

AN ACT relating to title insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

(1) "Ancillary services" means services, not including the placement of title insurance, performed or products provided in conjunction with:

(a) The issuance of a title insurance commitment or title insurance; or

(b) The closing or settlement of the property transaction;

(2) "Entity" has the same meaning as in KRS 14A.1-070;

(3) "Foreign entity" has the same meaning as in KRS 14A.1-070;

(4) "Title insurance agent" means a person who has the authority to:

(a) Place title insurance commitments or title insurance on behalf of a title insurer; or

(b) Countersign title insurance commitments or title insurance on behalf of the title insurer;

(5) "Title insurance" has the same meaning as in KRS 304.5-090; and

(6) "Title insurance commitment" means a preliminary report, commitment, or binder based upon a written report of title and issued prior to the issuance of title insurance containing the terms, conditions, exceptions, and any other matters incorporated by reference based upon which the title insurer is willing to issue its title insurance as provided in Subtitle 22 of this chapter.

➔SECTION 2. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not act in the capacity of a title insurance agent, and a title insurer shall not contract with any person to act in the capacity of a title insurance agent with respect to risks located in this state, unless that person is licensed as a title

insurance agent by the commissioner.

(2) A title insurance agent shall maintain sufficient records of his, her, or its affairs, including escrow operations and escrow trust accounts, so that the commissioner may adequately ensure that the title insurance agent is in compliance with Sections 1 to 6 of this Act. The commissioner, by administrative regulation, may prescribe the specific record entries and documents to be kept, and the length of time for which the records shall be maintained.

→SECTION 3. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

At the time of issuance of a title insurance commitment for a specified dollar amount, a title insurance agent shall provide with the title insurance commitment a good-faith estimate of the premium.

→SECTION 4. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except for his, her, or its share of the commission, a title insurance agent shall not receive any compensation or fee, direct or indirect, on account of or for services performed in connection with the issuance of title insurance, unless:

(a) The compensation is for ancillary services not encompassed within the rate of title insurance premium filed by the title insurer with the commissioner; and

(b) A disclosure is provided to the party to be charged, specifying the amount of the compensation to be charged for each ancillary service as well as the aggregated total amount of the compensation to be charged.

(2) A copy of the disclosure referenced in subsection (1)(b) of this section shall be retained by the title insurance agent for no less than five (5) years after the disclosure has been given to the party to be charged.

(3) Legal services performed by a licensed attorney who is also licensed as a title

insurance agent shall not be considered ancillary services and shall not be governed by this section.

(4) The disclosure referenced in subsection (1)(b) of this section shall be given to the party to be charged at or prior to the time of a payment to be applied by the title insurance agent to the compensation or fee.

(5) A title insurance agent may pay for services performed by any delegate who performs title and other searches for title insurance commitments or title insurance for the title insurance agent.

(6) (a) A title insurance agent shall not discount or reduce the effective rate of the title insurer filed with the commissioner pursuant to KRS 304.22-020.

(b) A title insurance agent is in compliance with paragraph (a) of this subsection if the title insurance agent relies upon the manuals, rules, guidelines and other information from the title insurer.

➔SECTION 5. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 1 to 6 of this Act:

(a) Requires a licensed attorney to obtain a license from the commissioner to practice law in Kentucky; or

(b) Amends or may be deemed to amend any rules of the Supreme Court of Kentucky or other applicable laws governing the practice of law in Kentucky.

(2) A licensed attorney, or his or her law firm, may represent a client in a matter and may also act as a title insurance agent in the same matter subject to any rules of the Supreme Court of Kentucky or other applicable laws governing the practice of law in Kentucky.

(3) A licensed attorney shall be exempt from the preclicensing course of study in KRS 304.9-105(1)(e) for title insurance line of authority.

- (4) A business entity that is a law firm shall notify the commissioner pursuant to KRS 304.9-130 and 304.9-150(10), of changes among its members, directors, officers, and other individuals who are licensed title insurance agents.**
- (5) Any continuing education course or instruction or seminar developed or sponsored by the Kentucky Bar Association that is approved by the commissioner is deemed to meet the standards for continuing education requirements in KRS 304.9-295.**
- (6) Information revealed by a licensed attorney to the commissioner to comply with Sections 1 to 6 of this Act that may reveal information to the commissioner related to the representation of the attorney's client shall be deemed records confidentially disclosed, are excluded from the application of KRS 61.870 to 61.884, and shall be subject to inspection thereunder only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial conference.**
- (7) Legal services performed or to be performed by a licensed attorney, or his or her law firm, are not governed by Sections 1 to 6 of this Act.**

➔SECTION 6. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate administrative regulations necessary to carry out Sections 1 to 6 of this Act.

➔Section 7. KRS 304.9-030 is amended to read as follows:

- (1) Unless denied a license according to KRS 304.9-440, applicants who have met the requirements for the license in accordance with this subtitle, shall be issued the applicable license.
- (2) An insurance agent may receive qualification for a license in one (1) or more of the following applicable lines of authority:

- (a) Life -- insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;
 - (b) Health -- insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;
 - (c) Property -- insurance coverage for the direct or consequential loss or damage to property of every kind;
 - (d) Casualty -- insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;
 - (e) Variable life and variable annuity products -- insurance coverage provided under variable life insurance contracts and variable annuities;
 - (f) Limited line insurance as identified in KRS 304.9-230;
 - (g) Personal lines -- property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;~~and~~
 - (h) **Title -- insurance of owners of property or other having an interest in the property, or liens or encumbrances on the property, against loss by encumbrance, defective title, invalidity, or adverse claim to title; and**
 - (i)** Any other line of insurance authorized by Kentucky law and deemed by the commissioner appropriate to be issued as a separate line of authority.
- (3) A resident applicant for a variable life and variable annuities line of authority shall hold an active life line of authority.

➔Section 8. KRS 304.22-030 is amended to read as follows:

A title insurer shall have corporate powers as set forth in KRS 271B.3-020, and in addition shall have power to:

- (1) Examine titles to real estate and chattels real and personal, and to procure and furnish information relative thereto.
- (2) Make and guarantee the correctness of searches of all instruments, liens, or changes

affecting the titles set out in subsection (1) of this section.

- (3) **Subject to Sections 1 to 6 of this Act,** make insurance of every kind pertaining to or connected with titles to real estate and chattels real and personal; and to make and issue such policies and other instruments as may be required to insure owners of real estate and chattels real and personal, mortgages, and others having an interest therein, from loss by reason of liens, encumbrances, and defective titles.
- (4) Act as trustee under mortgages or deeds of trust executed to secure payment of bonds where the title to the real estate and chattels real and personal included in the mortgage or deed of trust has been examined and approved by the insurer; to act as agent in fact for investors in, and the holders of mortgages or deeds of trust or bonds, notes or other evidences of indebtedness mentioned in Subtitle 7, in the purchase, sale and servicing thereof.
- (5) To acquire and hold, subject to Subtitle 7, such real estate and chattels real and personal as may be necessary or convenient for the conduct of its business, including real estate and chattels real and personal taken in satisfaction of debts due the insurer or by subrogation under its guaranties or insurance, and to sell, lease, pledge, mortgage and convey such property.

➔Section 9. This Act takes effect January 1, 2017.