
Demotech, Inc.

Escrow Theft: Today's Challenge in Title Insurance

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DRAGONFLY:
300 MILLION YEARS OLD



T-REX:
EXTINCT

Nature knows size and survival are independent.

Demotech, Inc. had to prove that to the insurance industry.

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Introduction

Title insurance agents play an important role in real estate transactions and are often entrusted with significant funds that are intended to be applied on behalf of the parties to the transaction. A major problem can arise when title agents betray their obligations and embezzle the money entrusted to them. This escrow theft is a serious problem for consumers, the title insurance industry, and the broader real estate community.

Demotech observed the impact of escrow theft on the industry and noticed a significant correlation between the strength of states' title agent regulations and loss ratios reported by title underwriters. In light of this observation, Demotech undertook a study to analyze the relationship between the strength of state regulations and loss ratios for title insurance.

Demotech published the study, *Defalcations: Today's Challenge in Title Insurance and Our Thoughts on Addressing this Challenge*, in 2003.¹ In this initial study, we rated each state and the District of Columbia based on our interpretation of the strength of their agent licensing requirements and reviewed the combined loss ratios for each grouping of states over a five-year period. We concluded that states that adopted the NAIC Model Title Insurance Agent Act, its substantial equivalent, or a stronger set of regulations experienced fewer losses. Our belief was that the difference related to less escrow theft, as well as the beneficial impact of strong licensing standards and increased professionalism.

Over the past decade, Demotech has continued its observation of escrow theft and is now revisiting its study from 2003. This revised study builds upon Demotech's initial efforts and sets forth Demotech's current observations and findings.

The following report provides general information about title insurance, the role of the title agent, and the problem of escrow theft; discusses the regulatory effort to address escrow theft; and sets forth Demotech's premise, assumptions, methodology, conclusions and recommendations.

¹ Demotech's original study, *Defalcations: Today's Challenge in Title Insurance and our Thoughts on Addressing this Challenge*, was first published in 2003. Although the term "defalcation" was used throughout the 2003 report, Demotech has elected to use the term "escrow theft" for this study. Demotech understands both terms may be synonymous within the context of the title industry but notes that current industry usage favors "escrow theft" over "defalcation."

Title Insurance, Title Agents, and The Real Estate Transaction

Title Insurance

Title insurance plays an important role in the real estate transaction. “The objective of title insurance remains the same as it has always been - helping the parties in real estate transactions to determine their rights and interests, and assuring that land transfer is expeditious and secure. Protecting the parties involved in real estate transactions is the reason the title insurance product was developed.”²

Until the late 19th century, purchasers of real property received no guarantee regarding the quality or marketability of title they were receiving. Conveyancers would conduct a limited title search and offer their professional opinion as to the ownership rights and encumbrances to the title. But the process offered little protection to the parties involved. This fact was highlighted by the 1868 Pennsylvania Supreme Court decision in *Watson v. Muirhead*, in which the court determined that conveyancers were not liable for errors in their search or opinion.³ The court in *Watson* opened its opinion by recognizing “the business of a conveyancer [as] one of great importance and responsibility.”⁴ The court stated that the position requires “an acquaintance with the general principles of law” and “a large amount of practical knowledge,” and further noted that it is a profession that has been pursued by “lawyers of the greatest eminence.”⁵ In an effort to protect the profession, the court decided to insulate conveyancers from liability for their negligence. Specifically, the court was wary of holding the conveyancer liable and thereby establishing a rule that would “deter all prudent and responsible men from pursuing a vocation envired with such perils.”⁶

Without recourse against a conveyancer, a need arose for assuring the quality and marketability of title. Shortly after the *Watson v. Muirhead* decision, the first title insurance company was formed and, in 1876, Commonwealth Title wrote the first coverage - a loan policy issued to a mortgage lender.⁷

Title insurance indemnifies against loss arising from a defect in title to real property.⁸ A title insurance policy typically insures against losses arising from errors or omissions in deeds, mistakes in examining records, forgery, undisclosed or missing heirs, liens, and other encumbrances. Title insurance is different from casualty insurance. Title insurance policies protect against past events that occurred prior to the issuance of the policy. A typical title insurance policy states:

² American Land Title Association, Title Insurance: A Comprehensive Overview (2012), at 2, www.alta.org

³ *Watson v. Muirhead*, 57 Pa. 161, 167 (1868).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 168.

