



Government of the District of Columbia
Department of Insurance, Securities and Banking



Stephen C. Taylor
Acting Commissioner

BULLETIN
15-IB-8-10/23

TO: ALL TITLE INSURANCE PRODUCERS AND TITLE INSURANCE COMPANIES IN THE DISTRICT OF COLUMBIA

FROM: STEPHEN C. TAYLOR, ACTING COMMISSIONER

SUBJECT: ACTIVITIES REQUIRING TITLE PRODUCER LICENSURE

DATE: OCTOBER 23, 2015

The purpose of this Bulletin is to clarify the activities that require title producer licensure pursuant to D.C. Official Code § 31-5041 *et seq.* The Bulletin supersedes the Department's previous guidance on "Activities Requiring Title Producer Licensure" that required a title producer to be present at every real estate closing in the District. The new policy reflected in this Bulletin formally adopts and incorporates substantially all of the Department's previous guidance with the one notable change of removing the requirement that a title producer be present at every real estate closing in the District. The change is intended to allow notaries to witness the execution of documents without having to become licensed.

As further clarified below, notaries will no longer be required to obtain a title insurance producer license so long as they do not solicit, sell or negotiate title insurance or closing protection letters. For example, activities that would trigger the requirement for a notary to become licensed as a title producer would include any discussion about the terms of any title insurance or closing protection, the premium, or any additional or alternative insurance coverage of any kind.

If a notary acts on behalf of a title insurance producer in a capacity that does not require a title producer license, then the title producer shall execute a written disclosure statement that acknowledges the role of the notary in the closing transaction and that the notary is acting on behalf of the title producer. The disclosure also shall describe the scope of the agency, including the limited role and services provided by the notary, and state that any questions concerning the title insurance or the closing process or documents must be referred to the title producer. Prior to obtaining and witnessing any signatures, the notary or title producer shall deliver to the subject party to the closing a copy of the disclosure statement and obtaining the party's acknowledgment

of receipt. The title producer shall be required to retain a copy of the signed disclosure statement and make a copy available to the Commissioner upon request.

A written disclaimer in substantially the same form as provided in Appendix-1 to this Bulletin shall be deemed to satisfy the disclosure requirement.

The following is a non-exhaustive list of activities that could trigger the requirement to obtain a title insurance producer license, including for notaries.

Activities that DO NOT Require a Title Producer License

- Receive telephone calls
- Open mail, office filing and mail billings
- Dispense Brochures
- Dispense buyer's guides, coverage selection forms, or other similar forms
- Inform the insured of the policy purchased as indicated in policy records
- Receive and record information from a policyholder to give to a title insurance producer or title attorney for their response
- Schedule appointments with title insurance producers or title attorneys to discuss insurance related matters
- Communicate with the policyholder or prospective policyholder in order to obtain factual information necessary for a title insurance producer or title attorney to complete a review
- Receive requests for coverage for transmittal to a licensed title insurance producer or title attorney or for processing through an automated system developed and maintained under the supervision of an insurer or licensed title insurance producer or title attorney
- Obtain underwriting information from credit agencies, DMV, and other insurance agencies and companies
- Search public records and examine titles to determine ownership of property and any and all liens, covenants, judgments and matters affecting the title.
- Prepare a written history, synopsis or summary of recorded instruments affecting a title to real property
- Receive and implement requests from existing policyholders for changes in existing policies which do not involve the purchase of additional coverages
- Underwrite risks as an employee of a title insurers
- Contact tax authorities, lienors, judgment creditors, lenders, parties, etc. for information needed to complete HUD-1
- Provide for post-closing transmittal of documents and disbursements
- A notary public providing "signing services" shall be defined as: The coordination of a meeting at which closing documents to consummate the purchase, sale or financing of an interest in real property are signed; receipt, duplication, transportation to the parties for signatures, transmission by fax, and delivery to a shipping carrier, of the closing documents; care, custody, and control of the closing documents while in the possession of a notary; presentation of the closing documents to the parties for signatures;

notarization of applicable closing documents; and supervision of the signing of documents by the parties.

Activities that DO Require a Title Producer License

- Sells, solicits or negotiates title or any other insurance, including closing protection letters
- Explaining, discussing or interpreting premium amounts, terms of coverage of any insurance, analyzing exposures or policies, or providing opinions or recommendations or suggestions as to the necessity or amount or levels of coverage, or the nature or purpose of closing document to consummate the purchase, sale or financing of an interest in real property
- Disseminate information regarding rates published, printed or computer generated to consumers or proposed insureds
- Counsel, urge or advise any prospective purchaser to buy a particular policy or to insure with a particular company
- Determine insurability and issue title insurance commitments or policies covering residential or personal property located in the District, unless employed by a title insurer or abstracting company
- Receive compensation based on the sale of a title insurance policy
- Determine insurability and issue policies, certificates of insurance, endorsements, closing protection letters, or commitments that indemnify the insured against loss
- Performs, in part or in whole, escrow, settlement, closing, or indemnity deposit services on behalf of a title insurance producer as provided under D.C. Official Code § 31-5041.06, except as expressly permitted under the definition of “signing services” above.

APPENDIX-1

DISCLOSURE STATEMENT REGARDING NOTARY SERVICES

Title Agency and Notary Relationship

_____ (hereinafter "Title Agency or Producer") has retained the services of _____ (hereinafter "Notary"). The Notary is a public officer authorized by the state or local government to administer oaths and attest to the authenticity of signatures and to witness the signing of documents related to the transfer and or refinancing of the of real property located at _____ (the "Transaction").

The services provided by Notary are in furtherance of Title Agency or Producer's obligation to act as the settlement agent to the Transaction.

Scope of Services

The Notary has been engaged to provide notary services in the form of authenticating and witnessing the signature of the closing documents only.

The Notary is prohibited from selling, soliciting or negotiating insurance. This prohibition includes discussing any terms or premiums associated with any title insurance or other insurance that may have been issued in connection with this closing or otherwise.

The Notary is prohibited from offering advice, counsel or guidance related to the closing documents.

Should the buyer, purchaser or refinancing party have any questions regarding any title insurance issued for the subject property, or the closing documents, such questions should be referred to the title producer.

Signature

The signature below serves to acknowledge receipt of the disclosure statement by the party executing the closing documents.

By: _____
SIGNATURE DATE

PRINT NAME OF SIGNATORY