

SENATE BILL 170

C4

2lr0010

(PRE-FILED)

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

Requested: October 4, 2021

Introduced and read first time: January 12, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Title Insurance – Insurers and Insurance Producers – Requirements**

3 FOR the purpose of altering certain requirements on title insurers relating to the review of
4 underwriting, claims, and escrow practices and policy-issuing processes of title
5 insurance producers appointed by the title insurers; altering the manner by which
6 title insurance producers are required to send a certain notice to the Maryland
7 Insurance Commissioner and any insurer with whom the title insurance producer
8 holds an appointment; and generally relating to title insurance.

9 BY repealing and reenacting, with amendments,
10 Article – Insurance
11 Section 10–121
12 Annotated Code of Maryland
13 (2017 Replacement Volume and 2021 Supplement)

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

16 **Article – Insurance**

17 10–121.

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

19 (2) “Controlling person” means an individual who exercises day-to-day
20 direct control over the operation of a title agency doing business in the State, irrespective
21 of whether the person is an officer, a manager, or an owner.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(3) “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.

(4) “Owner” means a person that individually, or through one or more ownership tiers, ultimately holds a 10% or more equity interest in the business entity applying for a title insurance producer license or renewal of a title insurance producer license.

(5) “Title agency” has the meaning stated in § 10–125(a)(4) of this subtitle.

(6) “Trust money” means a deposit, a payment, or any other money that 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.

(7) “Trust money controller” means a person within a title agency who has day-to-day direct control over trust money.

(b) (1) Except as provided in paragraph (2) of this subsection, only a licensed title insurance producer may exercise control over trust money.

(2) Paragraph (1) of this subsection does not apply to trust money that is entrusted to:

(i) a law firm as defined in § 10–125 of this subtitle; or

(ii) a title insurer.

(c) A person may not convert or misappropriate money received or held in escrow or trust while:

(1) acting as a title insurance producer; or

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

(d) (1) Each controlling person and each trust money controller shall hold a license to act as a title insurance producer and, if applicable, an appointment with a title insurer.

(2) If an applicant for a license is a business entity, the application shall be accompanied by an entity authorization that:

(i) identifies each controlling person;

(ii) designates each person that will be a trust money controller for the title agency;

(iii) identifies each owner; and

(iv) identifies each officer, director, manager, general partner, or other person designated by the business entity to act as the business entity's principal contact with the Administration.

(3) When the application of a business entity for a license as a title insurance producer is submitted, the Commissioner shall investigate the character of each person identified as a controlling person and each person identified as a trust money controller in the entity authorization included with the application.

(e) (1) In addition to meeting any of the applicable requirements for a license to act as an insurance producer under this subtitle, a business entity applicant for a license as a title insurance producer shall file with the Commissioner:

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

(ii) 1. a blanket surety bond; or

2. a letter of credit.

(2) Unless the Commissioner approves a lesser amount, each bond or letter of credit shall be for \$150,000.

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

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

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

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

(i) acting as a title insurance producer; or

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

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

(3) The total liability of the surety insurer under each bond or letter of credit may not exceed \$150,000.

(g) The title insurance producer shall file the bond or letter of credit with the Commissioner:

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

(2) before the Commissioner issues the license.

(h) (1) Each bond or letter of credit shall remain in force until:

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

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

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

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

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

(i) Before the Commissioner renews the license of a title insurance producer, the title insurance producer shall submit satisfactory evidence of compliance with this section.

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

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

(i) the court lifts the restraining order; or

(ii) the charges are dismissed or adjudicated.

(k) (1) (i) Except as provided in paragraph (5) of this subsection, the title insurer shall during each calendar year conduct [an on-site] A review of the underwriting,

1 claims, and escrow practices of each title insurance producer appointed by the insurer as a
2 principal agent as designated in the title insurance agency contract between the insurer
3 and the producer.

4 (ii) The [on-site] review shall include a review of the title insurance
5 producer's [or agency's policy blank inventory and processing operations]
6 **POLICY-ISSUING PROCESSES.**

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

11 (iv) Subject to the requirement under paragraph (3) of this
12 subsection to report suspected violations that the title insurer has reasonable cause to
13 believe have occurred, if the title insurance producer or title agency holds an appointment
14 with more than one title insurer, the title insurer may limit its review to files, separately
15 held accounts, and written documentation relating to its title insurance policies.

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

19 (II) **THE REPORT SHALL BE SUBMITTED TO THE COMMISSIONER**
20 **ON A FORM CREATED BY THE COMMISSIONER AND IN THE MANNER DIRECTED BY**
21 **THE COMMISSIONER.**

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

26 (4) The examination required under this section is in addition to any
27 examination conducted by the Commissioner to determine compliance with the accounts
28 maintained for the benefit of the Maryland Affordable Housing Trust under § 22-105 of
29 this article.

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

33 (l) (1) A title insurance producer shall notify any title insurer with whom the
34 title insurance producer holds an appointment whenever a person licensed under this
35 subtitle becomes employed by, or associated with, the title insurance producer.

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

(m) (1) A title insurance producer shall notify the Commissioner, and any insurer with whom the title insurance producer holds an appointment, if an individual licensed under this subtitle leaves the employment of or ends an association with the title insurance producer.

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

(3) The notice required under this subsection shall be:

(i) in writing; and

(ii) sent [by certified mail or by electronic means in accordance with § 2-116 of this article] **IN THE MANNER DESIGNATED IN BULLETIN BY THE COMMISSIONER.**

(n) Notwithstanding subsections (e) and (g) of this section, a title insurance producer independent contractor who provides escrow closing or settlement services that may result in the issuance of a title insurance contract for or on behalf of a title insurance producer is not required to file a blanket fidelity bond, blanket surety bond, or letter of credit with the Commissioner.

(o) In addition to any requirements under this subtitle, title insurance producers shall comply with this section.

(P) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.