⁷ Title Insurance: A Comprehensive Overview, *supra* note 2, at 3.

⁸ Black's Law Dictionary 819 (8th ed. 2004).

Subject to the exclusions from coverage, the exceptions from coverage contained in Schedule B and the conditions and stipulations, the Title insurance company insures, as of the Date of Policy shown in Schedule A, against loss or damage ...

In contrast, a property and casualty insurance policy insures against future events that occur during the ensuing policy period. A typical property and casualty insurance policy states:

In Consideration of the Provisions and Stipulations herein, this Property and Casualty Insurance Company, for the term of this date at 12:01 a.m. to one year later at 12:01 a.m. at the location of the property involved does insure ...

Accordingly, a large amount of the title insurance premium is dedicated to searching for, identifying, and eliminating the risks associated with the transfer of title prior to policy issuance.⁹

In its most basic form, title insurance is issued in the form of an owner's policy to the buyer to protect the buyer's interest and assure good title. Title insurance is also issued in the form of a lender's policy, which is issued to the mortgage lender and protects the lender's security interest in the property. With the increased complexity of real estate transactions and the development of the secondary mortgage marketplace, title insurance and title agents have taken on an increasingly important role in the process of conveying real estate.

The Role of a Title Agent in the Real Estate Transaction

The role of the title agent has expanded beyond soliciting title insurance policies, performing title searches, and issuing title policies. Modern title agents in many jurisdictions function as a facilitator of the entire closing process. They prepare documents and closing instruments, and collect and disburse funds.¹⁰ Of particular import is their acting as an escrow agent. An escrow agent serves as a disinterested third party to the real estate transaction. The seller deposits the deed with the escrow agent and the buyer deposits the purchase money with the escrow agent. The escrow agent holds the property and funds until the conditions of the real estate contract are met. Upon completion of the contractual obligations by the buyer and seller, the escrow agent delivers the deed to the buyer, discharges the previous loan, and delivers net proceeds to the seller.¹¹

9 See Joseph L. Petrelli, *What We've Got Here is a Failure to Communicate* (2006), http://news.demotech.com/title_research/failure_to_communicate/. See also Charles B. DeWitt, III, *Title Insurance: A Primer*, 3 Tenn. J. Prac. & Proc. 15 (2000).

10 Title Insurance: A Comprehensive Overview, *supra* note 2, at 3.

11 Charles H. Walker & William D. Eshee, Jr., *The Safeguards and Dilemmas of Escrows*, 16 Real Est. L.J. 45, (1987).

ESCROW THEFT

The Problem

Parties to a real estate transaction often entrust title agents or other settlement professionals with the transaction. Problems can arise when these professionals violate that trust and breach their duties to hold the purchase money and deed to property in a fiduciary capacity and disburse the funds appropriately. Most alarmingly, this violation of trust comes in the form of escrow theft, which occurs when an agent embezzles or misappropriates funds held in a fiduciary capacity.

The most common form of escrow theft occurs when a settlement agent receives funds to apply to a real estate transaction, but rather than disbursing the funds properly, the agent steals the funds for his or her own benefit. The agent will often continue making payments to the previous lender, which keeps the loan current and covers the fraudulent activity for a time.¹²

Escrow theft is a serious problem for the title insurance industry, though not because of its frequency, but rather because of the egregious breach of trust, the amount of money lost and the damage to the industry's reputation. "When theft of escrow funds occurs, consumers are harmed, business partners lose trust, and the credibility of the entire title industry is damaged."¹³ This is of significant consequence for an industry that is also plagued by a negative public perception.

The Regulatory Effort

The insurance industry is regulated primarily at the state level with state legislatures establishing statutes and regulations and forming regulatory bodies to oversee the industry. Congress reinforced the role of the states as the primary regulators of the business of insurance with the passage of the McCarran-Ferguson Act in 1945, which exempts "the business of insurance" from much of the federal anti-trust legislation and affirms that insurance is to be regulated at the state level.¹⁴

12 See, e.g. Press Release, U.S. Department of Justice, U.S. Attorney's Office, District of Minnesota, Lawyer Sentenced for Stealing More than \$3 million in Mortgage Fraud Scheme (Jan. 25, 2011); see also Press Release, State of Ohio, Department of Insurance, Taylor Announces Former Springboro Title Insurance Agent Sentenced to Two Years for \$360,000 Theft (December 23, 2011); see also Press Release, U.S. Department of Justice, U.S. Attorney's Office, District of Maryland, Owner of Troese Title Companies Sentenced to Prison in \$2.838 Million Mortgage Fraud Scheme (Feb. 7, 2012).

