

**Underwriting Bulletin: UNMD-2023-010**

Date: October 10, 2023  
To: All Maryland Agents  
From: Underwriting Department  
RE: **New Maryland Title Insurance Bulletin Regarding On-site, Remote, or Combination Audits/Reviews**

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Please be aware that the Maryland Insurance Administration has issued new guidance with respect to on-site, remote, or combination reviews (formerly “audits”). MIA Bulletin 23-16 can be found attached to the PDF bulletin or by clicking the link below.

[Code of Maryland Regulations \("COMAR"\) 31.04.22 and § 10-121 \(Title Insurance Amendments\)](#)

If you have additional questions, please contact your friendly First National Title Insurance Co. underwriter.

*This Underwriting Bulletin becomes a part of the principles and practices with which you are to comply under the terms of your Underwriting Agreement with First National Title Insurance Company. Should the content of this bulletin address the closing and escrow function, this information should be considered a directive and part of the principles and practices if non-compliance would result in liability to FNTI under either the insured closing service letter or policy of title insurance notwithstanding that the Underwriting Agreement does not include the closing and escrow functions of your agency.*

WES MOORE  
Governor

ARUNA MILLER  
Lt. Governor



KATHLEEN A. BIRRANE  
Commissioner

TAMMY R. J. LONGAN  
Acting Deputy Commissioner

MARY M. KWEI  
Associate Commissioner  
Market Regulation  
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## BULLETIN No. 23-16

**DATE:** October 2, 2023

**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 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 is attached for your information. It also can be accessed [here](#).

### Required Reporting and Notification

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

### COMAR 31.04.22.07

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>.

Examples of violations of § 10-126 that would trigger mandatory reporting include, but are not limited to:

- Failure of the producer to reconcile any trust accounts within thirty days of the receipt of the trust account statement from the bank. All trust accounts include but are not limited to, accounts dedicated to receiving and sending wires, recording accounts, premium accounts and those accounts used for maintaining and tracking deposits.
- Transfer out of the escrow account inconsistent with the disbursement record or which could not be clearly identified as belonging to a specific settlement file.
- Escrow checks or wires that were returned for nonsufficient funds or if there are any Automated Clearing House withdrawals showing on any escrow account bank statements.
- Reconciliations showing any miscellaneous ledgers that are not properly reviewed and cleared by the producer, or cannot be properly explained to the insurer.
- Any disbursements which do not appear on the closing disclosure or seller’s settlement statement.

- 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.
- If there are any files on the trial balance report with negative balances greater than \$1,000.00.
- 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  
Associate Commissioner  
Market Regulation & Professional Licensing

**.18 Report on Cybersecurity Infrastructure Procurements.**

On or before December 1 of each year, the Department of General Services shall submit a report to the Board of Public Works on procurements made under COMAR 21.02.01.04B(10) that shall include for each procurement:

- A. The purposes of the procurement;
- B. The name of the contractor;
- C. The contract amount;
- D. The method of procurement utilized;
- E. The number of bidders who bid on the procurement; and
- F. The contract term.

JOHN T. GONTRUM  
Executive Secretary

# Title 31 MARYLAND INSURANCE ADMINISTRATION

## Subtitle 04 INSURERS

### 31.04.22 Title Insurers

Authority: Insurance Article, §§2-108, 2-109, 10-121, and 10-128.1, Annotated Code of Maryland

**Notice of Proposed Action**

[23-092-P]

The Insurance Commissioner proposes to amend Regulations .02—.07 under **COMAR 31.04.22 Title Insurers**.

**Statement of Purpose**

The purpose of this action is to amend COMAR 31.04.22 Title Insurers to lessen the burden of audit for title agencies and improve the efficiency of the Title Unit, in accordance with Insurance Article §10-121(k), Annotated Code of Maryland. This action repeals the requirement for audits to be performed on-site and only requires audits with identified issues to be reported to the Maryland Insurance Administration for review.

