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BULLETIN 21-19

DATE: July 27, 2021

TO: All Title Insurers

RE: Temporary Suspension of On-site Audit Requirement for Title Insurers for 2021

On March 5, 2020, Governor Lawrence J. Hogan, Jr. declared a state of emergency and catastrophic health emergency (the “SOE”) for the entire State in order to control and prevent the spread of COVID-19 within the State. The SOE declared on March 5, 2020 has been renewed multiple times, most recently on June 12, 2021.

On March 12, 2020, Governor Hogan issued emergency order No. 20-06-19-01, which was most recently amended and renewed on March 9, 2021 (Emergency Order No. 21-03-09-03), which, among other things, authorized unit heads to suspend certain legal time requirements under certain specified conditions. Acting on the authority granted by the March 12, 2020 emergency order, on July 23, 2020, the Commissioner issued Bulletin 20-29, temporarily suspending the obligation of title insurers to conduct an on-site review of each of its title insurance producers appointed as a principle agent within a calendar year, provided that certain conditions were met. The Bulletin stated that it would remain in effect until the 30th day after the date by which the SOE is rescinded, as permitted by the aforesaid emergency order. To the extent that the authorized suspension period expired prior to the end of the calendar year 2020, Bulletin 20-29 set forth the Administration’s enforcement position for title insurers that were unable to complete all required in-person audits by the end of the calendar year.

In the event that the SOE is not renewed and expires, the suspension period provided by Bulletin 20-29 will expire 30 days from the date of the expiration. However, as detailed previously in Bulletin 20-29, and for all of the reasons set forth therein, the on-site requirement otherwise imposed by 10-121 (k) is subject to the following limitations and conditions for the period beginning on the day in which the suspension period established by Bulletin 20-29 expires and December 31, 2021:

First, provided that a title insurer has met the conditions set forth in (2) and (3), the Administration will consider the existence and length of the state of emergency and the

catastrophic health emergency in the State; conditions and states of emergency related to COVID-19 in other jurisdictions; travel bans or restrictions; on-going telework environments for carriers and producers; scheduled plans to conduct on-site audits; and other extenuating factors in determining what, if any, action to take with respect to a title insurer that has not met the onsite element of the statutory review requirement of 10-121(k) in 2021.

Second, in order to take advantage of the suspension of the on-site review requirement, a title insurer must prepare and submit to the Insurance Administration the procedures that it will use to conduct the audits remotely. To the extent that a title insurer has previously prepared and submitted its procedures to the Insurance Administration in 2020, the MIA's approval of those procedures will have continued effect in 2021. Title insurers are required to notify the Administration of any changes to the procedures and request approval of any changes to the procedures.

Third, each title insurer whose virtual review procedures have been deemed sufficient by the Commissioner shall assure that, by the end of calendar year 2021, it has conducted a review of each title insurance producer appointed by the insurer as a principal agent on-site or virtually in accordance with its submitted and approved procedures. Title insurers shall retain records of virtual reviews sufficient to permit the Insurance Administration to confirm that the reviews were performed in accordance with the procedures submitted to the Administration. In addition, all reports of reviews submitted while the suspension remains in effect should clearly indicate, either within the report or within the body of the electronic mail which is transmitted to the Insurance Administration with the report attached, whether the review was conducted on-site or remotely.

For any title insurers who have not submitted their procedures, each of those insurers will continue to be required to conduct audits on-site pursuant to Section 10-126(k) of the Insurance Article and under Section 31.04.22.03(b)(15) of the Code of Maryland Regulations. Any insurer that would like to submit their procedures for conducting on-site's remotely are welcome to submit their procedures to David Zitterbart at david.zitterbart@maryland.gov and upon approval by the Commissioner, will be informed that they will be permitted to conduct on-sites remotely through the end of calendar year 2021.

Should you have any questions concerning this Bulletin, please contact Ms. Erica J. Bailey, Associate Commissioner Compliance & Enforcement or Mr. David A. Zitterbart, Chief Enforcement Officer, Compliance and Enforcement, Title Unit by e-mail at david.zitterbart@maryland.gov or by telephone at (410) 468-2144.

KATHLEEN A. BIRRANE
Commissioner

Signature on original

By: _____
Erica J. Bailey,
Associate Commissioner
Compliance & Enforcement