
By: **Delegate Doory**

Introduced and read first time: February 10, 2006

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Title Insurers and Title Insurance Producers**

3 FOR the purpose of altering the intervals at which a title insurer shall conduct a
4 certain on-site review of certain practices of certain title insurance producers;
5 altering the circumstances under which a title insurer is required to report a
6 certain suspected violation to the Insurance Commissioner as the result of an
7 examination; requiring a title insurance producer to notify any title insurer with
8 whom the title insurance producer holds an appointment whenever a certain
9 person is employed by or associated with the title insurance producer; requiring
10 a title insurance producer to make a certain determination about a certain title
11 insurance producer subcontractor under certain circumstances; authorizing a
12 certain qualified title insurer employee to apply for a limited lines license or
13 renewal of a limited lines license as a title insurance producer under certain
14 circumstances; exempting qualified title insurer employees from certain
15 bonding, education, experience, and examination requirements; clarifying that
16 the Commissioner may issue a limited lines license to an attorney at law who
17 solicits, procures, or negotiates title insurance contracts to act as a title
18 insurance producer; providing for the applicability of certain licensing
19 provisions to certain attorneys at law; altering the applicability to attorneys and
20 law firms of certain bonding requirements, certain limited liability company,
21 corporate, and partnership requirements, certain licensing requirements, and
22 certain education, experience, and examination requirements; altering certain
23 notice requirements as to the availability of title insurance; exempting certain
24 real estate transactions from certain notice provisions as to the availability of
25 title insurance; altering certain definitions; defining certain terms; and
26 generally relating to title insurers and title insurance producers.

27 BY repealing and reenacting, with amendments,
28 Article - Insurance
29 Section 10-121(j), (k), and (l) and 10-125
30 Annotated Code of Maryland
31 (2003 Replacement Volume and 2005 Supplement)

32 BY adding to
33 Article - Insurance

1 Section 10-121(k), 10-121.1, and 10-121.2
2 Annotated Code of Maryland
3 (2003 Replacement Volume and 2005 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Insurance
6 Section 22-102
7 Annotated Code of Maryland
8 (2002 Replacement Volume and 2005 Supplement)

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

11 **Article - Insurance**

12 10-121.

13 (j) (1) (i) The title insurer shall[, at least annually,] conduct an on-site
14 review of the underwriting, claims, and escrow practices of each title insurance
15 producer appointed by the insurer as a principal agent as designated in the title
16 insurance agency contract between the insurer and the producer.

17 (II) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION,
18 THE ON-SITE REVIEW SHALL BE CONDUCTED:

19 1. AT LEAST ONCE AT ANY TIME DURING THE CALENDAR
20 YEAR IMMEDIATELY FOLLOWING THE CALENDAR YEAR IN WHICH THE TITLE
21 INSURANCE PRODUCER IS APPOINTED; AND

22 2. AFTER THE FIRST ON-SITE REVIEW, AT LEAST ONCE AT
23 ANY TIME DURING EACH SUCCESSIVE CALENDAR YEAR IN WHICH THE TITLE
24 INSURANCE PRODUCER IS APPOINTED.

25 (III) The on-site review shall include a review of the title insurance
26 producer's or agency's policy blank inventory and processing operations.

27 [(ii)] (IV) If the title insurance producer or agency does not maintain
28 separate bank or trust accounts for each title insurer it represents, the title insurer
29 shall verify that the funds held on its behalf are reasonably ascertainable from the
30 books of account and records of the title insurance producer or agency.

31 (2) A written report setting forth the results of the on-site review shall
32 be prepared by the title insurer and is subject to financial examination under § 2-205
33 of this article.

34 (3) If, as a result of the examination, a title insurer has reasonable cause
35 to believe that a title insurance producer or agency has [failed to remit premiums or
36 funds owed or that any other violation of this article has been committed] ENGAGED
37 IN ANY OF THE PROHIBITED ACTIVITIES SET FORTH IN § 10-126 OF THIS SUBTITLE,

1 the title insurer shall report in writing the suspected violation to the Commissioner
2 and submit a copy of the examination.

3 (4) The examination required under this section is in addition to any
4 examination conducted by the Commissioner to determine compliance with the
5 accounts maintained for the benefit of the Maryland Affordable Housing Trust under
6 § 22-103 of this article.

