

**Maryland General Assembly
Department of Legislative Services**

**Reproposed Regulations
Maryland Insurance Administration
(DLS Control No. 14-162)**

Overview and Legal and Fiscal Impact

These reproposed regulations establish the standards and procedures under which a title insurer must conduct an annual on-site review of a title insurance producer, require the title insurer to report certain title insurance producers to the Maryland Insurance Commissioner under certain circumstances and within certain time frames, and require the title insurer to maintain certain records related to the annual on-site review for a certain period of time and in a certain manner.

These reproposed regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Maryland Insurance Administration:

Insurers: Title Insurers: COMAR 31.04.22.01-.08

Legal Analysis

Background

The proposed regulations were originally published in the December 13, 2013 issue of the *Maryland Register*. For a detailed discussion of the initial regulations, please see the legal and fiscal analysis for DLS Control No. 365-13. As the Maryland Insurance Administration made several substantive changes to the original submission, the administration has submitted these reproposed regulations.

Summary of Reproposed Regulations

These reproposed regulations amend new Regulation .03, which provides definitions for the new chapter. Of note, the reproposed regulations define “on-site review” as a review, rather than an audit, of the underwriting, claims, and escrow practices of each principal agent. In addition, the reproposed regulations amend the definition of “principal agent” to include a cross-reference to § 10-121(k)(1)(i) of the Insurance Article, which requires a title insurer to conduct an on-site review of the practices of each producer appointed as a principal agent “designated in the title insurance agency contract between the insurer and the producer.”

The repropoed regulations amend new Regulation .04, which establishes standards and procedures under which a title insurer must conduct an on-site review. The repropoed regulations amend Regulation .04B to include cross-references to statutory requirements under §§ 10-121(c) and 22-102(a) of the Insurance Article. In addition, as amended, Regulation .04E, which specified that a title insurer that contracts with a third party to perform the review is responsible for any violation regardless of any delegation, specifies that the title insurer is responsible for any violation of §§ A, B, or C of the regulation.

The repropoed regulations also amend new Regulation .06, which requires a title insurer to file a report with the Commissioner within 45 calendar days after the completion of the on-site review. The repropoed regulations amend the list of items to be addressed in the report. Of note, as amended, Regulation .06B(3) enumerates content requirements for the review of the principal agent's escrow accounts and related practices. The repropoed regulations remove a requirement to address the principal agent's bank reconciliation and related practices. As amended, Regulation .06B(4) – formerly Regulation .06B(5) – excludes transfers of money between the principal agent's escrow or trust account and the principal agent's operating account for fees due to the principal agent from the transfers of money which must be included in the report. New Regulation .06B(9) requires the report to address the principal agent's failure to comply with the title insurer's financial accounting requirements.

The repropoed regulations amend new Regulation .07, which requires the title insurer to report certain title insurance producers to the Commissioner under certain circumstances and within certain time frames. The repropoed regulations alter the time period under Regulation .07A within which a title insurer must notify the Commissioner in writing to 10 calendar days (rather than five business days) after obtaining knowledge or belief that a principal agent has engaged in, or is engaging in, prohibited conduct. In addition, as amended, Regulation .07B requires a title insurer to notify the Commissioner in writing within two calendar days if the title insurer has reason to believe that a principal agent has converted or misappropriated money received or held in trust. As amended, Regulation .07C requires the notification to include, among other information, the name, physical address, telephone number, and email address of the principal agent or its designated insurance producer. In addition, the notification must include a description of the facts and circumstances giving rise to the title insurer's reason to believe that a principal agent has converted or misappropriated money received or held in trust. This requirement replaces a requirement to include a copy of the title insurer's financial accounting requirements and a description of the principal agent's failure to comply with those requirements.

Legal Issue

These repropoed regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The administration cites §§ 2-108, 2-109, 10-121 and 10-128.1 of the Insurance Article as authority for the regulations. More specifically, authority for the regulations is provided by § 2-109(a)(1), which establishes the general authority of the Commissioner to adopt regulations to carry out the Insurance Article. Section 10-121 generally governs title insurance producers. Finally, § 10-128.1 authorizes the Commissioner to adopt regulations establishing the minimum

length of time for which and the manner in which an independent insurance producer is required to maintain records of insurance transactions.

The cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The administration advises that the regulations have minimal or no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The administration advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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