

2021 -- S 0743

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO INSURANCE -- RHODE ISLAND TITLE INSURERS ACT

Introduced By: Senator Walter S. Felag

Date Introduced: March 26, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 27-2.6-3 and 27-2.6-16 of the General Laws in Chapter 27-2.6
2 entitled "Rhode Island Title Insurers Act" are hereby amended to read as follows:

3 **27-2.6-3. Definitions.**

4 As used in this chapter:

5 (1) "Abstract of title" or "abstract" means a written history, synopsis or summary of the
6 recorded instruments affecting the title to real property.

7 (2) "Affiliate" means a specific person that directly, or indirectly through one or more
8 intermediaries, controls, or is controlled by or is under common control with the person specified.

9 (3) "Bona fide employee of the title insurer or title insurance agent" means an individual
10 who devotes substantially all of his or her time to performing services on behalf of a title insurer
11 or title insurance agent and whose compensation for those services is in the form of salary or its
12 equivalent paid by the title insurer or title insurance agent.

13 (4) "Commissioner" means the director of the department of business regulation, or his or
14 her designee or the commissioner, director or superintendent of insurance in any other state.

15 (5) "Control" (including the terms "controlling," "controlled by" and "under common
16 control with") means the possession, direct or indirect, of the power to direct or cause the direction
17 of the management and policies of a person, whether through the ownership of voting securities,
18 by contract other than a commercial contract for goods or nonmanagement services, or otherwise,
19 unless the power is the result of an official position or corporate office held by the person. Control

1 shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power
2 to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of another
3 person. This presumption may be rebutted by a showing that control does not exist in fact. The
4 commissioner may determine, after furnishing all persons in interest notice and opportunity to be
5 heard and making specific findings of fact to support the determination, that control exists in fact,
6 notwithstanding the absence of a presumption to that effect.

7 (6) "Direct operations" means that portion of a title insurer's operations which are
8 attributable to business written by a bona fide employee.

9 (7) "Escrow" means written instruments, money or other items deposited by one party with
10 a depository, escrow agent or escrowee for delivery to another party upon the performance, of a
11 specified condition or the happening of a certain event.

12 (8) "Escrow, settlement or closing fee" means the consideration for supervising or handling
13 the actual execution, delivery or recording of transfer and lien documents and for disbursing funds.

14 (9) "Foreign title insurer" means any title insurer incorporated or organized under the laws
15 of any other state of the United States, the District of Columbia, or any other jurisdiction of the
16 United States.

17 (10) "Net retained liability" means the total liability retained by a title insurer for a single
18 risk, after taking into account any ceded liability and collateral, acceptable to the commissioner,
19 maintained by the insurer.

20 (11) "Non-U.S. title insurer" means any title insurer incorporated or organized under the
21 laws of any foreign nation or any province or territory.

22 (12) "Person" means any natural person, partnership, association, cooperative, corporation,
23 trust or other legal entity.

24 (13) "Producer" means any person, including any officer, director or owner of five percent
25 (5%) or more of the equity or capital of any person, engaged in this state in the trade, business,
26 occupation or profession of:

- 27 (i) Buying or selling interests in real property;
28 (ii) Making loans secured by interests in real property; or
29 (iii) Acting as broker, agent, representative or attorney or a person who buys or sells any
30 interest in real property or who lends or borrows money with the interest as security.

31 (14) "Qualified financial institution" means an institution that is:

- 32 (i) Organized or (in the case of a United States branch or agency office of a foreign banking
33 organization) licensed under the laws of the United States or any state and has been granted
34 authority to operate with fiduciary powers;

1 (ii) Regulated, supervised and examined by federal or state authorities having regulatory
2 authority over banks and trust companies;

3 (iii) Insured by the appropriate federal entity; and

4 (iv) Qualified under any additional rules established by the commissioner.

5 (15) "Security" or "security deposit" means funds or other property received by the title
6 insurer as collateral to secure an indemnitor's obligation under an indemnity agreement pursuant to
7 which the insurer is granted a perfected security interest in the collateral in exchange for agreeing
8 to provide coverage in a title insurance policy for a specific title exception to coverage.

9 (16) "Subsidiary" means an affiliate controlled by a person directly or indirectly through
10 one or more intermediaries.