13 Jeremy Yohe, *Finding Solutions to Protect Escrow Funds*, Title News, February 2012, at 12, quoting Michelle Korsmo, CEO, American Land Title Association.

14 15 U.S.C. 1012.

Although states hold the legal power to regulate the business of insurance, the National Association of Insurance Commissioners (“NAIC”) plays a significant role in industry regulation and policy. The NAIC is a non-profit organization, created and governed by the chief insurance regulators of the fifty states, the District of Columbia, and five U.S. territories. It was created in 1871 to coordinate the regulation of insurers operating in multiple states and today acts as a forum for regulatory policy, standards, and best practices.¹⁵ The NAIC is not a government organization and is not a regulatory body. States maintain full regulatory control over the business of insurance but rely heavily on the NAIC for support and guidance.¹⁶

One of the NAIC’s primary undertakings is the development of model laws. In 1995, the NAIC developed Model #230, the Title Insurance Agent Model Act (“NAIC Model Act”). This NAIC Model Act was revised in 2003 and was most recently published in 2011. The NAIC Model Act’s provisions include:

- Licensing requirement, requiring all title insurance agents to be licensed by the state insurance commissioner and recommending additional sections relating to competency, character, and integrity requirements; fee requirements; and continuing education requirements. The licensing requirement section also recommends that states require licensing for persons handling escrow accounts.
- Requirement of errors and omissions policy and fidelity coverage.
- Examination of books and records by the state insurance commissioner.
- Prohibition of rebate and fee splitting.
- Controlled business provisions.
- Favored agent provision.
- Required provisions of the agent’s underwriting contract with the title insurer.
- Policyholder treatment.
- Conditions for providing escrow, closing, or settlement services and maintaining escrow and security deposit accounts.
- Record retention requirements.
- Penalties and liabilities.

¹⁵ <http://www.naic.org/>

¹⁶ See Letter from Kevin McCarty, President, National Association of Insurance Commissioners, Florida Insurance Commissioner, to Representative Edward Royce, U.S. House of Representatives (March 20, 2012), explaining the NAIC’s legal status and role as a forum for regulatory policy, standards, and best practices.

But the NAIC Model Act is just that: a model. Each state and the District of Columbia have implemented their own statutes and regulations relating to title insurance agents and settlement agents. Some states have adopted the NAIC Model Act, others have enacted their own regulations, and others have chosen not to implement any rules or regulations. The strength and scope of regulation varies greatly depending on the jurisdiction.

A Note on the Underwriter's Perspective

Although state regulatory efforts are the focus of this study, it is prudent to address the underwriter's perspective regarding escrow theft. Generally, title insurers are not liable for fraud or theft by a title agent because title agents are considered agents only insofar as the issuance of the title insurance policy is concerned.¹⁷ The majority position is that title agents are not agents of insurers when they are performing closing activities apart from the title policy.¹⁸ However, this determination is ultimately made on a state-by-state and case-by-case basis according to general principles of agency law. A few states have statutorily imposed strict liability for title underwriters for the fraudulent acts of their agents.¹⁹ By transferring the risk of loss directly to the insurer, underwriter strict liability puts the onus on the insurer to appoint agents of high character and financial responsibility, and to implement oversights of agents' practices.

Even without strict liability, many regional and national underwriters have instituted policies and procedures to oversee their agents and prevent theft, fraud and other questionable practices by their agents. Whether due to regulatory requirements or company initiative, many underwriters audit their agents periodically. In addition, new technology is enabling underwriters to utilize accounting software to identify potential instances of defalcation.

