

Summary of new 11 NYCRR 228 (Insurance Regulation 208).

This rule interprets and implements Insurance Law section 6409(d) by clarifying what constitutes an inducement when provided by title insurance corporations or title insurance agents for title insurance business. The rule mandates new reporting requirements to exclude all improper expenditures from the rates, thereby ensuring that these expenditures do not contribute to excessive rates. The rule further sets parameters with respect to ancillary charges, ensuring that title insurance corporations and title insurance agents do not charge consumers in New York improper and excessive closing costs.

Section 228.0 sets forth the purpose of the rule.

Section 228.1 provides definitions applicable to the rule.

Section 228.2 sets forth that an inducement prohibited by Insurance Law section 6409(d) includes providing any consideration or thing of value to a person or entity for title insurance business including for the purpose of maintaining existing business or obtaining future title insurance business, regardless of whether it is provided as a quid pro quo for specific business. It includes a list of expenses that are prohibited under section 6409(d) and a list of types of expenses that are permitted.

Section 228.3 provides a framework for reporting expenses so that only proper expenditures are included in the title insurance rate. This section also requires all licensed title insurance corporations to provide to its appointed title insurance agents, revenue and expenses schedules in connection with the annual data call. It requires all licensed title insurance agents, unless their revenue and expenses are reported by an employer or affiliated entity, to submit revenue and expense schedules in connection with the annual data call, and ensure that prohibited expenditures are excluded. It further requires the title insurance corporations to compile the schedules and submit them to the statistical agent. In addition, the section requires each licensed title insurance corporation to file with the Superintendent individual annual premium and expense reports.

Section 228.4 provides that expenses allocated by a title insurance corporation to New York may not exceed the percent of premium written in New York by that insurer, compared to nationwide premiums written, and that improper expenditures may not be allocated to New York.

Section 228.5 provides parameters for ancillary closing costs charged in residential transactions including maximum charges for Patriot, bankruptcy, and municipal searches. The regulation provides for a flat fee that may be charged for certain services, including escrow services and recording of closing documents. The regulation also provides that every title insurance corporation and title insurance agent shall pay the title insurance closer for closing services and prohibit a closer from receiving any compensation from the applicant. It permits the title insurance closer to charge a reasonable fee for remitting a loan payoff.

Section 228.6 requires that at least once every four years a filing must be made demonstrating that the title insurance corporation's or rate service organization's title insurance rates comply with Article 23 (*i.e.*, they are not excessive, inadequate or discriminatory).