**Estimate of Economic Impact**

The proposed action has no economic impact.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Jessica Blackmon, Administrative Law Clerk, Maryland Insurance Administration, 200 Saint Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2019, or email to [insuranceregview.mia@maryland.gov](mailto:insuranceregview.mia@maryland.gov). Comments will be accepted through July 17, 2023. A public hearing has not been scheduled.

**.02 Scope.**

This chapter:

- A. Establishes the minimum standards and procedures for conducting [an on-site] a review; and
- B. Provides for the filing of [an on-site] a review report with the Commissioner.

**.03 Definitions.**

- A. (text unchanged)

B. Terms Defined.

- (1)—(2) (text unchanged)
- (3) “Certification” means a written statement signed by the principal agent that the information provided to the title insurer during the [on-site] review is, to the best of the principal agent’s knowledge, information, and belief, full, complete, and truthful and that the principal agent has undertaken an adequate inquiry to make the required certification.
- (4)—(15) (text unchanged)
- [(16) “On-site review” means a review of the underwriting, claims, and escrow practices of each principal agent conducted by a title insurer or its designee, at the principal agent’s principal place of business in the State and, if the principal agent’s information to be reviewed is not kept at its principal place of business in the State, then at each site where such information is kept.]
- [(17)] (16)—[(18)] (17) (text unchanged)
- (18) “Review” means a review of the underwriting, claims, and escrow practices of each principal agent conducted by a title insurer or its designee.
- (19)—(24) (text unchanged)

**.04 Conducting [an On-Site] a Review.**

A. A title insurer:

- (1) Shall, except as provided in §A(4) of this regulation, conduct [an on-site] a review during each calendar year of the underwriting, claims, and escrow practices of each principal agent;
- (2) Shall conduct [an on-site] a review during normal business hours;
- (3) May not be required to provide advance notice to the principal agent of the beginning of [an on-site] a review; and
- (4) May not be required to conduct [an on-site] a review of a principal agent for the calendar year during which the principal agent is initially appointed, if the appointment is made on or after June 30 of that calendar year.

B. The [on-site] review required under §A of this regulation shall, at a minimum, include:

- (1) A determination of whether:
  - (a) (text unchanged)
  - (b) The principal agent’s escrow accounts have been properly reconciled as of the date of the completed [on-site] review and contain sufficient funds to disburse the trust money from all settlement files necessary to establish the lien, title or interests insured in accordance with title insurance policies issued by the title insurer conducting the [on-site] review;
  - (2) (text unchanged)
  - (3) A review [and reconciliation of a principal agent’s policy blank inventory] of the title insurance producer’s or agency’s policy issuing and processing operations;
  - (4) (text unchanged)
  - (5)—(6) (text unchanged)
  - (7) Receipt of the written certification of the principal agent, which shall contain:
    - (a)—(b) (text unchanged)
    - (c) The following statement in at least 12-point font: I hereby certify that the information provided to the title insurer or its designee during the [on-site] review is, to the best of my knowledge, information, and belief, full, complete, and truthful and that I have undertaken an adequate inquiry to make this certification.
- C. (text unchanged)
- D. A title insurer may enter into a written contract with a third party to perform [an on-site] a review.
- E. A title insurer that enters into a written contract with a third party to perform [an on-site] a review is:
  - (1)—(2) (text unchanged)

**.05 Failure to Cooperate.**

A principal agent’s failure to cooperate with a title insurer at the beginning of or during [an on-site] a review shall constitute a reason to believe that the principal agent has engaged in a prohibited activity under Insurance Article, §10-126, Annotated Code of Maryland, and shall be reported to the Commissioner.

**.06 Report.**

A. A title insurer shall [file] prepare a written report setting forth the results of its annual review, which shall be made available to [with] the Commissioner [within 45 calendar days after the completion of the on-site review] upon request.

