
By: **Delegate Doory**

Introduced and read first time: February 10, 2006

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2006

CHAPTER _____

1 AN ACT concerning

2 **Title Insurers and Title Insurance Producers**

3 FOR the purpose of altering the ~~intervals~~ interval at which ~~a title insurer shall~~
4 ~~conduct~~ a certain on-site review of certain practices of certain title insurance
5 producers ~~must be conducted; providing a certain exception to the required~~
6 ~~on-site review under certain circumstances; altering certain examination~~
7 ~~requirements~~; altering the circumstances under which a title insurer is required
8 to report a certain suspected violation to the Maryland Insurance Commissioner
9 as the result of an examination; requiring a title insurance producer to notify
10 any title insurer with whom the title insurance producer holds an appointment
11 whenever a certain person is employed by or associated with the title insurance
12 producer; ~~requiring a title insurance producer to make a certain determination~~
13 ~~about a certain title insurance producer subcontractor under certain~~
14 ~~circumstances; authorizing a certain qualified title insurer employee to apply for~~
15 ~~a limited lines license or renewal of a limited lines license as a title insurance~~
16 ~~producer under certain circumstances; exempting qualified title insurer~~
17 ~~employees~~ an employee or officer of an authorized title insurer from certain
18 ~~bonding, education, experience, and examination~~ requirements; prohibiting a
19 title insurance producer from using or accepting the services of a certain title
20 insurance producer independent contractor unless the title insurance producer
21 independent contractor holds a certain appointment; requiring a certain blanket
22 fidelity bond to cover certain independent contractors; clarifying that the
23 Commissioner may issue a limited lines license to an attorney ~~at law~~ who
24 solicits, procures, or negotiates title insurance contracts to act as a title
25 insurance producer; providing for the applicability of certain licensing
26 provisions to certain attorneys ~~at law~~; altering the applicability to attorneys and
27 law firms of certain bonding requirements, certain limited liability company,
28 corporate, and partnership requirements, certain licensing requirements, and

1 certain education, experience, and examination requirements; altering certain
 2 notice requirements as to the availability of title insurance; exempting certain
 3 real estate transactions from certain notice provisions as to the availability of
 4 title insurance; altering certain definitions; defining certain terms; making
 5 certain conforming changes; and generally relating to title insurers and title
 6 insurance producers.

7 BY repealing and reenacting, with amendments,
 8 Article - Insurance
 9 Section 10-101(j) and (k), 10-121(d)(1)(i),(j), (k), and (l) and 10-125
 10 Annotated Code of Maryland
 11 (2003 Replacement Volume and 2005 Supplement)

12 BY adding to
 13 Article - Insurance
 14 Section 10-101(j), 10-121(k), and 10-121.1, and 10-121.2
 15 Annotated Code of Maryland
 16 (2003 Replacement Volume and 2005 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article - Insurance
 19 Section 22-102
 20 Annotated Code of Maryland
 21 (2002 Replacement Volume and 2005 Supplement)

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

24 **Article - Insurance**

25 10-101.

26 (J) "TITLE INSURANCE PRODUCER INDEPENDENT CONTRACTOR" MEANS A
 27 PERSON THAT:

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

29 (2) PROVIDES ESCROW, CLOSING, OR SETTLEMENT SERVICES THAT MAY
 30 RESULT IN THE ISSUANCE OF A TITLE INSURANCE CONTRACT AS AN INDEPENDENT
 31 CONTRACTOR FOR, OR ON BEHALF OF, A LICENSED AND APPOINTED TITLE
 32 INSURANCE PRODUCER; AND

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

35 [(j)] (K) "Uniform application" means the current version of the NAIC
 36 uniform application for resident and nonresident insurance producer licensing.

1 ~~[(k)]~~ (L) "Uniform business entity application" means the current version of
 2 the NAIC uniform business entity application for resident and nonresident business
 3 entities.

4 10-121.

5 (d) (1) In addition to meeting any of the applicable requirements for a
 6 license to act as an insurance producer under this subtitle, a sole proprietor, a limited
 7 liability company, a partnership, or a corporate applicant for a license as a title
 8 insurance producer shall file with the Commissioner:

9 (i) a blanket fidelity bond covering appropriate employees AND
 10 TITLE INSURANCE PRODUCER INDEPENDENT CONTRACTORS; and

11 (j) (1) (i) ~~The EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS~~
 12 SUBSECTION, THE title insurer shall[, at least annually,] DURING EACH CALENDAR
 13 YEAR conduct an on-site review of the underwriting, claims, and escrow practices of
 14 each title insurance producer appointed by the insurer as a principal agent as
 15 designated in the title insurance agency contract between the insurer and the
 16 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) (III) If the title insurance producer or agency does not
 28 maintain separate bank or trust accounts for each title insurer it represents, the title
 29 insurer shall verify that the funds held on its behalf are reasonably ascertainable
 30 from the 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,
 38 the title insurer shall report in writing the suspected violation to the Commissioner
 39 and submit a copy of the examination.

