



## National Agency Bulletin

From: Michael Kelly, New York State Counsel  
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Name: New York Agent Licensing

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The New York Agent Licensing bill was signed into law March 31, 2014. The text of the law may be found here

<http://nyslta.org/sites/default/files/PART%20V%20-%20Final%20Buget%20Bill.docx>

The law does not take effect for 180 days, and in that time there will be many regulations that will fill in the blanks.

Please contact me with any questions or comments-the New York Land Title Association has been assured that it will have input in the creation of the regulations, and these regulations will be vital to our ability to continue to do business in a reasonable and professional manner

The following is a very short summary of some of the most important features. More detailed underwriting bulletins as to particular portions of the law will follow.

A title Insurance agent is now defined in section 2101 (y) of the Insurance law as follows:

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

**(A) sells, or negotiates the sale of a title insurance policy**  
**(B) evaluates the insurability of title, based upon the performance or review of a title search;**

**and**

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

**(i) collects, remits or disburses title insurance premiums, escrows or other related funds;**  
**(ii) prepares, amends, marks up or delivers a title insurance commitment or certificate of title for the purpose of the issuance of a title insurance policy by a title insurance corporation;**  
**(iii) prepares, amends or delivers a title insurance policy on behalf of a title insurance corporation; or**  
**(iv) negotiates the clearance of title exceptions, in connection with the issuance of a title insurance policy.**

You must do A and B, and one from column C. If you perform the services that define you as a Title Insurance Agent, you must obtain a license. If you perform some of the services, but not enough to define you as an agent, you may not share in the commission that a Title Insurance Agent earns.

A Title Insurance Agent must obtain a License from the Department of Financial Services (DFS) and a Certificate of Appointment from each of its underwriters.

A business entity acting as a Title Insurance Agent must be licensed. In order for the entity to be licensed, one or more of its members, officers or directors must have a Title Insurance License, as a sub-licensee. At least one of these persons must have a financial interest in the business entity.

A license is valid for two years, and must be renewed. Renewal is not automatic.

To obtain a license, you must:

- Submit an application
- Take and pass an exam
- Prior to the exam, have completed 20 hours of classroom instruction

Exemptions from the exam and pre-exam instruction:

- Having regularly and continuously performed the functions of a Title Insurance Agent for a period of 5 years immediately prior to the application, or
- A licensed attorney-at-law in New York, in good standing
- Reciprocity: Superintendent will waive licensing requirements if the applicant's home state awards nonresident licenses to New York residents on the same basis as this statute

There is a requirement for continuing education-15 hours every 2 years.

-This may be waived if the Superintendent deems that the continuing education requirements in the home state are equivalent

Attorney Agents:

- Attorneys may act as Title Insurance Agents in situations where they also represent the insured, "subject to applicable law"

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New disclosure requirements:

At time of application, a good faith estimate must be disclosed in writing to the applicant or their attorney, of premiums, "all fees and service costs, including all filing fees, recording charges, and closing costs, and any other ancillary or discretionary charges", and the amount of any commission to be paid to the agent by the underwriter. Similar disclosures are required of underwriters when the title is being written directly.

Any agent, attorney, or employee of a prospective insured who or whose spouse is an employee or has an interest in the title insurance agent must make a written disclosure as to the details of their interest, in accordance with state law and RESPA

Anti-kickback law (Sec 6409(d)) has been strengthened.

Please contact me with any questions.

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