

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	06/13/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 7/25/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

31 04 22 01—.08

3. Name of Promulgating Authority

Maryland Insurance Administration

4. Name of Regulations Coordinator Telephone Number
Katrina Lawhorn 410-468-2450

Mailing Address

200 St. Paul Place, Ste 2700

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5. Name of Person to Call About this Document Telephone No.
Katrina Lawhorn 410-468-2450

Email Address
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6. Check applicable items:
X- New Regulations

- Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: .
- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval
- Reproposal of Substantively Different Text:
 - 40: 25 Md. R 2138-2140 12/13/2013
 - (vol.) (issue) (page nos) (date)
 - Under Maryland Register docket no.: 13-406-P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Lisa Hall, Assistant Attorney General, (telephone #410-468-2030) on June 11, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Therese M. Goldsmith

Title

Insurance Commissioner

Telephone No.

410-468-2090

Date

June 13, 2014

MARYLAND INSURANCE ADMINISTRATION

Subtitle 04 INSURERS

31.04.22 Title Insurers

Authority: Insurance Article, §§2-108, 2-109, 10-121, and 10-128.1, Annotated Code of Maryland

Notice of Proposed Action

□

The Insurance Commissioner proposes to adopt new Regulations .01 —.08 under a new chapter, COMAR 31.04.22 Title Insurers. Because substantive changes have been made to the original proposal as published in 40:25 Md. R. 2138 -2140 (December 13, 2013), this action is being repropose at this time.

Statement of Purpose

The purpose of this action is to re-propose the regulations originally proposed in the Maryland Register on December 13, 2013 which set forth the circumstances in which a title insurance company shall conduct an annual on-site review of a title insurance producer, the minimum requirements of the annual on-site review, and the written reporting and document retention requirements related to the on-site review. As a result of certain comments received, the proposed regulations were substantively revised.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Katrina Lawhorn, Regulations Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, or call 410-468-2450, or email to katrina.lawhorn@maryland.gov, or fax to 410-468-2020. Comments will be accepted through August 25, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

N/A

E. If these regulations have no economic impact under Part A, indicate reason briefly:

There is no impact as the change is already required by Insurers by statute.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

No changes to normal operation of the unit.

G. Small Business Worksheet:

Attached Document:

Title 31

MARYLAND INSURANCE ADMINISTRATION

Subtitle 04 INSURERS

Chapter 22 Title Insurers

Authority: Insurance Article §§ 2-108, 2-109, 10-121, and 10-128.1 Annotated Code of Maryland

.01 — .02 (originally proposed text unchanged)

.03 Definitions.

A. (originally proposed text unchanged)

B. *Terms Defined.*

(1) "Accounts" means *[[[any and]]]* all accounts associated with the principal agent's title insurance business.

(2) — (5) (originally proposed text unchanged)

(6) "Escrow" means the act or process of providing closing services or services *[[[pursuant to]]]* **under** an escrow agreement by a title insurer or a principal agent.

(7) — (14) (originally proposed text unchanged)

(15) "On-site review" means *[[[an audit]]]* **a review** of the underwriting, claims, and escrow practices of each principal agent conducted by a title insurer or its designee, at the principal agent's principal place of business in the State and, if the principal agent's information to be reviewed is not kept at its principal place of business in the State, then at each site where such information is kept.

(16) "Principal agent" means a title insurance producer appointed by the title insurer to act on behalf of the title insurer **as described in Insurance Article, §10-121(k)(1)(i), Annotated Code of Maryland.**

(17) — (23) (originally proposed text unchanged)

.04 Conducting an On-Site Review.

