

# SENATE BILL 86

C4

9lr0044

(PRE-FILED)

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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

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

3 FOR the purpose of specifying that, with certain exceptions, only a licensed title  
4 insurance producer may ~~have~~ exercise control over ~~or custody of~~ certain money;  
5 increasing the amount of a certain fidelity bond and a certain surety bond or  
6 letter of credit that certain applicants for a license to act as a title insurance  
7 producer must file with the Maryland Insurance Commissioner; making certain  
8 conforming changes; ~~requiring the Commissioner to adopt certain regulations~~  
9 requiring the Commission to Study the Title Insurance Industry in Maryland to  
10 examine the adequacy of a certain blanket surety bond or letter of credit and to  
11 make a certain determination under certain circumstances; defining a certain  
12 term; providing for the effective dates of this Act; providing for the application  
13 of certain provisions of this Act; and generally relating to title insurance  
14 producers.

15 BY repealing and reenacting, with amendments,  
16 Article - Insurance  
17 Section 10-121  
18 Annotated Code of Maryland  
19 (2003 Replacement Volume and 2008 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Insurance  
22 Section 10-121(e) and (f)

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
 2 (2003 Replacement Volume and 2008 Supplement)  
 3 (As enacted by Section 1 of this Act)

4 BY repealing and reenacting, with amendments,  
 5 Chapter 356 of the Acts of the General Assembly of 2008  
 6 Section 1(g)

7 BY repealing and reenacting, with amendments,  
 8 Chapter 357 of the Acts of the General Assembly of 2008  
 9 Section 1(g)

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

12 **Article – Insurance**

13 10–121.

14 (A) (1) IN THIS SUBSECTION, “TRUST MONEY” MEANS A DEPOSIT,  
 15 PAYMENT, OR OTHER MONEY THAT A PERSON ENTRUSTS TO ANOTHER PERSON  
 16 IN CONNECTION WITH THE PROVISION OF ESCROW, CLOSING, OR REAL ESTATE  
 17 SETTLEMENT SERVICES.

18 (2) ~~ONLY~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS  
 19 SUBSECTION, ONLY A LICENSED TITLE INSURANCE PRODUCER MAY ~~HAVE~~  
 20 EXERCISE CONTROL OVER ~~OR CUSTODY OF MONEY RECEIVED OR HELD IN~~  
 21 ~~ESCROW OR IN TRUST MONEY.~~

22 (3) THIS SUBSECTION DOES NOT APPLY TO TRUST MONEY THAT IS  
 23 ENTRUSTED TO:

24 (I) A LAW FIRM AS DEFINED IN § 10–125 OF THIS SUBTITLE;  
 25 OR

26 (II) A TITLE INSURER.

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

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

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



1 2. a letter of credit.

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

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

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

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

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

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

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

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

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

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

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

25 (2) before the Commissioner issues the license.

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

27 (i) the surety insurer is released from liability by the  
 28 Commissioner; or

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

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

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

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

10           [(h)] (I) Before the Commissioner renews the license of a title insurance  
11 producer, the title insurance producer shall submit satisfactory evidence of compliance  
12 with this section.

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

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

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

21                   (ii) the charges are dismissed or adjudicated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 **Article – Insurance**

35 10–121.

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

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

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

8                                   2.   a letter of credit.

9                   (2)   Unless the Commissioner approves a lesser amount, each bond or  
10 letter of credit shall be for [~~\$100,000~~] **\$150,000**.

11                   (3)   The Commissioner may adopt regulations that specify when it is  
12 appropriate for a bond or letter of credit to be less than [~~\$100,000~~] **\$150,000**.

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

16                   (5)   The Commissioner shall make a specific finding that states the  
17 reason for accepting a bond or letter of credit for less than [~~\$100,000~~] **\$150,000**.

18           (f)   (1)   The surety bond or letter of credit shall be for the benefit of any  
19 person that suffers a loss if the title insurance producer converts or misappropriates  
20 money received or held in escrow or trust while:

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

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

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

26                   (3)   The total liability of the surety insurer under each bond or letter of  
27 credit may not exceed [~~\$100,000~~] **\$150,000**.

