
By: Delegate Busch

Introduced and read first time: January 31, 1996
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 7, 1996

CHAPTER ____

1 AN ACT concerning

2 **Insurance - ~~Title Agents or Brokers Acting as Limited Liability Companies~~**

3 [TAG ftpo]FOR the purpose of authorizing procedures for a certificate of qualification to act as ~~title~~
4 insurance agent or broker to be issued to a limited liability company; requiring the
5 Insurance Commissioner to investigate the character of each controllingowner
6 when an applicant for a certificate of qualification for a title insurance agent is a
7 corporation; authorizing the Commissioner to deny renewal or refuse to grant an
8 application for a certificate of qualification under certain circumstances; providing
9 for the future codification of certain provisions of this Act; and generally relating to
10 ~~title~~ insurance agents and brokers.

11 BY repealing and reenacting, with amendments,

- 12 Article 48A - Insurance Code
- 13 Section 168(e), 168A(e), (f), and (g)(1), 173A(c), and 175(b)
- 14 Annotated Code of Maryland
- 15 (1994 Replacement Volume and 1995 Supplement)

16 BY repealing and reenacting, with amendments,

- 17 Article - Insurance
- 18 Section 10-103(d), 10-112(d), 10-114, 10-121(c), (d), and (e), 10-125(d), and
- 19 10-126(b)
- 20 Annotated Code of Maryland
- 21 (1995 Volume)
- 22 (As enacted by Chapters 36 and 635 of the Acts of the General Assembly of 1995)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article 48A - Insurance Code**

2 168.

3 (e) (1) A LIMITED LIABILITY COMPANY, [partnership] PARTNERSHIP, or
4 corporation may not accept in its own name commissions, fees, or other compensation for
5 acting as an agent or broker unless it possesses a certificate of qualification in the kind or
6 subdivision of insurance for which the LIMITED LIABILITY COMPANY, [partnership]
7 PARTNERSHIP, or corporation intends to act as an agent or broker and an appointment
8 for the kind or subdivision of insurance thereof for which it intends to act as agent.

9 (2) To obtain a certificate of qualification, a LIMITED LIABILITY
10 COMPANY, [partnership] PARTNERSHIP, or corporation must:

11 (i) Be primarily engaged in the insurance business;

12 (ii) File the appropriate form as adopted by the Commissioner;

13 (iii) Pay the fee set forth in § 41 of this article; and

14 (iv) In addition to any other information required on the application,
15 provide the name and address of each insurance agent or broker employed by the
16 LIMITED LIABILITY COMPANY, [corporation or partnership] CORPORATION, OR
17 PARTNERSHIP, EACH INDIVIDUAL WHO HAS DIRECT CONTROL OVER ITS FISCAL
18 MANAGEMENT, and each [owner] OWNER, ~~OR MEMBER, OR MANAGER~~ of the
19 LIMITED LIABILITY COMPANY, corporation or partnership.

20 (3) Agents or brokers may conduct insurance business affairs as a LIMITED
21 LIABILITY COMPANY, [partnership] PARTNERSHIP, or a corporation provided that
22 every individual who solicits, negotiates, or accepts insurance business from the public
23 shall possess a certificate of qualification in the kind or subdivision of insurance for which
24 the LIMITED LIABILITY COMPANY, [partnership] PARTNERSHIP, or corporation
25 intends to act as an agent or broker and an appointment for the kind or subdivision of
26 insurance for which it intends to act as agent.

27 168A.

28 (e) (1) If an applicant for a certificate of qualification is a partnership, each
29 partner must hold a certificate of qualification to act as a title insurance agent or title
30 insurance broker and, if applicable, an appointment with a title insurer.

31 (2) If an applicant for a certificate of qualification is a corporation, ~~THE~~
32 EACH CONTROLLING OWNER AS DEFINED IN § 492(C) OF THIS ARTICLE AND each
33 officer and director must hold a certificate of qualification to act as a title insurance agent
34 or title insurance broker and, if applicable, an appointment with a title insurer.

35 (3) IF AN APPLICANT FOR A CERTIFICATE OF QUALIFICATION IS A
36 LIMITED LIABILITY COMPANY, EACH INDIVIDUAL WHO HAS DIRECT CONTROL OVER
37 ITS FISCAL MANAGEMENT AND EACH MEMBER, MANAGER, OFFICER, AND
38 DIRECTOR MUST HOLD A CERTIFICATE OF QUALIFICATION TO ACT AS A TITLE
39 INSURANCE AGENT OR TITLE INSURANCE BROKER AND, IF APPLICABLE, AN
40 APPOINTMENT WITH A TITLE INSURER.

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1 (f) (1) When the application of a partnership for a certificate of qualification is
2 submitted, the Commissioner shall investigate the character of each partner of the
3 partnership applicant.

4 (2) When the application of a corporation for a certificate of qualification is
5 submitted, the Commissioner shall investigate the character of each CONTROLLING
6 OWNER AS DEFINED IN ~~§ 429(C)~~ § 492(C) OF THIS ARTICLE AND EACH officer and
7 director of the corporate applicant.