11 (17) "Title insurance agent" or "agent" means ~~an authorized person, other than a bona fide~~
12 ~~employee of the title insurer~~ an attorney, licensed to practice in the state of Rhode Island, who, on
13 behalf of the title insurer, performs the following acts, in conjunction with the issuance of a title
14 insurance report or policy:

15 (i) Determines insurability and marketability and issues title insurance reports or policies,
16 or both, based upon the performance or review of a search or abstract of title; and

17 (ii) Performs one or more of the following functions:

18 (A) Collects or disburses premiums, escrow or security deposits or other funds;

19 (B) Handles escrows, settlements or closings;

20 (C) Solicits or negotiates title insurance business; or

21 (D) Records closing documents.

22 (18) "Title insurance business" or "business of title insurance" means":

23 (i) Issuing as insurer or offering to issue as insurer, a title insurance policy;

24 (ii) Transacting or proposing to transact by a title insurer any of the following activities
25 when conducted or performed in contemplation of, or in conjunction with, the issuance of a title
26 insurance policy:

27 (A) Soliciting or negotiating the issuance of a title insurance policy;

28 (B) Guaranteeing, warranting or otherwise insuring the correctness of title searches for all
29 instruments affecting titles to real property, any interest in real property, cooperative units and
30 proprietary leases and for all liens or charges affecting the same;

31 (C) Handling of escrows, settlements or closings;

32 (D) Executing title insurance policies;

33 (E) Effecting contracts of reinsurance.

34 (iii) Guaranteeing, warranting or insuring searches or examination of title to real property

1 or any interest in real property;

2 (iv) Guaranteeing or warranting the status of title as to ownership of or liens on real
3 property and personal property by any person other than the principals to the transaction; or

4 (v) Doing or proposing to do any business substantially equivalent to any of the activities
5 listed in this subsection in a manner designed to evade the provisions of this chapter.

6 (19) "Title insurance policy" or "policy" means a contract insuring or indemnifying owners
7 of, or other persons lawfully interested in, real or personal property or any interest in real property,
8 against loss or damage arising from any or all of the following conditions existing and not excepted
9 or excluded:

10 (i) Defects in or liens or encumbrances on the insured title;

11 (ii) Unmarketability of the insured title;

12 (iii) Invalidity, lack of priority or unenforceability of liens or encumbrances on the stated
13 property;

14 (iv) Lack of legal right of access to the land; or

15 (v) Unenforceability of rights in title to the land.

16 (20) "Title insurer" or "insurer" means a company organized under laws of this state for
17 the purpose of transacting the business of title insurance and any foreign or non-United States title
18 insurer licensed in this state to transact the business of title insurance.

19 (21) "Title plant" means a set of records consisting of documents, maps, surveys or entries
20 affecting title to real property or any interest in or encumbrance on the property, which have been
21 filed or recorded in the jurisdiction for which the title plant is established or maintained.

22 **27-2.6-16. Premium rate filings and standards.**

23 No title insurer may charge any rates regulated by the state after the effective date of this
24 act, except in accordance with the premium rate schedule and manuals filed with and approved by
25 the commissioner in accordance with the provisions of chapter 44 of this title. [No title insurer may
26 reduce or discount the amount of the title insurance premium from the gross title premium set forth
27 in the manual so filed and approved, except in accordance with a refinance or reissue rate as set
28 forth in the manual. For insurance amounts higher than any amount specifically set forth in the title
29 insurer's rate manual, the gross premium shall be calculated at the same rate per thousand dollars
30 of insurance for the highest stated amount set forth in the manual. Only licensed title agents are
31 entitled to receive, collect and share in any title insurance premiums, or any portion thereof. Only
32 attorneys licensed to practice in the state of Rhode Island may share in any portion of the title
33 insurance premium with the title insurer.](#)

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO INSURANCE -- RHODE ISLAND TITLE INSURERS ACT

1 This act would provide that only attorneys licensed in the state of Rhode Island can act as
2 title insurance agents and only they can determine insurability and marketability of the subject
3 property. It would also provide that no title insurers can discount title insurance premiums as set
4 forth in rate manuals and prohibits sharing fees from the premiums except between licensed title
5 agents and licensed attorneys.

6 This act would take effect upon passage.

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