

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO INSURANCE -- RHODE ISLAND TITLE INSURERS ACT

Introduced By: Representative Joseph J. Solomon

Date Introduced: March 04, 2022

Referred To: House 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) "Continuing education" means a minimum of ten (10) hours of continuing education  
16 credit every two (2) years in title insurance and escrow management specific to this state and  
17 approved by the department, which shall include at least three (3) hours of continuing education on  
18 the subject matter of ethics, rules, or compliance with state and federal regulations relating  
19 specifically to title insurance and closing services. Compliance with continuing education

1 requirements is a condition precedent to the issuance, continuation, reinstatement, or renewal or  
2 any resident licensee subject to this section.

3 ~~(5)~~(6) "Control" (including the terms "controlling," "controlled by" and "under common  
4 control with") means the possession, direct or indirect, of the power to direct or cause the direction  
5 of the management and policies of a person, whether through the ownership of voting securities,  
6 by contract other than a commercial contract for goods or nonmanagement services, or otherwise,  
7 unless the power is the result of an official position or corporate office held by the person. Control  
8 shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power  
9 to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of another  
10 person. This presumption may be rebutted by a showing that control does not exist in fact. The  
11 commissioner may determine, after furnishing all persons in interest notice and opportunity to be  
12 heard and making specific findings of fact to support the determination, that control exists in fact,  
13 notwithstanding the absence of a presumption to that effect.

14 ~~(6)~~(7) "Direct operations" means that portion of a title insurer's operations which are  
15 attributable to business written by a bona fide employee.

16 ~~(7)~~(8) "Escrow" means written instruments, money or other items deposited by one party  
17 with a depository, escrow agent or escrowee for delivery to another party upon the performance, of  
18 a specified condition or the happening of a certain event.

19 ~~(8)~~(9) "Escrow, settlement or closing fee" means the consideration for supervising or  
20 handling the actual execution, delivery or recording of transfer and lien documents and for  
21 disbursing funds.

22 ~~(9)~~(10) "Foreign title insurer" means any title insurer incorporated or organized under the  
23 laws of any other state of the United States, the District of Columbia, or any other jurisdiction of  
24 the United States.

25 ~~(10)~~(11) "Net retained liability" means the total liability retained by a title insurer for a  
26 single risk, after taking into account any ceded liability and collateral, acceptable to the  
27 commissioner, maintained by the insurer.

28 ~~(11)~~(12) "Non-U.S. title insurer" means any title insurer incorporated or organized under  
29 the laws of any foreign nation or any province or territory.

30 ~~(12)~~(13) "Person" means any natural person, partnership, association, cooperative,  
31 corporation, trust or other legal entity.

32 ~~(13)~~(14) "Producer" means any person, including any officer, director or owner of five  
33 percent (5%) or more of the equity or capital of any person, engaged in this state in the trade,  
34 business, occupation or profession of:

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

5 ~~(14)~~(15) "Qualified financial institution" means an institution that is:

- 6 (i) Organized or (in the case of a United States branch or agency office of a foreign banking  
7 organization) licensed under the laws of the United States or any state and has been granted  
8 authority to operate with fiduciary powers;  
9 (ii) Regulated, supervised and examined by federal or state authorities having regulatory  
10 authority over banks and trust companies;  
11 (iii) Insured by the appropriate federal entity; and  
12 (iv) Qualified under any additional rules established by the commissioner.

13 ~~(15)~~(16) "Security" or "security deposit" means funds or other property received by the  
14 title insurer as collateral to secure an indemnitor's obligation under an indemnity agreement  
15 pursuant to which the insurer is granted a perfected security interest in the collateral in exchange  
16 for agreeing to provide coverage in a title insurance policy for a specific title exception to coverage.

17 ~~(16)~~(17) "Subsidiary" means an affiliate controlled by a person directly or indirectly  
18 through one or more intermediaries.

19 ~~(17)~~(18) "Title insurance agent" or "agent" means ~~an authorized person, other than a bona~~  
20 ~~fide employee of the title insurer who, on behalf of the title insurer, performs the following acts, in~~  
21 ~~conjunction with the issuance of a title insurance report or policy~~ any person authorized in writing  
22 by a title insurer who, on behalf of the title insurer, performs the following acts, in conjunction with  
23 the issuance of a title insurance report or policy:

- 24 (i) Determines insurability and where applicable, marketability, and issues title insurance  
25 reports or policies, or both, based upon the performance or review of a search or abstract of title;  
26 ~~and~~ provided that, any determination of marketability shall be made by an attorney licensed to  
27 practice in the State of Rhode Island who is engaged or employed by the title insurance agent; and  
28 (ii) Performs one or more of the following functions:  
29 (A) Collects or disburses premiums, escrow or security deposits or other funds;  
30 (B) Handles escrows, settlements or closings;  
31 (C) Solicits or negotiates title insurance business; or  
32 (D) Records closing documents.

33 ~~(18)~~(19) "Title insurance business" or "business of title insurance" means":

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

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

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

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

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

9 (D) Executing title insurance policies;

10 (E) Effecting contracts of reinsurance.

11 (iii) Guaranteeing, warranting or insuring searches or examination of title to real property  
12 or any interest in real property;

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

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

17 ~~(19)~~(20) "Title insurance policy" or "policy" means a contract insuring or indemnifying  
18 owners of, or other persons lawfully interested in, real or personal property or any interest in real  
19 property, against loss or damage arising from any or all of the following conditions existing and  
20 not excepted or excluded:

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

22 (ii) Unmarketability of the insured title;

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

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

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

27 ~~(20)~~(21) "Title insurer" or "insurer" means a company organized under laws of this state  
28 for the purpose of transacting the business of title insurance and any foreign or non-United States  
29 title insurer licensed in this state to transact the business of title insurance.

30 ~~(21)~~(22) "Title plant" means a set of records consisting of documents, maps, surveys or  
31 entries affecting title to real property or any interest in or encumbrance on the property, which have  
32 been filed or recorded in the jurisdiction for which the title plant is established or maintained.

33 **27-2.6-16. Premium rate filings and standards.**

34 (a) No title insurer may charge any rates regulated by the state after the effective date of

1 this act, except in accordance with the premium rate schedule and manuals filed with and approved  
2 by the commissioner in accordance with the provisions of chapter 44 of this title.

3 (b) No title insurer may reduce or discount the amount of the title insurance premium from  
4 the gross title premium set forth in the manual so filed and approved, except in accordance with a  
5 refinance or reissue rate as set forth in the manual. For insurance amounts higher than any amount  
6 specifically set forth in the title insurer's rate manual, the gross premium shall be calculated at the  
7 same rate per thousand dollars of insurance for the highest stated amount set forth in the manual.

8 (c) Only licensed title agents are entitled to receive, collect and share in any title insurance  
9 premiums, or any portion thereof.

10 SECTION 2. Chapter 27-2.6 of the General Laws entitled "Rhode Island Title Insurers  
11 Act" is hereby amended by adding thereto the following section:

12 **27-2.6-4.1. Nonresidents.**

13 (a) A nonresident person shall receive a nonresident license if:

14 (1) The person is currently licensed as a resident agent and is in good standing in his or her  
15 home state;

16 (2) The person has submitted the proper request for licensure and has paid the required  
17 fees;

18 (3) The person has submitted or transmitted to the department the appropriate, completed  
19 application for licensure for the equivalent type of license and lines of authority;

20 (4) The insurance commissioner may verify the licensee's licensing status through the  
21 database maintained by the NAIC, its affiliates, or subsidiaries; and

22 (5) As a condition to continuation of a license issued under this section, the licensee shall  
23 maintain a resident license in his or her home state. The nonresident license issued under this  
24 section shall terminate and be surrendered immediately if the home state license terminates for any  
25 reason, unless the licensee has been issued a license as a resident title insurance agent in his or her  
26 new home state. Notification to any state where a nonresident license is issued must be made as  
27 soon as possible, yet no later than thirty (30) days of change in new state resident license. The  
28 licensee shall include new and old addresses in the notification to the department. A new state  
29 resident license is required for nonresident licenses to remain valid. The new state resident license  
30 must have reciprocity with the licensing nonresident state(s) for the nonresident license not to  
31 terminate.

32 (b) If neither the state in which the licensee maintains the principal place of residence, nor  
33 the state in which the licensee maintains the principal place of business has a substantially similar  
34 law governing licensees, the licensee may declare another state in which it becomes licensed and

1 [acts as a licensee to be the home state.](#)

2 SECTION 3. 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

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1           This act would provide that any person authorized by a title insurance company may act as  
2 a title insurance agent. Additionally, this act would add a definition for the term "continuing  
3 education" and provide for ten (10) hours of biennial continuing education for resident title  
4 insurance agents and a licensing procedure for non-resident title insurance agents.

5           This act would take effect upon passage.

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