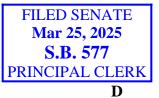
GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2025



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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	SEC	CTION 1. G.S. 58-27-5 reads as rewritten:				
6	"§ 58-27-5. P	rohibition against payment or receipt of title insurance kickbacks, rebates,				
7	con	missions and other payments.				
8	(a) <u>Prob</u>	hibition. – No person or entity selling real property, or performing services as a				
9	real estate agen	nt, 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		<u>alty. – Any person or entity violating the provisions of this section shall be guilty</u>				
15	of a Class 2 m	hisdemeanor which may include a fine of not more than five thousand dollars				
16	(\$5,000).					
17		persons or entity shall be in violation of this section Exception. – The prohibition				
18	of subsection (a	a) of this section does not apply if all of the following conditions are met:				
19	<u>(1)</u>	The payment is made: (i) solely by reason of ownership of stock in a bona fide				
20		title insurance company, agency, or agent. 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	<u>(2)</u>	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>U.S.C. § 2607(c)(5).</u>				
33	<u>(3)</u>	One of the following applies:				
34		a. <u>The person or entity purchasing title insurance is provided, at the time</u>				
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				
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	General Assembly Of North Carolina				
1		affiliation between the referring party and the title insurance company,			
2		agency, or agent.			
3	<u>b.</u>	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	t date.			