

## SECTION NOTICE

New York State Bar Association

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Real Property Law

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Dear All:

As you know, the New York State Land Title Association and now the Insurance Department have filed Bills in the Legislature regarding the licensing of title agents. Both Bills contain a definition of "controlled business" which essentially would eliminate the ability of an attorney or law firm to service their own clients and to perform the title insurance work in that transaction. The definition of "controlled business" does this by prohibiting an attorney providing his/her client with title insurance from getting all of his or her title business from one source--and for most attorneys their main source if not sole source of title insurance business is their own clients. Believe it or not, if that is your situation, you would be prohibited from performing title insurance services for your clients. This is not simply an upstate matter--we have been told by our members in Staten Island and Long Island that this is prevalent there also and would have a serious if not--and many have said--fatal impact on their real estate practice. We have opposed this before but because it seems to be making more progress this year and because the Insurance Department has filed its own Bill, the urgency is much more in front of us this year than it ever has been in the past.

The Executive Committee of the Real Estate Section has taken a strong position and we have met with Senators and Assemblypersons to point out how really bad these proposals are unless amended to exclude attorneys from the controlled business definition. We do not oppose the licensing of title agents and in fact many think it is a good idea--it is the attempt to exclude attorneys from practicing law that we are so opposed to.

Our Section turned to the Main Bar Association and particularly Bernice Leber and Michael Getnick, Bernice Leber current President and Michael Getnick President-Elect, for all the help they could give us. Our plea went to them between Executive Committee meetings which is a very difficult time to achieve the approval of the Main Bar for any position. Bernice and Mike took a leadership role and went to the Executive Committee of the Main Bar outside of normal procedures. The Executive Committee unanimously approved and added our topic to the agenda under the priority item "Support for the Profession." On Tuesday, May 19th, in addition to all our lobbying efforts Bernice and Mike visited various legislators. In those meetings, they focused on the priorities of the Bar as adopted by the Executive Committee and this was a priority. Accordingly, the

State Bar has joined us and I want to inform you how strongly, quickly and hopefully effectively the main Bar moved to give us assistance when we asked for it.

The State Bar does a lot of things--a lot of good things--but more than anything else, the purpose of the Bar is to protect us as lawyers in our practice of law. If the Bar Association does not do that, the rest becomes meaningless because there will be no lawyers left--in this case, an enormous number of real estate attorneys would be unable to practice--you are real estate attorneys and I am sure you understand what I am talking about.

The New York State Bar Association is on record now opposing this legislation without an exclusion of lawyers from the controlled business provisions of those proposals. I also want to ask all of you to call your senator or assemblyperson and tell them and urge them not to pass Bills A.6086-A (Bradley); A.7127 (Morelle)/S.3530 (Breslin) which, without the Bar requested amendment to the "controlled business" definition, would destroy your right to practice law--destroy your right to provide your clients with the benefit of your representation.

And thank you Bernice and Mike and the entire Executive Committee for so quickly recognizing the issue and coming to our assistance.

Very truly yours,

PETER V. COFFEY