8 (3) WHEN THE APPLICATION OF A LIMITED LIABILITY COMPANY FOR A
9 CERTIFICATE OF QUALIFICATION IS SUBMITTED, THE COMMISSIONER SHALL
10 INVESTIGATE THE CHARACTER OF EACH INDIVIDUAL WHO HAS DIRECT CONTROL
11 OVER ITS FISCAL MANAGEMENT AND EACH MEMBER AND EACH OFFICER,
12 MANAGER, OFFICER, AND DIRECTOR OF THE LIMITED LIABILITY COMPANY
13 APPLICANT.

14 (g) (1) In addition to meeting any of the applicable requirements for obtaining
15 a certificate of qualification under § 168(e) of this article, a sole proprietor, A LIMITED
16 LIABILITY COMPANY, a corporate, or partnership applicant for a certificate of
17 qualification as a title insurance agent or a title insurance broker shall file with the
18 Commissioner:

19 (i) A blanket fidelity bond covering appropriate employees; and

20 (ii) 1. A surety bond; or

21 2. A letter of credit.

22 173A.

23 (c) Notwithstanding any other provision of this subtitle:

24 (1) The bonding requirements of this subtitle relating to title insurance
25 agents and title insurance brokers do not apply to law firms and individual attorneys
26 practicing law in law firms;

27 (2) The [corporate] LIMITED LIABILITY COMPANY, CORPORATE, and
28 partnership requirements of this subtitle relating to title insurance agents and title
29 insurance brokers do not apply to law firms; and

30 (3) The education, experience, and examination requirements of this
31 subtitle relating to title insurance agents and title insurance brokers do not apply to
32 individual attorneys or law firms.

33 175.

34 (b) Subject to the hearing provisions of §§ 35 through 39 of this article, the
35 Commissioner may [suspend or revoke] DENY, REFUSE TO RENEW, SUSPEND, OR
36 REVOKE the certificate of qualification of a LIMITED LIABILITY COMPANY,
37 [corporation] CORPORATION, or partnership ~~for any violation of this subtitle by~~ IF AN
38 INDIVIDUAL WHO HAS DIRECT CONTROL OVER ITS FISCAL MANAGEMENT OR an
39 agent, broker, director, officer, [or partner] PARTNER, MEMBER, MANAGER, OWNER,

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1 OR EMPLOYEE of a LIMITED LIABILITY COMPANY, A [partnership] PARTNERSHIP, or
2 a corporation HAS:

3 (1) VIOLATED ANY PROVISION OF THIS SUBTITLE:

4 (2) BEEN CONVICTED OF A FELONY, A CRIME OF MORAL TURPITUDE,
5 OR ANY CRIMINAL OFFENSE INVOLVING DISHONESTY OR BREACH OF TRUST; OR

6 (3) HAD ANY PROFESSIONAL LICENSE SUSPENDED OR REVOKED FOR A
7 FRAUDULENT OR DISHONEST PRACTICE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
9 read as follows:

10 **Article - Insurance**

11 10-103.

12 (d) Before a [partnership] LIMITED LIABILITY COMPANY, PARTNERSHIP, or
13 corporation may accept in its own name compensation for acting as an agent or broker in
14 the State, the [partnership] LIMITED LIABILITY COMPANY, PARTNERSHIP, or
15 corporation must obtain:

16 (1) a certificate of qualification in the kind or subdivision of insurance for
17 which the [partnership] LIMITED LIABILITY COMPANY, PARTNERSHIP, or corporation
18 intends to act as an agent or broker; and

19 (2) an appointment for the kind or subdivision of insurance for which it
20 intends to act as agent.

21 10-112.

22 (d) In addition to any other information required on the application, an applicant
23 that is a [partnership] LIMITED LIABILITY COMPANY, PARTNERSHIP, or corporation
24 must provide the name and address of each agent or broker employed by the LIMITED
25 LIABILITY COMPANY, [partnership or corporation] PARTNERSHIP, OR CORPORATION,
26 EACH INDIVIDUAL WHO HAS DIRECT CONTROL OVER ITS FISCAL MANAGEMENT,
27 and each owner, MEMBER, OR MANAGER of the LIMITED LIABILITY COMPANY,
28 [partnership] PARTNERSHIP, or corporation.

29 10-114.

30 Agents or brokers may conduct insurance business as a LIMITED LIABILITY
31 COMPANY, [partnership] PARTNERSHIP, or corporation if each individual who solicits,
32 negotiates, or accepts insurance business from the public holds a certificate of
33 qualification in the kind or subdivision of insurance for which the individual acts as agent
34 or broker and, if applicable, an appointment from an insurer.

35 10-121.

36 (c) (1) If an applicant for a certificate of qualification is a partnership, each
37 partner must hold a certificate of qualification to act as a title insurance agent or title
38 insurance broker and, if applicable, an appointment with a title insurer.