- A. A title insurer:
- (1) — (2) (originally proposed text unchanged)
 - (3) *May not be required to provide advance notice to the principal agent of the* **beginning** *of an on-site review; and*
 - (4) (originally proposed text unchanged)
- B. The on-site review required under §A of this regulation shall, at a minimum, include:
- (1) (originally proposed text unchanged)
 - (2) *A review of the principal agent's operations to evaluate compliance with the notice requirements under Insurance Article, §22-102, Annotated Code of Maryland, including whether the principal agent:*
 - (a) *Inserted the name of each proposed insured* **as required under Insurance Article, §22-102(a)(1), Annotated Code of Maryland;**
 - (b) — (c) (originally proposed text unchanged)
 - (3) — (6) (originally proposed text unchanged)
 - (7) **Receipt** *of the written certification of the principal agent which shall contain:*
 - (a) *The printed name and signature of* **a designated insurance producer who satisfies the qualifications set forth in §10-121(c);**
 - (b) — (c) (originally proposed text unchanged)
- C. — D. (originally proposed text unchanged)
- E. **A title insurer that enters into a written contract with a third party to perform an on-site review is bound by the findings of the third party and responsible for any violation regardless of any delegation.**
- (1) **bound by the findings of the third party; and**
 - (2) **responsible for any violation of §§A, B or C of this regulation regardless of any delegation.**

.05 Failure to Cooperate.

A principal agent's failure to cooperate with a title insurer at the **beginning** of or during an on-site review shall constitute a reason to believe that the principal agent has engaged in a prohibited activity under Insurance Article, §10-126, Annotated Code of Maryland.

.06 Report.

- A. (originally proposed text unchanged)
- B. The report shall address the following areas:
- (1) *The name, Maryland producer license number, and contact information of the principal agent or any insurance producer designated* **under** *Insurance Article, §10-106, Annotated Code of Maryland;*
 - (2) *The name and Maryland producer license number of any* **insurance producer associated with the principal agent** *agent's responsible producer*;
 - (3) *The principal agent's escrow accounts and related practices*, **including a review to ensure that:**
 - (a) **Only licensed insurance producers exercise control over trust money;**
 - (b) **Premium monies are held in compliance with COMAR 31.03.03;**
 - (c) **Funds received by the principal agent are accurately accounted for in the books and records of the principal agent; and**
 - (d) **The principal agent's escrow accounts have been properly reconciled as of the date of the completed on-site review and the trust deposits held on its behalf are reasonably ascertainable from the books of account and records of the principal agent.**
 - (4) *The principal agent's bank reconciliation and related practices;*
 - (5) **Except for transfers of money between the principal agent's escrow or trust account and the principal agent's operating account for the fees due the principal agent, transfers** *of money between principal agent's accounts that contain or have contained trust money deposits;*
 - (6) (originally proposed text unchanged)
 - (7) **Compliance by** *the principal agent* **with the annual MAHT** *report requirement under COMAR 31.16.03.06;*
 - (8) (originally proposed text unchanged)
 - (9) **The principal agent's failure to comply with the title insurer's financial accounting requirements; and**
 - (10) (originally proposed text unchanged)
- C. — D. (originally proposed text unchanged)

.07 ~~[[[Prohibited Activities.]]]~~ **Required Notifications.**

A. Except as provided in §B of this regulation, if a title insurer has reason to believe that the principal agent has engaged in, or is engaging in, conduct that is prohibited by Insurance Article, §10-126, Annotated Code of Maryland, the title insurer shall notify the Commissioner in writing within ~~[[[5]]]~~ **10** ~~[[[business]]]~~ **calendar** days after obtaining such knowledge or belief.

B. A title insurer shall notify the Commissioner in writing within 2 ~~[[[business]]]~~ **calendar** days if a title insurer has reason to believe that a principal agent has ~~[[[not complied or is not complying with the title insurer's financial accounting requirements]]]~~ **converted or misappropriated money received or held in trust.**

C. A title insurer's written notification to the Commissioner under §§A and B of this regulation shall include the following information:

(1) The name, physical address, telephone number, and email address of the principal agent **or its designated insurance producer who satisfies the qualifications set forth in §10-121(c);**

(2) — (4) (originally proposed text unchanged)

(5) A ~~[[[copy of the title insurer's financial accounting requirements and 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** ~~[[[of the principal agent's failure to comply therewith, if applicable]]]~~.

.08 (originally proposed text unchanged)