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## **BULLETIN No. 24-2**

**DATE: January 9, 2024**

**TO: All title insurers, title insurance agencies, and title insurance producers writing title insurance in Maryland**

**RE: Code of Maryland Regulations (“COMAR”) 31.04.22 and § 10-121**

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The purpose of this Revised Bulletin is to notify all title insurers, title insurance agencies, and title insurance producers writing title insurance in Maryland of amendments to COMAR 31.04.22.02 through .07 that were promulgated to implement changes to Md. Ann. Code, INS. § 10-121(k)<sup>1</sup> enacted during the 2022 legislative session.

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 reviews (formerly “audits”) on-site, remotely, or any combination of these. Additionally, only reviews with identified issues are required to be reported by the insurer to the Maryland Insurance Administration. The amendments to the Regulation reflect and implement the legislative changes. A copy of the Regulation can be accessed here: <https://insurance.maryland.gov/Documents/newscenter/legislativeinformation/31.04.22-FinalPub-8112023.pdf>.

### **Required Reporting and Notification**

COMAR 31.04.22.07

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<sup>1</sup> Unless otherwise noted, all statutory references herein are to the Insurance Article

COMAR 31.04.22.07B provides that “A title insurer shall notify the Commissioner in writing ... within 2 calendar days if a title insurer has reason to believe that a principal agent has converted or misappropriated money received or held in trust in addition to filing any required report.”

Additionally, COMAR 31.04.22.07A states, in pertinent part, “if a title insurer has reason to believe that the principal agent has engaged in, or is engaging in, conduct that is prohibited by Insurance Article, § 10-126, Annotated Code of Maryland, the title insurer shall notify the Commissioner in writing ... within 10 calendar days after obtaining such knowledge or belief.”

Notice to the Commissioner made pursuant to either of these sections should be sent electronically to: [mc\\_filings.mia@maryland.gov](mailto:mc_filings.mia@maryland.gov).

#### COMAR 31.04.22.06

If the title insurer has reasonable cause to believe that the title insurance producer or agency engaged in activities prohibited by § 10-126 of the Insurance Article, the title insurer must file the report with the Commissioner within 45 days after the completion of the review. The submission is required regardless of whether the prohibited activities ceased or were remedied prior to, during the course of, or as a result of the review.

Title review reports should be submitted through the Maryland Insurance Administration’s website at <https://marylandinsurance.jotform.com/230026269509051>.

The Administration has developed the following examples, in order to assist title insurers in their efforts to comply with the reporting requirements set forth in § 10-121(k) and COMAR.

The following examples illustrate situations with possible violations of § 10-126 that may trigger mandatory reporting. Examples include, but are not limited to:

- Failure of the producer to reconcile any trust accounts via a three way reconciliation with the trial balance within sixty days from the period ending date of the trust account statement without reasonable explanation in the opinion of the reviewing underwriter, if the reviewing underwriter has reasonable cause to believe that the failure to reconcile the accounts is due to incompetence, conversion, or misappropriation of trust funds, or a violation of any of the prohibited activities of § 10-126.
- Disbursements out of the escrow account which are inconsistent with the settlement statement and for which no reasonable explanation has been provided to the reviewing underwriter explaining why the disbursement was necessary for the successful completion of the transaction; or the reviewing underwriter has a reasonable basis to believe that there is an indication of conversion or

misappropriation of trust funds or a suspected violation of any of the prohibited activities of § 10-126.

- Escrow checks or wires that were returned for nonsufficient funds unless the producer promptly corrected the overdraw, and there is no evidence of incompetence, conversion, or misappropriation of trust funds.
- Any disbursements which do not appear on the closing disclosure or seller's settlement statement and for which no reasonable explanation has been provided to the reviewing underwriter explaining why the disbursement was necessary for the successful completion of the transaction, or the reviewing underwriter has a reasonable basis to believe there is an indication of a violation of applicable laws.
- Outstanding deposits that are not deposited within seven days of receipt or funded by the producer within thirty days of settlement.
- Disbursements for settlements which occurred more than one year prior to the commencement of the audit and have not yet cleared and the reviewing underwriter has a reasonable basis to believe there is an indication of incompetence conversion or misappropriation of trust funds or a suspected violation of any of the prohibited activities of Insurance Article §10-126.
- If there are any files on the trial balance report with negative balances greater than \$5,000.00 that have not been remedied by the producer at the conclusion of the underwriter's review, or within forty-eight hours of being notified of the negative balance by the producer's bank or, and the reviewing underwriter has a reasonable basis to believe there is an indication of incompetence, or conversion or misappropriation of trust funds or a suspected violation of any of the prohibited activities of Insurance Article §10-126.Failure of the agency to comply with § 22-103(a)(1) of the Insurance Article.
- Failure to file the agent's MAHT report pursuant to COMAR 31.16.03.06.
- Unlicensed individuals exercising control over any trust money.
- Failure to register any trade name with the Commissioner in compliance with § 10-113 of the Insurance Article.

Questions or comments may be sent to Maryam Akinmade, Assistant Chief, Title, Maryland Insurance Administration, 200 Saint Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2384, or email to [maryam.akinmade@maryland.gov](mailto:maryam.akinmade@maryland.gov)

KATHLEEN A. BIRrane  
Commissioner

By: **Signature on Original**

Mary M. Kwei  
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