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1 (2) If an applicant for a certificate of qualification is a corporation, ~~THE~~
2 EACH CONTROLLING OWNER AND each officer and director must hold a certificate of
3 qualification to act as a title insurance agent or title insurance broker and, if applicable,
4 an appointment with a title insurer.

5 (3) IF AN APPLICANT FOR A CERTIFICATE OF QUALIFICATION IS A
6 LIMITED LIABILITY COMPANY, EACH INDIVIDUAL WHO HAS DIRECT CONTROL OVER
7 ITS FISCAL MANAGEMENT AND EACH MEMBER, MANAGER, OFFICER, AND
8 DIRECTOR MUST HOLD A CERTIFICATE OF QUALIFICATION TO ACT AS A TITLE
9 INSURANCE AGENT OR TITLE INSURANCE BROKER AND, IF APPLICABLE, AN
10 APPOINTMENT WITH A TITLE INSURER.

11 (d) (1) When the application of a partnership for a certificate of qualification as
12 a title insurance agent or title insurance broker is submitted, the Commissioner shall
13 investigate the character of each partner of the partnership applicant.

14 (2) When the application of a corporation for a certificate of qualification as
15 a title insurance agent or title insurance broker is submitted, the Commissioner shall
16 investigate the character of EACH CONTROLLING OWNER AND each officer and director
17 of the corporate applicant.

18 (3) WHEN THE APPLICATION OF A LIMITED LIABILITY COMPANY FOR A
19 CERTIFICATE OF QUALIFICATION IS SUBMITTED, THE COMMISSIONER SHALL
20 INVESTIGATE THE CHARACTER OF EACH INDIVIDUAL WHO HAS DIRECT CONTROL
21 OVER ITS FISCAL MANAGEMENT AND EACH MEMBER ~~AND EACH OFFICER,~~
22 MANAGER, OFFICER, AND DIRECTOR OF THE LIMITED LIABILITY COMPANY
23 APPLICANT.

24 (e) (1) In addition to meeting any of the applicable requirements for a
25 certificate of qualification to act as an agent or broker under this subtitle, a sole
26 proprietor, A LIMITED LIABILITY COMPANY, a partnership, or a corporate applicant for
27 a certificate of qualification as a title insurance agent or title insurance broker shall file
28 with the Commissioner:

29 (i) a blanket fidelity bond covering appropriate employees; and

30 (ii) 1. a surety bond; or

31 2. a letter of credit.

32 (2) Unless the Commissioner approves a lesser amount, each bond or letter
33 of credit shall be for \$100,000.

34 (3) The Commissioner may adopt regulations that specify when it is
35 appropriate for a bond or letter of credit to be less than \$100,000.

36 (4) Notwithstanding paragraph (2) of this subsection, the Commissioner
37 may waive the requirement for a bond or letter of credit if the Commissioner finds that
38 bonds are not generally available or reasonably affordable.

39 (5) The Commissioner shall make a specific finding that states the reason
40 for accepting a bond or letter of credit for less than \$100,000.

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1 10-125.

2 (d) Notwithstanding any other provision of this subtitle:

3 (1) the bonding requirements of this subtitle relating to title insurance
4 agents and title insurance brokers do not apply to law firms and individual attorneys
5 practicing law in law firms;

6 (2) the [corporate] LIMITED LIABILITY COMPANY, CORPORATE, and
7 partnership requirements of this subtitle relating to title insurance agents and title
8 insurance brokers do not apply to law firms; and

9 (3) the education, experience, and examination requirements of this subtitle
10 relating to title insurance agents and title insurance brokers do not apply to individual
11 attorneys or law firms.

12 10-126.

13 (b) Subject to the hearing provisions of Title 2 of this article, the Commissioner
14 may [suspend or revoke] SUSPEND, REVOKE, DENY RENEWAL, OR REFUSE TO GRANT
15 AN APPLICATION FOR the certificate of qualification of a LIMITED LIABILITY
16 COMPANY, [partnership] PARTNERSHIP, or corporation ~~for any violation of this subtitle~~
17 by IF AN INDIVIDUAL WHO HAS DIRECT CONTROL OVER ITS FISCAL MANAGEMENT
18 OR an agent, broker, director, officer, or partner, MEMBER, MANAGER, OWNER, OR
19 EMPLOYEE of the LIMITED LIABILITY COMPANY, partnership, or corporation HAS:

20 (1) VIOLATED ANY PROVISION OF THIS SUBTITLE;

21 (2) BEEN CONVICTED OF A FELONY, A CRIME OF MORAL TURPITUDE,
22 OR ANY CRIMINAL OFFENSE INVOLVING DISHONESTY OR BREACH OF TRUST; OR

23 (3) HAD ANY PROFESSIONAL LICENSE SUSPENDED OR REVOKED FOR A
24 FRAUDULENT OR DISHONEST PRACTICE.

25 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
26 take effect October 1, 1996.

27 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
28 take effect October 1, 1997.