



New York State Land Title Association, Inc.

Tradition, Excellence, Knowledge and Vision

Title Insurance:
Protecting Your Piece of the Planet

January 19, 2010

MEMORANDUM IN OPPOSITION

Re: S6288 (Adams)
A9441 (Brodsky)

The New York State Land Title Association is aware of the introduction of S6288 and A9441 which propose legislation directing that the State Insurance Fund be enlarged to permit it to furnish title insurance to implement a title insurance program established under the Workers' Compensation Law. The New York State Land Title Association strongly opposes this proposed legislation, and would like to make the following comments and observations in opposition.

Title insurance is unlike any other form of insurance in that its premium structure is based on risk identification and elimination procedures intended to reduce the insurer's exposure to losses resulting from claims.

The issuance of title insurance policies requires a highly experienced staff that possesses historical and legal knowledge as well as extensive underwriting skills to make timely and often immediate decisions regarding matters of law, when assessing potential claims loss exposure. The experienced title attorney or clearance officer must determine the procedures, documents, affidavits, or other assurances necessary to minimize the likelihood of a claim being made under the insurer's policy. Experienced title attorneys and clearance officers have extensive experience in underwriting title insurance, gaining a broad knowledge of many areas of the law and an intimate knowledge of many of the Chapters of the New York Statutes including, but certainly without limitation, the Real Property Law, Real Property Actions and Proceeding Law, the Civil Practice Law and Rules, the Estates Powers and Trusts Law, the Surrogates Court Procedures Act, the General Obligations Law, and the Tax Law to name but a few. An understanding of the Federal Bankruptcy Law is also imperative. Further, a thorough knowledge of local real estate procedures, customs and practices (often for multiple counties), which vary widely across the state is required.

Title insurance professionals often work long hours well beyond normal business hours, in their efforts to assure the timely closing of real estate transactions. Any delay in the decision-making process will result in the extensive disruption of real estate transactions, chilling the free transfer and financing of real estate. This can have a cascading effect; real estate closings will be delayed and become more complicated, increasing transaction costs to buyers and borrowers, as well as sellers. Delayed transactions will have the further effect of choking off the flow of transfer and mortgage taxes to the state, counties, and local municipalities which share in, and depend on these revenues.

The title insurance industry is being attacked based on an uninformed belief that title insurance rates are excessive based on the low percentage of premium dollars used to pay claims losses when compared to other lines of insurance, such as property and casualty insurance. This belief demonstrates a lack of understanding of how title insurance differs from other forms of insurance and ignores the time, effort, and labor intensive process of evaluating and curing questions affecting title. Because title insurance professionals spend time and effort to examine, evaluate and clear title questions, New Yorkers do not face a substantial financial risk to their homes, business properties and investments. Putting title insurance professionals out of work in furtherance of a plan which will unduly burden real estate transactions, cost the state huge sums of money, and hinder commerce simply makes no sense.

The necessity of having state employees administer and maintain the system requires that the State shoulder a financial obligation not just in the increased payroll and benefits' costs, but most importantly maintaining an insurance fund sufficient to promptly pay losses. Shifting economic sands have taught private industry, including the title insurance industry, to project future trends and to adjust its business profile during downward economic cycles; government historically has shown no such ability for such swift reaction.

We respectfully request that no action be taken with regard to the above Bills, or if presented for a vote, that you vote in favor of private industry and full employment and against these Bills.

Respectfully submitted,

Sharon Sabol
Executive Vice President

*The New York State Land Title Association, formed in 1921, is a statewide association that advances the interests of all those involved in abstracting, examining or insuring title to real estate. Our membership includes title insurance companies licensed in the State of New York, abstract companies, title insurance agents, law firms, individual attorneys, surveyors and others actively involved in real estate matters.