Risk is not only transferred by statutory mandate, but also voluntarily by way of closing protection letters or closing protection coverage. Closing protection letters are an effective means of protecting consumers, but their protection activates only upon the occurrence of fraud. In most states, the issuance of a closing protection letter is voluntary, but some states require closing protection letters to be issued to the parties involved in the real estate transaction, most commonly the lender or the buyer.²⁰

¹⁷ *Universal Bank v. Lawyers Title Ins. Corp.*, 73 Cal. Rptr. 2d 196 (Cal. Ct. App. 1997); *Sommers v. Smith & Berman, P.A.*, 637 So.2d 60 (Fla. 1994); *Resolution Trust Corp. v. Am. Title Ins. Co.*, 901 F.Supp. 1122 (M.D. La. 1995); *Cameron County Sav. Ass'n v. Stewart Title Guar. Co.*, 819 S.W.2d 600 (Tex. 1991).

¹⁸ See *id.*

¹⁹ See Fla. Stat. § 627.792 ; Neb. Rev. Stat. § 44-1993(8); Utah Code § 31A-23a-407; 215 Ill. Comp. Stat. 155 §§ 16.

²⁰ Illinois mandates the issuance of a closing protection letter. 215 Ill. Comp. Stat. 155 §§ 16. Other states require agents to disclose the availability of or offer a closing protection letter. See Ariz. Rev. Stat. § 6-841.02; Ark. Code Ann. § 23-103-405; Ohio Rev. Code § 3953.32.

Demotech's Study

Can the NAIC Title Insurance Agent Model Act Impact Loss Ratios through the Mitigation of Escrow Theft?

This study has undertaken to analyze the impact of the NAIC Model Act on loss ratios, which include escrow theft.

Although the modern title insurance industry has changed dramatically since its inception in the late 19th century, its basic function remains the same: to protect the parties involved in a real estate transaction. Unfortunately, those parties seeking protection can be defrauded by their supposed protector. This is a challenge that faces the title insurance industry that needs to be addressed.

The role of the title agent today carries the same significance and responsibility that the role of conveyancer did in 1868, when the Pennsylvania Supreme Court espoused the virtues of conveyancers in *Watson v. Muirhead*. And we agree with that court that it is important to ensure that title agents, settlement agents, and other closing personnel are “prudent and responsible,” “acquainted with general principles of law,” and vested with “a large amount of practical knowledge.” It is our position that the best way to systemically address the problem of escrow theft is through strong state regulations, focusing particularly on the licensing process and the oversight of title agents. A strong regulatory framework has a direct and significant impact on escrow theft. State regulators have noted that strong regulations are “key to preventing illegal actions by agents by eliminating both bad actors and questionable practices in the title industry.”²¹ Having studied this matter extensively, Demotech believes that the NAIC Model Act offers a strong regulatory framework that can mitigate the risk and exposure associated with escrow theft.

Our premise was that a correlation exists between the strength of a state's regulations, title insurance loss ratios, and escrow theft: the stronger the regulations, the fewer defalcations, the lower the loss ratios. As such, our study entailed two independent undertakings: an analysis of the strength of each state's regulations and a review of each state's title insurance losses. We assumed that variations in loss ratios from state to state could be attributed to escrow theft or other aspects of the professionalism of title agents.

21 U.S. Government Accountability Office, Report to the Ranking Member, Committee on Financial Services, House of Representatives, Title Insurance: Actions Needed to Improve Oversight of the Title Industry and Better Protect Consumers, GAO-07-401, at 45 (April 2007).

Methodology

Part 1: Analysis of State Regulations

The first element of our study was to review each state's regulations and evaluate their strength. In analyzing state regulations, we used the NAIC Model Act as our baseline and identified certain factors that we considered importantly linked to the prevention of title agent escrow theft.

Tier 1 Considerations: Licensing Requirements & Account Oversight

Of primary importance were those regulations that posed a barrier of entry to the profession as well as those regulations that were specifically directed toward oversight of title agents' or escrow agents' recordkeeping and accounting practices. Escrow theft is first and foremost the result of bad actors. Preventing bad actors from entering the profession and having access to funds, and enhancing accountability for those funds are the simplest and most direct ways of preventing escrow theft.

