

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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SENATE BILL DRS15241-NE-73

Short Title: Title Insurance Kickbacks Clarification. (Public)

Sponsors: Senators B. Newton, Daniel, and Sawrey (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT CLARIFYING THE PROHIBITION AGAINST KICKBACKS OR OTHER
3 UNEARNED FEES IN TITLE INSURANCE TRANSACTIONS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 58-27-5 reads as rewritten:

6 "§ 58-27-5. Prohibition against payment or receipt of title insurance kickbacks, rebates,
7 commissions and other payments.

8 (a) Prohibition. – No person or entity selling real property, or performing services as a
9 real estate agent, attorney or lender, which services are incident to or a part of any real estate
10 settlement or sale, shall pay or receive, directly or indirectly, any kickback, rebate, commission
11 or other payment in connection with the issuance of title insurance for any real property which is
12 a part of such sale or settlement; nor shall any title insurance company, agency or agent make
13 any such payment.

14 (b) Penalty. – Any person or entity violating the provisions of this section shall be guilty
15 of a Class 2 misdemeanor which may include a fine of not more than five thousand dollars
16 (\$5,000).

17 (c) ~~No persons or entity shall be in violation of this section.~~ Exception. – The prohibition
18 of subsection (a) of this section does not apply if all of the following conditions are met:

19 (1) The payment is made: (i) solely by reason of ownership of stock in a bona fide
20 title insurance company, agency, or agent, or (ii) from an employer to a
21 bona fide employee, including the payment of a commission for the sale of
22 title insurance. For purposes of this section, subdivision and in addition to any
23 other statutory or regulatory requirements, a bona fide title insurance
24 company, agency or agent is defined to be a company, agency or agent that
25 passes upon and makes title insurance underwriting decisions on title risks,
26 including the issuance of title insurance policies, binders and endorsements,
27 and that maintains a separate and distinct staff and office or offices for such
28 purposes.

29 (2) The person or entity purchasing title insurance is not required to use any
30 particular title insurance company, agency, or agent, except as permitted under
31 regulations adopted pursuant to the Real Estate Settlement Procedures Act, 12
32 U.S.C. § 2607(c)(5).

33 (3) One of the following applies:

34 a. The person or entity purchasing title insurance is provided, at the time
35 of referral, a written disclosure that satisfies the requirements of the
36 Real Estate Settlement Procedures Act, 12 U.S.C. § 2607(c)(4), of the



1 affiliation between the referring party and the title insurance company,
2 agency, or agent.

3 b. The person or entity purchasing title insurance is not provided a
4 written disclosure satisfying the requirements of sub-subdivision a. of
5 this subdivision, but the person or entity required to make that
6 disclosure demonstrates that the failure was unintentional and resulted
7 from a bona fide error notwithstanding maintenance of procedures that
8 were reasonably adapted to avoid that error. In any judicial or
9 administrative proceeding, the person or entity relying upon this
10 sub-subdivision shall have the burden of proof of establishing its
11 applicability by a preponderance of the evidence."

12 **SECTION 2.** This act becomes effective December 1, 2025, and applies to offenses
13 committed on or after that date.