, or offer to pay, allow, or give, directly or indirectly,
18 as an inducement to insurance, or after insurance has been effected,
19 any rebate, discount, abatement, credit, or reduction of the premium
20 named in a policy of insurance, or any special favor or advantage in
21 the dividends or other benefits to accrue thereon, or any valuable
22 consideration or inducement whatever, not specified in the policy of
23 insurance, except to the extent that such rebate, discount,
24 abatement, credit, reduction, favor, advantage or consideration may
25 be provided for in rating-systems filed by or on behalf of such
26 insurer and approved by the commissioner, or to the extent
27 permitted by a title insurance company or title insurance agent,
28 without the need for prior approval of the commissioner, pursuant
29 to section 35 of P.L.1975, c.106 (C.17:46B-35). No insured named
30 in a policy of insurance, nor any employee of such insured, shall
31 knowingly receive or accept, directly or indirectly, any such rebate,
32 discount, abatement, or reduction of premium, or any such special
33 favor or advantage or valuable consideration or inducement, except
34 for those provided for in rating-systems approved by the
35 commissioner, or those presented or offered by a title insurance
36 company or title insurance agent, without the need for prior
37 approval of the commissioner, pursuant to section 35 of P.L.1975,
38 c.106 (C.17:46B-35). Nothing herein contained shall be construed
39 as prohibiting the payment of commissions or other compensation
40 to regularly appointed and licensed agents and to brokers duly
41 licensed by this State, nor as prohibiting a discount, abatement, or
42 reduction in premium on policies issued to or on behalf of the State
43 of New Jersey.
44 (cf: P.L.1984, c.40, s.6)

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 2. Section 34 of P.L.1975, c.106 (C.17:46B-34) is amended to
2 read as follows:

3 34. Commissions; no right to pay. No title insurance company
4 and no title insurance agent shall pay, allow or give, or offer to pay,
5 allow or give, directly or indirectly, any commission or part of its
6 fee or charge or any other consideration as an inducement or
7 compensation for the placing or procuring of any order for title
8 insurance; provided, however, that nothing herein contained shall
9 be construed to prohibit the payment of a commission or other
10 compensation to a regular full-time employee of a title insurance
11 company or agent of a title insurance company as part of the regular
12 compensation of such employee or agent, or prohibit the use of
13 inducements as permitted by section 35 of P.L.1975, c.106
14 (C.17:46B-35).
15 (cf: P.L.1975, c.106, s.34)
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17 3. Section 35 of P.L.1975, c.106 (C.17:46B-35) is amended to
18 read as follows:

19 35. Rebates or reduced fees. a. No title insurance company and
20 no title insurance agent shall pay, allow or give, or offer to pay,
21 allow or give, directly or indirectly, as an inducement to insure, or
22 after insurance has been affected, any rebate, discount, abatement,
23 credit or reduction of premium or special favor, advantage, or other
24 benefit to accrue thereon or any valuable consideration or
25 inducement whatever, not specified or provided for in the policy,
26 except:

27 (1) to the extent provided for in an applicable filing with the
28 commissioner as provided by this act ; or

29 (2) if presented or offered to a person:

30 (a) who is, or will be, the purchaser of a contract or policy of
31 title insurance;

32 (b) the presentment or offer is an optional condition in
33 connection with any real property or interest therein which is, or
34 will be, the subject matter of the contract or policy of title
35 insurance;

36 (c) the person is not required to use the presenting or offering
37 title insurance company or title insurance agent in connection with
38 any real property or interest therein which is, or will be, the subject
39 matter of the contract or policy of title insurance; and

40 (d) any reduction in costs or other savings for the person, or any
41 increase in costs for the presenting or offering title insurance
42 company or title insurance agent, resulting from the person's
43 acceptance of any inducement will not be added, by the title
44 insurance company or title insurance agent, or any other party
45 directly or indirectly involved in the presenting or offering of the
46 inducement, to any of the person's other costs associated with any
47 real property or interest therein which is, or will be, the subject
48 matter of the contract or policy of title insurance.

1 b. No title insurance company and no title insurance agent shall
2 quote any fee or make any charge to any person which is less than
3 that currently available to others in a like amount and involving the
4 same factors as set forth in the schedule of fees and charges
5 established pursuant to section 41 of this act, or otherwise make or
6 permit any unfair discrimination in the premium or rates charged
7 for insurance or in other fees and charges or in other benefits, or in
8 any other of the terms and conditions of the insurance policy,
9 except to the extent provided for in an applicable filing with the
10 commissioner as provided by this act , or to the extent permitted,
11 without the need for prior approval of the commissioner, pursuant
12 to the provisions of paragraph (2) of subsection a. of this section.
13 The amount by which any fee or charge , other than a fee or charge
14 related to the use of inducements as permitted pursuant to paragraph
15 (2) of subsection a. of this section, is less than that prescribed by
16 the schedule of fees and charges established pursuant to section 41
17 of this act is an unlawful rebate.

18 c. No applicant for insurance, nor any insured, nor any owner,
19 lessee, mortgagee, existing or prospective, of the real property or
20 interest therein which is the subject matter of the application for
21 insurance, nor any person acting as agent, representative, attorney,
22 broker or employee of such applicant, insured, or such owner,
23 lessee or mortgagee, shall knowingly receive or accept, directly or
24 indirectly, any commission, rebate, discount, abatement, credit or
25 reduction of premium, or any special favor or advantage or valuable
26 consideration or inducement prohibited by this act.

27 (cf: P.L.1975, c.106, s.35)

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29 4. This act shall take effect on the first day of the fourth month
30 next following the date of enactment.

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STATEMENT

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35 This bill permits title insurance companies and title insurance
36 agents to offer certain inducements in connection with performing
37 the business of title insurance. A title insurance company or title
38 insurance agent may, without prior approval of the Commissioner
39 of Banking and Insurance, present or offer a rebate, discount,
40 abatement, credit or reduction of premium, or other benefit or
41 inducement in connection with a contract of title insurance, so long
42 as:

43 (1) it is only presented or offered to a person who is, or will be,
44 the purchaser of that contract or policy of title insurance;

45 (2) the presentment or offer is an optional condition in
46 connection with any real property or interest therein which is, or
47 will be, the subject matter of the contract or policy;

- 1 (3) the person is not required to use the presenting or offering
2 title insurance company or title insurance agent in connection with
3 any real property or interest therein which is, or will be, the subject
4 matter of the contract or policy of title insurance; and
- 5 (4) any reduction in costs or other savings for the person, or any
6 increase in costs for the presenting or offering title insurance
7 company or title insurance agent, resulting from the person's
8 acceptance of any inducement will not be added, by the title
9 insurance company or title insurance agent, or any other party
10 directly or indirectly involved in the presenting or offering of the
11 inducement, to any of the person's other costs associated with any
12 real property or interest therein which is, or will be, the subject
13 matter of the contract or policy of title insurance.