

SENATE BILL 86

C4

9lr0044

(PRE-FILED)

By: **Chair, Finance Committee (By Request - Departmental - Insurance Administration, Maryland)**

Requested: September 30, 2008

Introduced and read first time: January 14, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Title Insurance Producers - Regulation and Requirements**

3 FOR the purpose of specifying that only a licensed title insurance producer may have
4 control over or custody of certain money; increasing the amount of a certain
5 fidelity bond and a certain surety bond or letter of credit that certain applicants
6 for a license to act as a title insurance producer must file with the Maryland
7 Insurance Commissioner; making certain conforming changes; requiring the
8 Commissioner to adopt certain regulations; and generally relating to title
9 insurance producers.

10 BY repealing and reenacting, with amendments,
11 Article - Insurance
12 Section 10-121
13 Annotated Code of Maryland
14 (2003 Replacement Volume and 2008 Supplement)

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

17 **Article - Insurance**

18 10-121.

19 **(A) ONLY A LICENSED TITLE INSURANCE PRODUCER MAY HAVE**
20 **CONTROL OVER OR CUSTODY OF MONEY RECEIVED OR HELD IN ESCROW OR IN**
21 **TRUST.**

22 **[(a)] (B)** A title insurance producer may not convert or misappropriate
23 money received or held in escrow or trust while:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) acting as a title insurance producer; or

2 (2) providing any escrow, closing, or settlement services.

3 [(b)] (C) (1) If an applicant for a license is a partnership, each partner
4 must hold a license to act as a title insurance producer and, if applicable, an
5 appointment with a title insurer.

6 (2) (i) If an applicant for a license is a corporation, each controlling
7 owner and each officer must hold a license to act as a title insurance producer and, if
8 applicable, an appointment with a title insurer.

9 (ii) For purposes of subparagraph (i) of this paragraph, a person
10 is not considered a controlling owner of a corporation if the person:

11 1. is a stockholder of the corporation;

12 2. does not manage or have day-to-day control over the
13 operation of the corporation; and

14 3. is not an officer, director, or employee of the
15 corporation who in any other way renders services for the corporation for which the
16 person is compensated by the corporation.

17 (3) If an applicant for a license is a limited liability company, each
18 individual who has direct control over its fiscal management and each manager and
19 officer must hold a license to act as a title insurance producer and, if applicable, an
20 appointment with a title insurer.

21 [(c)] (D) (1) When the application of a partnership for a license as a title
22 insurance producer is submitted, the Commissioner shall investigate the character of
23 each partner of the partnership applicant.

24 (2) When the application of a corporation for a license as a title
25 insurance producer is submitted, the Commissioner shall investigate the character of
26 each controlling owner and each officer and director of the corporate applicant.

27 (3) When the application of a limited liability company for a license is
28 submitted, the Commissioner shall investigate the character of each individual who
29 has direct control over its fiscal management and each member, manager, officer, and
30 director of the limited liability company applicant.

31 [(d)] (E) (1) In addition to meeting any of the applicable requirements
32 for a license to act as an insurance producer under this subtitle, a sole proprietor, a
33 limited liability company, a partnership, or a corporate applicant for a license as a title
34 insurance producer shall file with the Commissioner:

1 (i) a blanket fidelity bond covering appropriate employees and
2 title insurance producer independent contractors; and

3 (ii) 1. a blanket surety bond; or

4 2. a letter of credit.

5 (2) Unless the Commissioner approves a lesser amount, each bond or
6 letter of credit shall be for [~~\$100,000~~] **\$250,000**.

7 (3) The Commissioner may adopt regulations that specify when it is
8 appropriate for a bond or letter of credit to be less than [~~\$100,000~~] **\$250,000**.

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

12 (5) The Commissioner shall make a specific finding that states the
13 reason for accepting a bond or letter of credit for less than [~~\$100,000~~] **\$250,000**.

14 [(e)] (F) (1) The surety bond or letter of credit shall be for the benefit of
15 any person that suffers a loss if the title insurance producer converts or
16 misappropriates money received or held in escrow or trust while:

17 (i) acting as a title insurance producer; or

18 (ii) providing any escrow, closing, or settlement services.