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

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

7 ~~(H) DURING WHICH THE TITLE INSURANCE PRODUCER IS~~
 8 ~~INITIALLY APPOINTED IF THE APPOINTMENT IS MADE ON OR AFTER JUNE 30 OF~~
 9 ~~THAT CALENDAR YEAR; OR~~

10 ~~(H) DURING WHICH THE APPOINTMENT OF THE TITLE INSURANCE~~
 11 ~~PRODUCER IS TERMINATED IF THE TERMINATION OCCURS ON OR BEFORE JUNE 30~~
 12 ~~OF THAT CALENDAR YEAR.~~

13 (K) (1) A TITLE INSURANCE PRODUCER SHALL NOTIFY ANY TITLE INSURER
 14 WITH WHOM THE TITLE INSURANCE PRODUCER HOLDS AN APPOINTMENT
 15 WHENEVER A PERSON LICENSED UNDER THIS SUBTITLE BECOMES EMPLOYED BY,
 16 OR ASSOCIATED WITH, THE TITLE INSURANCE PRODUCER.

17 (2) THE BONDING REQUIREMENTS OF THIS SUBTITLE RELATING TO
 18 TITLE INSURANCE PRODUCERS DO NOT APPLY TO AN EMPLOYEE OR OFFICER OF AN
 19 AUTHORIZED TITLE INSURER.

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

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

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

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

31 10-121.1.

32 A TITLE INSURANCE PRODUCER MAY NOT USE OR ACCEPT THE SERVICES OF A
 33 TITLE INSURANCE PRODUCER INDEPENDENT CONTRACTOR UNLESS THE TITLE
 34 INSURANCE PRODUCER INDEPENDENT CONTRACTOR HOLDS AN APPOINTMENT
 35 WITH THE TITLE INSURER WITH WHICH THE CONTRACT OF TITLE INSURANCE MAY
 36 BE PLACED.

37 (A) ~~IN THIS SECTION, "TITLE INSURANCE PRODUCER SUBCONTRACTOR"~~
 38 ~~MEANS A PERSON THAT:~~

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

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

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

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

14 ~~10-121.2.~~

15 (A) ~~IN THIS SECTION, "QUALIFIED TITLE INSURER EMPLOYEE" MEANS AN~~
16 ~~EMPLOYEE OR OFFICER OF AN AUTHORIZED TITLE INSURER WHO IS EMPLOYED BY,~~
17 ~~OR ACTS AS AN OFFICER ON BEHALF OF, AN AUTHORIZED TITLE INSURER FOR A~~
18 ~~PERIOD OF AT LEAST 2 YEARS.~~

19 (B) ~~SUBJECT TO THIS SECTION, THE COMMISSIONER MAY ISSUE A LIMITED~~
20 ~~LINES LICENSE TO A QUALIFIED TITLE INSURER EMPLOYEE TO ACT AS A TITLE~~
21 ~~INSURANCE PRODUCER.~~

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

30 (D) ~~NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE~~
31 ~~BONDING, EDUCATION, EXPERIENCE, AND EXAMINATION REQUIREMENTS OF THIS~~
32 ~~SUBTITLE RELATING TO TITLE INSURANCE PRODUCERS DO NOT APPLY TO~~
33 ~~QUALIFIED TITLE INSURER EMPLOYEES.~~

34 ~~10-125.~~

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

36 (2) "ATTORNEY AT ~~LAW~~" MEANS AN INDIVIDUAL ATTORNEY WHO IS
37 ADMITTED TO PRACTICE ~~BEFORE~~ LAW BY THE COURT OF APPEALS OF THE STATE.

1 (3) the education, experience, and examination requirements of this
2 subtitle relating to title insurance producers do not apply to individual attorneys.]

3 (1) (I) THE LICENSING, BONDING, EDUCATION, EXPERIENCE, AND
4 EXAMINATION REQUIREMENTS OF THIS SUBTITLE RELATING TO TITLE INSURANCE
5 PRODUCERS DO NOT APPLY TO LAW FIRMS; AND

6 ~~(2)~~ (II) ~~THE EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF~~
7 ~~THIS SUBSECTION, THE~~ BONDING, EDUCATION, EXPERIENCE, AND EXAMINATION
8 REQUIREMENTS OF THIS SUBTITLE RELATING TO TITLE INSURANCE PRODUCERS DO
9 NOT APPLY TO ATTORNEYS.

10 (2) THE BONDING REQUIREMENTS OF THIS SUBTITLE ARE APPLICABLE
11 TO:

12 (I) AN ATTORNEY OR AN ASSOCIATION OF ATTORNEYS WHO OWN,
13 OPERATE, OR SHARE AN INTEREST IN A TITLE AGENCY; AND

14 (II) AN ATTORNEY WHO IS EMPLOYED BY A TITLE AGENCY AS A
15 TITLE INSURANCE PRODUCER.

16 22-102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (2) The title insurer shall retain the statement of receipt and notice] for
17 3 years.

18 [(3)] (2) The statement of receipt and notice shall be available for
19 inspection by the Commissioner on request.

20 (D) ~~THIS SECTION DOES NOT APPLY TO A REAL ESTATE TRANSACTIONS~~
21 ~~SECURING COMMERCIAL LOANS AS DESCRIBED IN § 12-103(E) OF THE COMMERCIAL~~
22 ~~LAW ARTICLE TRANSACTION INVOLVING A MORTGAGE OR DEED OF TRUST SECURING~~
23 ~~AN EXTENSION OF CREDIT MADE:~~

24 (1) SOLELY TO ACQUIRE AN INTEREST IN OR TO CARRY ON A BUSINESS
25 OR COMMERCIAL ENTERPRISE; OR

26 (2) TO ANY BUSINESS OR COMMERCIAL ORGANIZATION.

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