B. A title insurer shall file a report with the Commissioner within 45 calendar days after the completion of the review if the title insurer has reasonable cause to believe that the title insurance producer or agency at any time engaged in any of the prohibited activities set forth in Insurance Article, §10-126, Annotated Code of Maryland. The report shall be submitted regardless of whether the prohibited activities ceased or were remedied prior to, during the course of, or as a result of the review. The report shall be in writing on a form specified by the Commissioner and submitted by electronic means directed by the Commissioner.

[B.] C. The report shall address the following areas:

(1) If applicable, a detailed description of the basis for the reasonable cause to believe that the title insurance producer or agency engaged in any of the prohibited activities set forth in Insurance Article, §10-126, Annotated Code of Maryland;

[(1)] (2) (text unchanged)

[(2)] (3) The name and Maryland producer license number of any insurance producer associated with the principal agent, including the name and license number or numbers of any TIPICs utilized by the agency and confirmation that they are appointed with the insurer;

(4) The file number and property address for each file that was reviewed;

[(3)] (5) The principal agent’s escrow accounts and related practices, including a review to ensure that:

(a)—(c) (text unchanged)

(d) The principal agent’s escrow accounts have been properly reconciled as of the date of the completed [on-site] review and the trust deposits held on its behalf are reasonably ascertainable from the books of account and records of the principal agent[.];

(6) The report shall indicate if there are or have been any escrow or account shortages at any time during the review period;

[(4)] (7) Except for transfers of money between the principal agent’s escrow or trust account and the principal agent’s operating account for the fees due the principal agent, transfers of money between principal agent’s accounts that contain or have contained trust money deposits;

[(5)] (8) Discrepancies between receipts and disbursements, and, if discrepancies are found, a description of the discrepancies in detail and whether the title producer or lender prepared the closing disclosure or HUD-1;

[(6)] (9)—[(10)] (13) (text unchanged)

[C.] D. A title insurer is not precluded from providing a more comprehensive description of the [on-site] review.

[D.] E. (text unchanged)

**.07 Required Notifications.**

A. Except as provided in §B of this regulation, 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, which may be through email, facsimile, or other electronic transmission, within 10 calendar days after obtaining such knowledge or belief, in addition to filing any required a report.

B. A title insurer shall notify the Commissioner in writing, which may be through email, facsimile, or other electronic transmission, 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.

C. (text unchanged)

KATHLEEN A. BIRRANE  
Insurance Commissioner

# Title 33 STATE BOARD OF ELECTIONS

## Subtitle 13 CAMPAIGN FINANCING

### Notice of Proposed Action

[23-087-P]

The State Board of Elections proposes to:

(1) Adopt new Regulation .05 under **COMAR 33.13.10 Prohibitions**; and

(2) Amend Regulation .06 under **COMAR 33.13.13 Administrative Accounts**.

This action was considered by the State Board of Elections at its May 4, 2023, meeting, notice of which was given in accordance with General Provisions Article, §3-302(c), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to:

(1) Prevent any circumventions of the contribution limit and surplus funds requirements for pro-rata return of contributions; and

(2) Allow for administrative account funds to be used for fundraising activities exclusively for the administrative account.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Tracey Hartman, Director of Special Projects, State Board of Elections, 151 West St., Suite 200, Annapolis, MD 21401, or call 410-269-2931, or email to traceye.hartman@maryland.gov. Comments will be accepted through July 17, 2023. A public hearing has not been scheduled.

### 33.13.10 Prohibitions

Authority: Election Law Article, §§1-101(o), 1-101(aa), 2-102(b)(4), 13-218, 13-220.1, 13-221, 13-225—13-237, 13-239, 13-245, 13-306, 13-307, and 13-309.1 and Title 13, Subtitle 3, Annotated Code of Maryland

#### .05 Contribution Conversion.

Thirty days after the filing of a campaign finance report for an applicable transaction period, the campaign finance report may not be amended in a way that alters a reported contribution received during the applicable transaction period into a loan.