7 (5) THE TITLE INSURER IS NOT REQUIRED TO PERFORM THE ON-SITE
8 REVIEW OF A TITLE INSURANCE PRODUCER FOR THE CALENDAR YEAR:

9 (I) DURING WHICH THE TITLE INSURANCE PRODUCER IS
10 INITIALLY APPOINTED IF THE APPOINTMENT IS MADE ON OR AFTER JUNE 30 OF
11 THAT CALENDAR YEAR; OR

12 (II) DURING WHICH THE APPOINTMENT OF THE TITLE INSURANCE
13 PRODUCER IS TERMINATED IF THE TERMINATION OCCURS ON OR BEFORE JUNE 30
14 OF THAT CALENDAR YEAR.

15 (K) A TITLE INSURANCE PRODUCER SHALL NOTIFY ANY TITLE INSURER WITH
16 WHOM THE TITLE INSURANCE PRODUCER HOLDS AN APPOINTMENT WHENEVER A
17 PERSON LICENSED UNDER THIS SUBTITLE BECOMES EMPLOYED BY, OR ASSOCIATED
18 WITH, THE TITLE INSURANCE PRODUCER.

19 [(k)] (L) (1) A title insurance producer shall notify the Commissioner, and
20 any insurer with whom the title insurance producer holds an appointment, if an
21 individual licensed under this subtitle leaves the employment of or ends an
22 association with the title insurance producer.

23 (2) The title insurance producer required to provide notice under this
24 subsection shall notify the Commissioner within 5 working days after the day the
25 individual leaves employment or ends the association.

26 (3) The notice required under this subsection shall be in writing and by
27 certified mail.

28 [(l)] (M) In addition to any requirements under Title 10, Subtitle 1 of this
29 article, title insurance producers shall comply with this section.

30 10-121.1.

31 (A) IN THIS SECTION, "TITLE INSURANCE PRODUCER SUBCONTRACTOR"
32 MEANS A PERSON THAT:

33 (1) IS LICENSED TO ACT AS A TITLE INSURANCE PRODUCER;

34 (2) PROVIDES ESCROW, CLOSING, OR SETTLEMENT SERVICES AS AN
35 INDEPENDENT CONTRACTOR FOR, OR ON BEHALF OF, A LICENSED AND APPOINTED
36 TITLE INSURANCE PRODUCER; AND

1 (3) IS NOT AN EMPLOYEE OF, OR ASSOCIATED WITH, THE LICENSED AND
2 APPOINTED TITLE INSURANCE PRODUCER.

3 (B) BEFORE UTILIZING OR ACCEPTING THE SERVICES OF A TITLE INSURANCE
4 PRODUCER SUBCONTRACTOR, A TITLE INSURANCE PRODUCER THAT DESIRES TO
5 ISSUE A POLICY OF TITLE INSURANCE RESULTING FROM A SETTLEMENT, ESCROW,
6 OR CLOSING CONDUCTED BY A TITLE INSURANCE PRODUCER SUBCONTRACTOR,
7 SHALL FIRST DETERMINE WHETHER THE TITLE INSURANCE PRODUCER
8 SUBCONTRACTOR HOLDS AN APPOINTMENT WITH THE TITLE INSURER WITH WHOM
9 THE CONTRACT OF TITLE INSURANCE WILL BE PLACED.

10 10-121.2.

11 (A) IN THIS SECTION, "QUALIFIED TITLE INSURER EMPLOYEE" MEANS AN
12 EMPLOYEE OR OFFICER OF AN AUTHORIZED TITLE INSURER WHO IS EMPLOYED BY,
13 OR ACTS AS AN OFFICER ON BEHALF OF, AN AUTHORIZED TITLE INSURER FOR A
14 PERIOD OF AT LEAST 2 YEARS.

15 (B) SUBJECT TO THIS SECTION, THE COMMISSIONER MAY ISSUE A LIMITED
16 LINES LICENSE TO A QUALIFIED TITLE INSURER EMPLOYEE TO ACT AS A TITLE
17 INSURANCE PRODUCER.

