

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 40

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

Finance

Economic Matters

Title Insurance Producers - Licensing of Business Entities and On-Site Reviews

This departmental bill repeals the requirement that each partner or officer of a title agency hold a title insurance producer license and instead requires each controlling person and each trust money controller to hold such a license and makes technical and conforming changes. If an applicant for a license is a business entity, the application must include an entity authorization that contains specified information. Furthermore, the Insurance Commissioner must investigate the character of each individual identified as a controlling person or trust money controller by the entity authorization.

The bill also expressly authorizes a title insurer to limit the review of a title producer or agency that holds appointments with more than one title insurer to files, separately held accounts, and written documentation relating to its title insurance policies.

Fiscal Summary

State Effect: Special fund licensing revenues for the Maryland Insurance Administration (MIA) decrease to the extent that the bill results in fewer title insurance producer licenses being issued; however, the total impact cannot be reliably estimated at this time. MIA may experience workload efficiencies as it reviews fewer license and renewal applications and conducts fewer character investigations. Expenditures are not otherwise affected.

Local Effect: The bill does not affect local governmental operations or finances.

Small Business Effect: MIA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: “Controlling person” means an individual who exercises day-to-day direct control over the operation of a title agency doing business in the State, regardless of whether the person is an officer, manager, or owner. “Entity authorization” means a resolution or consent document executed in accordance with the formalities and governing provisions of the particular business entity and verified under oath. “Trust money” means a deposit, payment, or any other money a person entrusts to a licensed title insurance producer in connection with the provision of escrow, closing, or real estate settlement services relating to property within the State. “Trust money controller” means a person within a title agency who has day-to-day direct control over trust money.

If an applicant for a title insurance producer license is a business entity, the application must include an entity authorization that (1) identifies each controlling person; (2) designates each trust money controller for the title agency; (3) identifies each owner; and (4) identifies each officer, director, manager, partner, or other person designated to act as the business entity’s principal contact with MIA.

Current Law: A title insurance producer is a person that, for compensation, solicits, procures, or negotiates title insurance contracts. It includes a person that provides escrow, closing, or settlement services that may result in the issuance of a title insurance contract and does not include licensed title insurers or individuals employed by a title insurance producer for clerical and similar office work. To act as a title insurance producer, an individual must obtain a license from the Insurance Commissioner. The license fee for an insurance producer is \$54 initially and \$54 every two years for renewal. Each producer license expires every two years (1) for an individual, on the last day of the month in which the holder of the license was born and (2) for a business, on the same day the license was first issued.

Related to title insurance producer licensing, if an applicant is a partnership, then each partner must obtain a license and an appointment with a title insurer, if applicable. If an applicant is a corporation, each controlling owner and each officer must obtain a license. If an applicant is a limited liability company, each individual with direct control over its fiscal management and each officer and manager must obtain a license and an appointment with a title insurer, if applicable. In each of these cases, the Insurance Commissioner must investigate the character of the license applicants. Furthermore, a business entity applicant must submit other specified documents and information to the Commissioner.

Generally, only a licensed title insurance producer may exercise control over trust money; however, this limitation does not apply to money entrusted to a law firm or title insurer. A title insurance producer may not convert or misappropriate money received or held in

escrow or trust while acting as a title insurance producer or providing escrow, closing, or settlement services.

Background: MIA advises that there are currently 21 licensed title insurers (both resident and nonresident) operating in the State. Furthermore, for title insurance producers, there are 3,114 resident individual licenses, 365 resident business entity licenses, 1,091 nonresident individual licenses, and 283 nonresident business entity licenses.

State Revenues: MIA special fund revenues decrease by \$54 every two years for each title insurance producer license that is no longer issued as a result of the bill; however, the total impact on MIA cannot be reliably estimated at this time. *For illustrative purposes only*, if one fewer employee at each of the 648 title insurance producer businesses is required to be licensed, then MIA special fund revenues decrease by about \$34,992 every two years, or \$17,496 each year on average.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History: First Reader - January 10, 2017
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Insurance – Title Insurance – Licensing and On-Site Reviews

BILL NUMBER: SB 40

PREPARED BY: Nancy Egan
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PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS