

MLTA CONVENTION 2024

Presentation: Annual Reviews and Reporting,
Market Conduct Exams and Enforcement

September 22, 2024

Fraud and Enforcement Division
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ANNUAL REVIEWS AND REPORTING

- On May 29, 2022, the General Assembly enacted S.B. 293 (2022 Maryland Laws Ch. 701 (S.B. 293)), which amended § 10-121(k) of the Insurance Article. The amendment, which took effect on October 1, 2022, allows insurers to conduct self-reviews (formerly “audits”) on-site, remotely, or any combination of these.
- Only reviews with identified issues are required to be reported by the insurer to the Maryland Insurance Administration.
- Section 10-121(k) (ii) requires insurers to conduct annual self-reviews. Insurers are now only required to report to the Maryland Insurance Administration reviews that identify issues, as outlined in Bulletin 24-7. Reportable issues are not limited to those issues itemized on the Bulletin; Insurer can exercise discretion, based on reasonable cause, to report any other issues that may be identified during a review.

ANNUAL REVIEWS AND REPORTING

- The Insurance Article requires insurer to conduct annual self-reviews and reporting requirement is now limited to reviews where the insurer has reasonable cause to believe that the title insurance producer or agency has engaged in activities prohibited by § 10-126 of the Insurance Article.
- Title insurers are required to notify the Commissioner within **10 calendar days** of obtaining knowledge or reasonable belief that a title producer or agency is engaging in conduct prohibited by § 10-126 of the Insurance Article. Of particular concern are any activities that involve conversion and misappropriation of trust funds, payments made from a trust account without proper authorization, and payments contrary to the lender's instructions, the closing disclosure, or the HUD-1.
- This notification should be filed with a copy of the annual review report.

MARKET CONDUCT EXAM

The purpose of the Market Conduct Exam is to review the title insurer's producer appointment, underwriting, and annual review processes to assess compliance with §§ 2-205, 2-207, 2-208, and 2-209 of the Insurance Article and Code of Maryland Regulations ("COMAR") 31.04.20.22

Pursuant to COMAR 31.04.20.06 D, the title insurer is required to designate an individual who will have the authority and responsibility to respond to the request for accounts, records, documents, files or other information needed in order to complete the examination; and will coordinate on behalf of the title insurer the examination.

Pursuant to COMAR 31.04.20.05 E the title insurer is required to confirm the accuracy of all information provided and submit a "Certificate of Compliance" signed by an officer of the title insurer acknowledging in a written certification that the information provided is, "to the best of that individual's knowledge, information, and belief, a full, complete, and truthful response to the examiner's request;" and that the "individual making the certification has undertaken an adequate inquiry to make the required certification."

MARKET CONDUCT EXAMINE STANDARDS

- The following are the Insurance Article and COMAR provisions where the examination standards can be found:
 - Annual Reviews - §10-121(K) of the Insurance Article and COMAR 31.04.22
 - Residential Lenders Policies and Residential Owners Policies: §10-121.1, §22-103(a) (b) and §22-104(c) of the Insurance Article.
 - Title Insurance Claims: COMAR 31.15.07.03B (4) (10)(11)(15), 31.15.07.04B, 31.15.07.07.
 - Claim Register: COMAR 31.15.07.08
 - Producer Register: COMAR 31.03.13.02B,

ENFORCEMENT

- Section 2–201 (e) of the Insurance Article says :

The Commissioner may enforce the provisions of this article, and may impose any penalty or remedy authorized by this article, against a person that is under investigation for or charged with a violation of this article if:

- (1) the person’s certificate of authority, certificate of qualification, license, or registration is no longer in effect;
- and
- (2) the alleged violation occurred no more than 5 years before surrender or lapse of the certificate , license, or registration.

- Section 10-126(c) says :

Instead of or in addition to suspending or revoking the license, the Commissioner may impose on the holder of the license a penalty of not less than \$100 but not exceeding \$500 (**\$5,000 effective October 1, 2024**) for each violation of this article.