28           SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
29 read as follows:

30                                   **Chapter 356 of the Acts of 2008**

31           SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
32 MARYLAND, That:

1 (g) In order to develop recommendations, the Commission shall:

2 (1) review State laws relating to the title insurance industry;

3 (2) review the mechanisms available to enforce State laws relating to  
4 the title insurance industry and the effectiveness of those mechanisms;

5 (3) identify title insurance industry issues that affect consumers in  
6 Maryland;

7 (4) examine the rate-setting factors for title insurance premiums;

8 (5) examine how rates and services in a title plant state compare to  
9 those in Maryland;

10 (6) identify ways to improve consumer education about the title  
11 insurance industry;

12 (7) study whether mechanics' liens on properties scheduled for  
13 settlement have an impact on the timeliness of settlements or on title insurance  
14 premium rates;

15 (8) review the time limits, subsequent to closing, for the issuance of  
16 title insurance policies;

17 (9) study affiliated business arrangements among title insurance  
18 producers, builders, title insurance companies, realtors, lenders, and other businesses  
19 involved with the settlement of real estate transactions to determine the impact of  
20 these arrangements on title insurance premium rates; [and]

21 **(10) (I) EXAMINE THE ADEQUACY OF THE BLANKET SURETY**  
22 **BOND OR LETTER OF CREDIT REQUIRED UNDER § 10-121(E) OF THE INSURANCE**  
23 **ARTICLE TO PROTECT CONSUMERS WHO SUFFER A LOSS FROM THE**  
24 **CONVERSION OR MISAPPROPRIATION BY A TITLE INSURANCE PRODUCER OF**  
25 **MONEY RECEIVED OR HELD IN ESCROW OR TRUST; AND**

26 **(II) IF THE COMMISSION FINDS THAT AN INCREASE IN THE**  
27 **AMOUNT OF THE BLANKET SURETY BOND OR LETTER OF CREDIT IS**  
28 **WARRANTED, DETERMINE THE IMPACT OF THE ADDITIONAL COST ON TITLE**  
29 **INSURANCE PRODUCERS; AND**

30 ~~[(10)]~~ (11) study any other issue with significant impact on the title  
31 insurance industry.



1        SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That:

3        (g)    In order to develop recommendations, the Commission shall:

4            (1)    review State laws relating to the title insurance industry;

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6 the title insurance industry and the effectiveness of those mechanisms;

7            (3)    identify title insurance industry issues that affect consumers in  
8 Maryland;

9            (4)    examine the rate-setting factors for title insurance premiums;

10           (5)    examine how rates and services in a title plant state compare to  
11 those in Maryland;

12           (6)    identify ways to improve consumer education about the title  
13 insurance industry;

14           (7)    study whether mechanics' liens on properties scheduled for  
15 settlement have an impact on the timeliness of settlements or on title insurance  
16 premium rates;

17           (8)    review the time limits, subsequent to closing, for the issuance of  
18 title insurance policies;

19           (9)    study affiliated business arrangements among title insurance  
20 producers, builders, title insurance companies, realtors, lenders, and other businesses  
21 involved with the settlement of real estate transactions to determine the impact of  
22 these arrangements on title insurance premium rates; [and]

23           (10) (I)    **EXAMINE THE ADEQUACY OF THE BLANKET SURETY**  
24 **BOND OR LETTER OF CREDIT REQUIRED UNDER § 10-121(E) OF THE INSURANCE**  
25 **ARTICLE TO PROTECT CONSUMERS WHO SUFFER A LOSS FROM THE**  
26 **CONVERSION OR MISAPPROPRIATION BY A TITLE INSURANCE PRODUCER OF**  
27 **MONEY RECEIVED OR HELD IN ESCROW OR TRUST; AND**

28           (II)    **IF THE COMMISSION FINDS THAT AN INCREASE IN THE**  
29 **AMOUNT OF THE BLANKET SURETY BOND OR LETTER OF CREDIT IS**  
30 **WARRANTED, DETERMINE THE IMPACT OF THE ADDITIONAL COST ON TITLE**  
31 **INSURANCE PRODUCERS; AND**

32           [(10)] (11)    study any other issue with significant impact on the title  
33 insurance industry.

1           SECTION 4. AND BE IT FURTHER ENACTED, That the increase in the  
2 amount of the fidelity bond and the blanket surety bond or letter of credit required for  
3 licensing as a title insurance producer under § 10–121(e) of the Insurance Article, as  
4 enacted by Section 2 of this Act, shall apply to all title insurance producer licenses  
5 issued or renewed on or after October 1, 2009.

6           SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
7 take effect October 1, 2009.

8           SECTION ~~2~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in  
9 Section 5 of this Act, this Act shall take effect June 1, 2009.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.