



# Somebody to *lien* on

New regs for title agents, who build business through relationships

By **BERNADETTE STARZEE**

New licensing for title insurance agents will be fully phased in by Feb. 1, requiring those in the industry to meet certain experience requirements or pass an exam and to report data of their activities to the New York State Department of Financial Services.

John Burke, president and CEO of LandStar Title Agency in Carle Place, said regulation is a good thing for the industry.

“The consumer wins in the end,” he said. “With licensing comes a lot of disclosure guidelines, so consumers will better understand what title insurance is, why they are paying it and what those charges are prior to closing.”

Beyond state licensing, the title agency business has come under

greater federal scrutiny with the recent creation of the Consumer Financial Protection Bureau, whose responsibilities include regulating the behavior of title companies in residential mortgage transactions as well as the activities between title companies and other parties in transactions.

“There will be more vetting,” Burke said. “We’re going from a time when someone with no education or training could become a title agent as long as they could convince an insurance underwriter to let them be one.”

The title industry is big business in New York, where \$688 million in title insurance premiums were written in the first nine months of 2014, ranking fourth

behind Texas, California and Florida, according to the American Land Title Association.

Many real estate agencies have established their own affiliate title agencies, which provide an additional revenue stream while allowing the agents to provide their clients with title services as part of their full-service offerings.

“We have business relationships with service providers, including a title company, in order to provide our customers with a streamlined process and an outstanding experience,” said Laura Rittenberg, president of Coldwell Banker Residential Brokerage in Long Island and Queens.

Coldwell Banker works closely with Manhattan-based Skyline

TRG Title which, like Coldwell Banker, falls under the umbrella of real estate company Realogy.

DE Title, which has offices in Melville and Manhattan, is an affiliate of Douglas Elliman Real Estate. The relationship offers a bonus to real estate agents and their clients, said Kenneth Haber, president of DE Title, in that “we do title searches in advance of an offer, so both the agent and customer are aware of any title encumbrances or problems that may impact the amount of the offer.” Pre-offer search services are provided free of charge to the agents, to allow them to give value-added service to their clients.

Because of the potential for a conflict of interest when a real estate agent and affiliated title agent work on the same transaction – such as the title agency having a vested interest in seeing the deal go through – the Department of Financial Services requires a disclosure statement that spells out the relationship and fees and tells consumers they are free to shop around and choose another title company.

Further, title agents, also called abstracts, don’t write the insurance policies, but get them through large insurance companies like First American Title, Chicago Title and Fidelity National Title, which ultimately decide if a policy should be issued, said attorney William Post, partner at Meltzer, Lippe, Goldstein & Breitstone in Mineola, who has a real estate and corporate practice.

“You can liken it in some respects to the independent insur-

ance agent who goes to State Farm or Allstate to get the policy,” said Post, though noting in some cases abstract companies may have the right to underwrite transactions under a certain dollar amount without getting approval, though they must adhere strictly to the underwriter’s policies.

While real estate agents can recommend a title company to clients, “nine times out of 10, the attorney for the buyer will make the choice,” Haber said. In fact, most of DE Title’s business comes from real estate deals not brokered by Douglas Elliman Real Estate.

However, with the broker-owned model, some industry insiders say there is potential for abuses. Real estate brokers regularly recommend attorneys to their residential buyers and sellers. Quid-pro-quo arrangements, in which these referrals are proffered in exchange for the attorney referring business to the broker’s title agency, are illegal. After all, if an attorney is tied to working with a particular title agency, he may not be doing the right thing by his client if the agency isn’t competent or charges higher fees than necessary.

“It’s up to the attorney to make sure that regardless of what the title company has stated in the initial title report, that all exceptions that should be removed are removed, and that all fees are reviewed and the bill is adjusted if necessary so the proper amount is paid,” said Marilyn Price, a partner in the real estate practice

group at East Meadow law firm Certilman Balin Adler & Hyman.

While New York State sets rates for title insurance premiums, there are ancillary searches required in connection with the issuance of a title policy for which service fees can vary, she said.

While the potential for quid-pro-quo arrangements exists, a business model based on companies getting title work by leveraging the business real estate agents send to attorneys is not sustainable over time, said Joseph Willen, president and CEO of The Advantage Group, which includes Advantage Title in Melville.

Successful title companies “develop loyalty by delivering outstanding customer service and providing depth and breadth of resources that can make or break a deal,” Willen said.

On Long Island in particular, a lot of business is done through referral networks, Burke said.

“Within a real estate transaction, realtors like to refer certain attorneys because they do a great job, and attorneys like to refer title companies that do a great job,” he said.

“Building relationships is the most important thing,” Haber said.

Despite Coldwell Banker’s established relationship with Skyline, “agents are free to make whatever relationships they feel will be beneficial to their clients,” Rittenberg said, noting the firm’s goal is to establish customers for life, which requires working with service providers that offer an excellent customer experience.



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