ENFORCEMENT

- Effective on October 1, 2024:
 - The maximum civil penalty that the Administration may impose upon an unauthorized insurer or person for each violation of Title 4, Subtitle 2 of the Insurance Article pursuant to § 4-212 will increase from \$50,000 to \$125,000.
 - The maximum monetary penalty that the Administration may impose upon a licensed insurance producer for each violation of the Insurance Article pursuant to § 10-126(c) will increase from \$500 to \$5,000.
 - The maximum monetary penalty that the Administration may impose upon a licensed public adjuster for each violation of the Insurance Article pursuant to § 10-410(c) will increase from \$500 to \$5,000.
- See the recent Bulletin 24-20: [Increase in Maximum Civil Penalties for Violations of Certain Insurance Laws](#)

August 7, 2024

REQUIRED RESPONSE

- In order to maintain a title insurance producer license, a licensee is required to respond promptly to all correspondence from the Administration.
- Section 2-203 of the insurance article says:
 - (f) (1) A person may not willfully fail to:
 - (i) appear and testify under oath before the Commissioner;
 - (ii) attend, answer, or produce evidence requested by the Commissioner; or
 - (iii) give the Commissioner full and truthful information and answer in writing to any material written inquiry of the Commissioner in relation to the subject of an examination, investigation, or hearing.
- Section 10-126(c) says:

Instead of or in addition to suspending or revoking the license, the Commissioner may impose on the holder of the license a penalty of not less than \$100 but not exceeding \$500 for each violation of this article.

CHANGES TO LICENSE

- Section 10–117 of the Insurance Article says:

(a) To change, add to, or delete from a license, the insurance producer shall file with the Commissioner in the form that the Commissioner requires the change or addition to or deletion from the license.

(b) (1) A licensee shall file with the Commissioner by any means acceptable to the Commissioner a change in legal name, trade name, electronic mail address, or address within 30 days of the change.

- Section 10–126(a)(1) says:

The Commissioner may deny a license to an applicant under §§ 2–210 through 2–214 of this article, or suspend, revoke, or refuse to renew or reinstate a license after notice and opportunity for hearing under §§ 2–210 through 2–214 of this article if the applicant or holder of the license:

(1) has willfully violated this article or another law of the State that relates to insurance.

PRE-LICENSING EDUCATION REQUIREMENT

- Effective October 1, 2024:
 - License applicants will no longer be required to complete a Commissioner-approved pre-licensing course or to have employment experience requirements prior to taking the examination.
 - See the Maryland Insurance Administration Bulletin 24-19 below for more information:

<https://insurance.maryland.gov/Insurer/Documents/bulletins/24-19-Repealing-the-Prelicensing-Education-and-Experience-Requirements.pdf>

TITLE INSURANCE PRODUCER INDEPENDENT CONTRACTOR (TIPIC) APPOINTMENTS

- The Insurance Article § 10-118 require TIP employees and TIP agencies to hold an appointment with a title insurer in order to sell, solicit, or negotiate title insurance on behalf of the title insurer for which the contract of title insurance may be placed.
- In addition, the Insurance Article § 10-121.1 provides that TIP agencies may not use or accept services provided by a TIPIC unless the TIPIC is appointed by the title insurer with the title insurer with which the contract of title insurance may be placed.
- TIP agencies and TIPIC are jointly responsible for ensuring that TIPICs are appointed with the title insurer with which the contract of title insurance may be placed.

BOND REQUIREMENT

- The Insurance Article § 10-121 (e) require a title insurance producer agency to file with the Commissioner a blanket surety and fidelity bond or letter of credit and unless the Commissioner approves a lesser amount, each bond or letter of credit shall be for \$150,000.
- A TIPIC, in lieu of the Surety Bond, is required to file the signed TIPIC affidavit that states the license applicant will be a TIPIC, working under the surety bond coverage of a title insurance agency.
- It is the joint responsibility of the title insurer, title insurance agency and TIPIC to verify that the title insurance agency has the appropriate bonds that cover the actions of the TIPIC.