18 (C) TO APPLY FOR A LIMITED LINES LICENSE OR RENEWAL OF A LIMITED
19 LINES LICENSE AS A QUALIFIED TITLE INSURER EMPLOYEE, AN EMPLOYEE OR
20 OFFICER OF AN AUTHORIZED TITLE INSURER SHALL SUBMIT TO THE COMMISSIONER
21 A STATEMENT FROM THE AUTHORIZED TITLE INSURER BY WHOM THE APPLICANT IS
22 EMPLOYED OR FOR WHOM THE APPLICANT ACTS AS OFFICER, STATING FACTS THAT
23 INDICATE THAT THE APPLICANT HAS BEEN EMPLOYED BY, OR HAS ACTED AS AN
24 OFFICER FOR, THE AUTHORIZED TITLE INSURER FOR A PERIOD OF AT LEAST 2 YEARS
25 PRECEDING SUBMISSION OF THE APPLICATION.

26 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE
27 BONDING, EDUCATION, EXPERIENCE, AND EXAMINATION REQUIREMENTS OF THIS
28 SUBTITLE RELATING TO TITLE INSURANCE PRODUCERS DO NOT APPLY TO
29 QUALIFIED TITLE INSURER EMPLOYEES.

30 10-125.

31 (a) (1) In this section the following words have the meanings indicated.

32 (2) "ATTORNEY AT LAW" MEANS AN INDIVIDUAL ATTORNEY WHO IS
33 ADMITTED TO PRACTICE BEFORE THE COURT OF APPEALS OF THE STATE.

34 [(2)] (3) (i) "Law firm" means an association of attorneys who are
35 admitted to practice before the Court of Appeals of the State who EMPLOY, OR ARE IN
36 PARTNERSHIP OR OTHER ASSOCIATION WITH, AN ATTORNEY AT LAW OR ATTORNEYS
37 AT LAW WHO:

38 1. are primarily engaged in the practice of law; and

1 (2) THE BONDING, EDUCATION, EXPERIENCE, AND EXAMINATION
2 REQUIREMENTS OF THIS SUBTITLE RELATING TO TITLE INSURANCE PRODUCERS DO
3 NOT APPLY TO ATTORNEYS.

4 22-102.

5 (a) [When] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,
6 WHEN, in connection with a real estate transaction that involves a purchase money
7 mortgage or deed of trust on land in the State, a title insurer accepts a premium for
8 a policy that insures the title to the property or the title insurer, its agent, or
9 employee accepts a premium for mortgagee title insurance, the person first accepting
10 the premium:

11 (1) shall insert the name of each insured in the binder for the title
12 insurance or the title report; and

13 (2) immediately on receipt of the premium, shall deliver to the buyer or
14 agent or attorney of the buyer written notice:

15 (i) of the name of each insured under the policy;

16 (ii) of the face amount of the policy;

17 (iii) of the buyer's right and opportunity to obtain simultaneous title
18 insurance in the buyer's favor;

19 (iv) of the additional premium that will be required for purchase of
20 simultaneous title insurance in the buyer's favor;

21 (v) that the buyer's title insurance will be subject only to the
22 contingencies and conditions contained in the binder, title report, and policy;

23 (vi) of the buyer's right to review a sample of the form of policy in
24 which the contingencies and conditions will be inserted; and

25 (vii) that contains a clear statement of the contingencies that must
26 be satisfied to make the buyer's policy effective, if the buyer's policy is not effective on
27 payment of the premium.

28 (b) Before disbursing any funds, the person required to give notice under
29 subsection (a) of this section shall obtain from the buyer, at the time the person
30 delivers the notice, a statement in writing that the buyer has received the notice
31 described in subsection (a) of this section and that the buyer wants or does not want
32 owner's title insurance.

33 (c) (1) The person required to give notice under subsection (a) of this
34 section[:

1 (i) shall retain the original signed statement of receipt required by
2 subsection (b) of this section and a copy of the notice required by subsection (a) of this
3 section [until the title insurance policy is issued; and

4 (ii) after the title insurance policy is issued, shall forward the
5 statement of receipt and copy of the notice to the title insurer.

6 (2) The title insurer shall retain the statement of receipt and notice] for
7 3 years.

8 [(3)] (2) The statement of receipt and notice shall be available for
9 inspection by the Commissioner on request.

10 (D) THIS SECTION DOES NOT APPLY TO REAL ESTATE TRANSACTIONS
11 SECURING COMMERCIAL LOANS AS DESCRIBED IN § 12-103(E) OF THE COMMERCIAL
12 LAW ARTICLE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2006.