

Regulation 206 (11 NYCRR 35): Compliance Overview

March 2026

Purpose

This memo provides a refresher on Regulation 206 (11 NYCRR 35), enacted in 2017. It supplements New York Insurance Law governing title insurance agents, with a focus on affiliated relationships, fee disclosures, and consumer protections.

https://www.nyslta.org/resource/collection/2EE24763-B345-4B4F-B8DF-BB93F2A43DF2/FINAL_rf_consolidated_txt.pdf

Key Definitions (§ 35.1)

- **Affiliated Business:** Title insurance business generated from an affiliated person.
- **Affiliated Person:** An applicant, their agent/attorney/representative, or the spouse of any such person — if that individual or spouse owns or controls a title agent, holds ≥5% of a title insurer, or is under common control with one.
- **Applicant:** The borrower, property owner, purchaser, or their attorney-in-fact.
- **Core Title Services:** The five defined services an affiliated business must perform (see below).

Core Title Services (§ 35.1(e))

An affiliated business must engage in all or substantially all of the following:

1. Evaluate insurability of title based on a title search.
2. Collect, remit, or disburse premiums, escrows, and related funds.
3. Prepare, mark-up, and deliver a title commitment or certificate of title.
4. Prepare or deliver a title insurance policy on behalf of a title insurer.
5. Clear or negotiate the clearance of title exceptions.

Key Prohibitions (§ 35.4)

Regulation 206 contains strict anti-kickback and anti-referral rules:

- **No referral fees:** Title insurers and agents may not pay — or receive — anything of value for referring title insurance business.
- **No quid pro quo:** One title agent/insurer cannot refer business to another in exchange for reciprocal referrals.
- **No tying:** Agents cannot require an applicant to purchase additional goods or services as a condition of obtaining title insurance, or vice versa.
- **No volume requirements:** Agents cannot require an affiliated person to refer a specified amount of business.
- **No circumvention:** Joint ventures or other arrangements designed to work around these rules are also prohibited.

Permitted Payments (§ 35.4(d))

The regulation permits two types of payments:

- Fair market value for actual bona fide services rendered.
- Return on investment (ROI) for persons with a legitimate ownership interest — provided the return is proportionate to their ownership stake and is not tied to the volume of referrals.

Requirements for Affiliated Businesses (§ 35.4(f))

If an affiliated business is properly formed, it must:

1. Operate separately and independently, with its own employees. (Exception: law firm employees licensed as title agents may also provide title agent services to the extent permitted under RESPA.)
2. Perform all or substantially all core title services.
3. Make a good faith effort to obtain business from all sources — not exclusively from affiliated persons — and actively compete in the marketplace.

Disclosure Obligations

Affiliated Business Referrals (§ 35.5)

When a client is referred by an affiliated person, the referring party must provide a written disclosure at the time of referral. The client must sign an acknowledgment. The disclosure must include:

- The referrer's financial interest in the title agency.
- That the client is not required to use the agency and may shop elsewhere.
- Any expected compensation to the referrer (or a good-faith estimate).
- Confirmation that compensation is not tied to referral volume.
- Whether the agency also accepts business from unaffiliated sources.

NYSLTA forms may be downloaded on the Member website to signed-in members at:

https://www.nyslta.org/global_engine/download.aspx?fileid=5CC86A44-CCF0-44AC-9C88-D74DDD7E6ACD&ext=docx

Fee Disclosures (§§ 35.6–35.7)

- Title insurers must post ranges of ancillary charges on their websites.
- Title agents must post their service fees at their office and website (if applicable).
- Provide clients with a written list of service fees.
- At or before closing, provide a breakdown of: (a) the title insurance premium, (b) discretionary/ancillary charges, and (c) other service fees.

Title Report Delivery (§ 35.7)

- Send the title report to the applicant (or their attorney) at least 3 business days before the scheduled closing.
- If the applicant has an attorney, deliver the report to the attorney; send to the applicant as well if requested.
- If the 3-day deadline cannot be met, document the reasons for the delay.
- The first page of every title report must display the following in bold:

THIS REPORT IS NOT A TITLE INSURANCE POLICY! PLEASE READ IT CAREFULLY. THE REPORT MAY SET FORTH EXCLUSIONS UNDER THE TITLE INSURANCE POLICY AND MAY NOT LIST ALL LIENS, DEFECTS, AND ENCUMBRANCES AFFECTING TITLE TO THE PROPERTY. YOU SHOULD CONSIDER THIS INFORMATION CAREFULLY.

Title Insurance Closers (§ 35.8)

- The title insurer or agent that engages a title closer must exercise due diligence to ensure the closer is competent and trustworthy.
- The engaging party is responsible for the title closer's acts in connection with the issuance of a title insurance policy.

Record Retention (§ 35.9)

All notices and disclosures required under Regulation 206 must be retained in accordance with Part 20.4 of this Title (Insurance Regulation 29-A).

Summary

Regulation 206 was designed to:

- Promote transparency and informed consumer choice.
- Prevent kickbacks, referral fees, and anti-competitive arrangements.
- Ensure affiliated businesses operate as genuine, independent entities performing real title services.

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<https://www.law.cornell.edu/regulations/new-york/title-11/chapter-II/part-35>