BOND REQUIREMENT

- The Insurance Article § 10-121 (n) provides in pertinent part that 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.
- It is a violation of insurance article for a title insurance agency to use a TIPIC unless the title insurance agency bonds cover the TIPIC or the TIPIC maintains a separate bond. The title insurance agency is the legal principal of the TIPIC and liable for all actions of the TIPIC that occur within the scope of the TIPIC's engagement with the title insurance agency.

NOTARY PARTICIPATION IN REAL ESTATE CLOSINGS OR SETTLEMENTS

- The Insurance Article in § 10-101(1), requires that any person or registered business or company that provides escrow, closing or settlement services that may result in the issuance of title insurance must be licensed by the Maryland Insurance Administration as a title insurance producer (TIP).
- A notary who merely witnesses signatures at a real estate closing or settlement in consideration of the statutory fees, does not, in the view of the Maryland Insurance Administration, fall within the scope of § 10-101 (1) and is not required to secure a title insurance producer's license in order to witness signatures.
- The Maryland Insurance Administration's position regarding closings at which a notary is the only individual (other than the buyer) present, and that person performs duties beyond simply witnessing signatures, then the notary is performing escrow and/or real estate settlement services within the scope of § 10-101 (1) and is required to maintain a title insurance producer license.

LICENSE CANCELLATION/SURRENDER AND CLOSING TITLE BUSINESS

- The insurance article § 10-121 and 10-125 requires title insurance agencies and title insurance agents with access and direct day to day control of escrow trust money to maintain an active license.
- Title Agencies no longer conducting title business in Maryland or closing the companies and have escrow monies remaining in the agency's escrow account are required to appropriately clear and close all escrow accounts in order to properly close the title insurance agency.

LICENSE CANCELLATION/SURRENDER AND CLOSING TITLE BUSINESS

- The Comptroller's Office advises that even though the escheatment cycle begins October 31 every year, title agencies closing their title business before October 31 are advised to escheat unclaimed funds any time of the year and send due diligence letters to the appropriate beneficiaries last known address, stating that the escrowed monies was turned over to the Comptroller and list the phone number and address in the letter for the known beneficiary, if they would like to claim the funds.
- For the License Cancellation/Surrender Service Request to be processed and cancelled, bank statements and account reconciliations indicating trust funds have been cleared and escrow accounts closed, are required for enforcement purposes.

REQUIRED ESCHEATMENT

- Trust monies that constitute overpayments, prepayments, refunds due to entitled beneficiaries are considered unclaimed if it remains in the title insurance agency's escrow account for three years or longer.
- Title insurance agencies are required to report unclaimed trust monies to the Comptroller's Office by October 31 for the period ending June 30 of the same year.
- For additional information see: <https://www.marylandtaxes.gov/unclaimed-property/report-property.php>
- Report unclaimed trust monies to the address below:

Comptroller of Maryland
Unclaimed Property Division
7 St. Paul Street
Suite 320
Baltimore, MD 21202

BULLETINS

- [Increase in Maximum Civil Penalties for Violations of Certain Insurance Laws](#)

Bulletin 24-20

August 7, 2024

- [Repealing the Pre-Licensing Education and Experience Requirements for Certain Producer License Applicants - Effective October 1, 2024](#)

Bulletin 24-19

July 24, 2024

- [Title Insurer Annual Audit](#)

Bulletin 24-7

April 1, 2024

- [Summary of Insurance Laws Enacted in 2024](#)


Bulletin 24-15

June 5, 2025

**THANK
YOU!**

CONTACT INFORMATION

Maryland Insurance Administration

 **800-492-6116 | 410-468-2000 | 800-735-2258 (TTY)**

 insurance.maryland.gov



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REFERENCES

1. Maryland Insurance Administration Website:

<https://insurance.maryland.gov/Producer/Pages/titlefaqs.aspx>

2. See below for access to Code of Maryland Regulations – COMAR:

<https://dsd.maryland.gov/Pages/COMARSearch.aspx>

3. See below for access to the Annotated Code of Maryland:

https://mgaleg.maryland.gov/2021RS/Statute_Web/gin/gin.pdf

4. Comptroller of Maryland – Reporting Unclaimed Property/Funds:

<https://www.marylandtaxes.gov/unclaimed-property/>

Questions?