19 (2) The fidelity bond shall be for the benefit of the employer of the title
20 insurance producer who suffers any loss as described in paragraph (1) of this
21 subsection.

22 (3) The total liability of the surety insurer under each bond or letter of
23 credit may not exceed [~~\$100,000~~] **\$250,000**.

24 [(f)] (G) The title insurance producer shall file the bond or letter of credit
25 with the Commissioner:

26 (1) after the Commissioner notifies the title insurance producer of the
27 approval of the application for a license; and

28 (2) before the Commissioner issues the license.

29 [(g)] (H) (1) Each bond or letter of credit shall remain in force until:

1 (i) the surety insurer is released from liability by the
2 Commissioner; or

3 (ii) the bond or letter of credit is canceled by the surety insurer.

4 (2) A surety insurer shall notify the title insurance producer and the
5 Commissioner at least 30 days before canceling a bond or letter of credit.

6 (3) If a surety insurer fails to notify the title insurance producer and
7 the Commissioner as required by paragraph (2) of this subsection, the bond or letter of
8 credit remains in effect until the surety insurer notifies the title insurance producer
9 and the Commissioner.

10 (4) A cancellation under this subsection does not affect any liability
11 that occurred during the life of the bond or letter of credit and before the date of
12 cancellation.

13 ~~[(h)]~~ (I) Before the Commissioner renews the license of a title insurance
14 producer, the title insurance producer shall submit satisfactory evidence of compliance
15 with this section.

16 ~~[(i)]~~ (J) (1) If a title insurance producer has been charged with a
17 violation of this section or this article that could result in suspension or revocation of
18 the license of the title insurance producer, the Commissioner may seek an immediate
19 restraining order from a circuit court to prohibit the title insurance producer from
20 providing title insurance, escrow, closing, or settlement services.

21 (2) A restraining order issued by a court under this subsection is
22 effective until:

23 (i) the court lifts the restraining order; or

24 (ii) the charges are dismissed or adjudicated.

25 ~~[(j)]~~ (K) (1) (i) Except as provided in paragraph (5) of this subsection,
26 the title insurer shall during each calendar year conduct an on-site review of the
27 underwriting, claims, and escrow practices of each title insurance producer appointed
28 by the insurer as a principal agent as designated in the title insurance agency contract
29 between the insurer and the producer.

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

32 (iii) If the title insurance producer or agency does not maintain
33 separate bank or trust accounts for each title insurer it represents, the title insurer
34 shall verify that the funds held on its behalf are reasonably ascertainable from the
35 books of account and records of the title insurance producer or agency.

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

4 (3) If, as a result of the examination, a title insurer has reasonable
5 cause to believe that a title insurance producer or agency has engaged in any of the
6 prohibited activities set forth in § 10-126 of this subtitle, the title insurer shall report
7 in writing the suspected violation to the Commissioner and submit a copy of the
8 examination.

9 (4) The examination required under this section is in addition to any
10 examination conducted by the Commissioner to determine compliance with the
11 accounts maintained for the benefit of the Maryland Affordable Housing Trust under §
12 22-103 of this article.

13 (5) The title insurer is not required to perform the on-site review of a
14 title insurance producer for the calendar year during which the title insurance
15 producer is initially appointed if the appointment is made on or after June 30 of that
16 calendar year.

17 [(k)] (L) (1) A title insurance producer shall notify any title insurer with
18 whom the title insurance producer holds an appointment whenever a person licensed
19 under this subtitle becomes employed by, or associated with, the title insurance
20 producer.

21 (2) The bonding requirements of this subtitle relating to title
22 insurance producers do not apply to an employee or officer of an authorized title
23 insurer.

24 [(l)] (M) (1) A title insurance producer shall notify the Commissioner,
25 and any insurer with whom the title insurance producer holds an appointment, if an
26 individual licensed under this subtitle leaves the employment of or ends an association
27 with the title insurance producer.

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

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

33 [(m)] (N) In addition to any requirements under Title 10, Subtitle 1 of this
34 article, title insurance producers shall comply with this section.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 June 1, 2009.