

WFG Underwriting Bulletin



To: All Maryland Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: October 9, 2019
Bulletin No. MD 2019-08
Subject: Required Licenses for Providing Escrow, Closing or Settlement Services in Maryland

This Bulletin is to remind WFG agents about legal requirements for providing escrow, closing or settlement services in Maryland.

I. TIPICS MUST BE LICENSED:

Anyone who provides escrow, closing or settlement services in Maryland must have a valid title insurance producer's license. If they also notarize documents in connection with these activities, they must be a commissioned notary public.

These requirements apply to employees of title insurance agencies and to non-employee (subcontracted) individuals who provide such services. The latter are commonly referred to as "Title Insurance Producer Independent Contractors", or "TIPICs", for short. Please take note that a law license is not necessary to perform settlements or closings in this state.

Here are the relevant statutes for TIPICs:

Maryland Insurance §10-101(m) states:

"Title insurance producer independent contractor" means a person that:

- (1) is licensed to act as a title insurance producer;
- (2) provides escrow, closing, or settlement services that may result in the issuance of a title insurance contract as an independent contractor for, or on behalf of, a licensed and appointed title insurance producer; and
- (3) is not an employee of the licensed and appointed title insurance producer.

MD Insurance §10-121.1 adds the following:

- (a) A title insurance producer may not use or accept the services of a title insurance producer independent contractor unless the title insurance producer independent contractor:
 - (1) holds an appointment with the title insurer with which the contract of title insurance may be placed; and
 - (2) is covered under the title insurance producer's
 - (i) blanket fidelity bond; and

- (ii) blanket surety bond or letter of credit.
- (b)
- (1) A title insurance producer that uses the services of a title insurance producer independent contractor is:
 - (i) the legal principal of the title insurance producer independent contractor; and
 - (ii) liable for all actions of the title insurance producer independent contractor, including unintentional conduct, that occurs within the scope of the title insurance producer's independent contractor's employment.
 - (2) When a mortgage or deed of trust is executed in a transaction in which a title insurance producer independent contractor is acting for or on behalf of a title insurance producer, there shall be included on or with the recorded mortgage or deed of trust the name, address, and license number of the title insurance producer independent contractor and the title insurance producer for which the title insurance producer independent contractor is acting.

II. REQUIRED BONDS IN MARYLAND:

Licensed title insurance producers (i.e., title agents) must obtain a blanket fidelity bond in the amount of \$150,000 covering all employees and TIPICs used by that agent. Agents with no employees are exempt from obtaining a fidelity bond so long as they file an Affidavit for Waiver with the Maryland Insurance Administration ("MIA").

Further, a sole proprietor, LLC, partnership or corporation that is a title insurance producer (other than self-employed attorneys and law firms licensed to practice law in the State of Maryland), must obtain a blanket surety bond or letter of credit in the amount of \$150,000. Here is the statutory reference:

Maryland Insurance §10–121

- (e) (1) In addition to meeting any of the applicable requirements for a license to act as an insurance producer under this subtitle, a business entity applicant for a license as a title insurance producer shall file with the Commissioner:
- (i) a blanket fidelity bond covering appropriate employees and title insurance producer independent contractors; and
 - (ii) 1. a blanket surety bond, or
2. a letter of credit.
- (2) Unless the Commissioner approves a lesser amount, each bond or letter of credit shall be for \$150,000.

III. SUMMARY OF REQUIREMENTS:

Here is a summary of the legal requirements set forth above:

- TIPICs must have a valid title insurance producer's license.
- A TIPIC must be a commissioned notary in order to witness documents.
- TIPICs must be appointed by WFG.
- A WFG agent may not use or accept the services of a TIPIC unless the TIPIC holds an appointment with WFG.
- WFG agents are liable for all actions of the TIPIC that occur within the scope of the TIPIC's engagement with the agent.

- It is the WFG agent's responsibility to verify that the TIPIC is licensed in Maryland and has been appointed by WFG. Letters of appointment may be obtained by contacting agencysupport@wfgnationaltitle.com.
- It is the responsibility of the TIPIC to verify that the agent has the appropriate license to conduct business in Maryland and maintains bonds that cover the actions of the TIPIC.
- It is a violation of Maryland law for a WFG agent to use a TIPIC unless the agent's bonds cover the TIPIC, or the TIPIC maintains a separate bond. It is the responsibility of the agent to be sure the agent's bond covers the TIPIC or the TIPIC has its own bond.
- If the agent's bond does not cover the TIPIC, the TIPIC may obtain his/her own bond.
- If the TIPIC does not have his/her own bond and performs settlements, the Maryland Insurance Administration will hold the agent and the TIPIC responsible for this violation of Maryland law.
- The name, address and license number of the agent, and, if applicable, the TIPIC must be recorded with the mortgage or deed of trust. It is the responsibility of the agent to ensure this information is recorded.

For additional information, please contact Ned Livornese, Maryland underwriter, at nlivornese@wfgnationaltitle.com, or at 443-286-5964. You may also contact John Micciche, Maryland agency manager, at jmicciche@wfgnationaltitle.com, or 410-913-1884.

NOTE: This Bulletin is for the sole purpose of establishing underwriting positions and policies reflecting WFG National Title Insurance Company's best business judgment. The information contained in this Bulletin is intended solely for the use of employees of WFG National Title Insurance Company, its title insurance agents and approved attorneys. Disclosure to any other person is expressly prohibited unless approved in writing by the WFG National Title Insurance Company's Underwriting Department.

The Agent may be held responsible for any loss sustained as a result of the failure to follow the standards set forth above.