The first consideration we reviewed was the strength of state licensing requirements. It was our premise in our original study that stronger licensing standards resulted in lower loss ratios, largely through fewer instances of escrow theft and, again here, we began by looking at states' licensing standards for their agents. If a state establishes significant barriers of entry to the title agent and escrow agent professions, only those individuals who have the requisite competency, character, and dedication will be admitted. In turn, bad actors will be eliminated, or at least diminished, and the occurrence of escrow theft will be curbed.

In analyzing licensing requirements we looked to pre-licensing education, licensing examinations, background checks, bonding and other insurance requirements, title agent appointment by insurers, and other character, competency and financial responsibility requirements.

The second consideration we evaluated was the strength of regulations relating to the oversight of escrow accounts. It is our position that strong regulations for recordkeeping, accounting, and reporting practices, and the ability of an overseeing title insurer or commissioner of insurance to audit those practices is an important check on agents' ability to embezzle money. By enhancing accountability requirements, agents have less opportunity and diminished ability to perpetrate fraud. Questionable and illegal practices can be identified and eliminated by imposing standards for oversight of an agent's books.

Tier 2 Considerations:

Continuing Education, Trade Practices & Other Regulations for Title Agents

The Rating Scale

Because states have implemented regulations tailored to the unique dynamics of their real estate industry, it is difficult to construct a single model into which all regulations can be analyzed. As such, we used the principles contained in the NAIC Title Insurance Agent Model Act as our guide and analyzed each state according to those principles. As previously noted, we factored together the Tier 1 and Tier 2 considerations to determine the strength of each state's regulations. Each state was rated on a scale of 0 to 6 based on the relative strength of its regulations.

Our rating scale was developed with the NAIC Model Act as our baseline. We determined that the NAIC Model Act contained strong regulations and assigned it a rating of 4. States that adopted the NAIC Model Act or enacted regulations that were the substantial equivalent of the Model Act or of equivalent strength were also assigned a rating of 4. States with slightly less regulation were assigned a 3. States with moderately less regulation than the NAIC Model Act were assigned a 2. States with substantially less regulation were assigned a 1. States with no regulation or very limited regulation were assigned a 0. States with more regulation than the NAIC Model Act were assigned a 5. States with substantially more regulation were assigned a 6.²²

We have reviewed each state's regulations, analyzed them in comparison to the NAIC Model Act and other states' regulations, assigned them a rating to correspond with our assessment of their overall relative strength, and included an analysis in which we have attempted to explain the factors that contributed to that rating. A table of Demotech's rating categories and state ratings is attached as Exhibit A. Our state by state regulatory analysis is attached as Exhibit B.

22 Demotech has revised its rating scale from its 2003 study. In the 2003 study, we rated state regulations on a scale of 1 to 10, with 7 representing the NAIC Model Act or its equivalent, 1 representing states with no regulation, and 10 representing regulation that included substantially more than the NAIC Model Act. We believe our revised rating scale of 0 to 6 provides a more appropriate assessment and grouping of the relative strength of state regulations.

Part 2: Escrow Theft and Loss Ratios

After evaluating and grouping each state according to our assessment of the strength of its regulations, we turned to the second element of our study in which we compiled loss ratio data from each state over the eight-year period from 2004 through 2011. We reviewed the composite data from each state's statutorily required Schedule T submissions. Demotech operated under the assumption that almost all states require title insurance agents and title insurance companies to make an exhaustive search of public records and that those individuals performing title searches had reasonable experience and conducted a reasonably thorough search. Accordingly, Demotech assumed that variations in loss experience from state to state are based upon dynamic occurrences rather than static occurrences. In short, we assumed that each state would incur losses inherent in the business of title insurance and that such losses would be relatively consistent from state to state. Therefore, any variation in the loss ratios would correspond with an occurrence apart from a typical title insurance loss, namely escrow theft. Limitations on the readily available public information on the title insurance industry preclude verification of this critical assumption.

In our 2003 study we looked at the cumulative loss ratios for each group over the five-year period from 1997 through 2001. We have included cumulative loss ratio data in our current study, but have also included the average loss ratio for each group. The cumulative loss ratio for the group factors in the volume of premium earned and losses incurred and accords undue weight to states with a higher volume. By also analyzing the average loss ratio for each group we were able to evaluate the effectiveness of each rating category's regulations by determining the average loss ratio without the volume bias, thereby weighting each state equally.

A table of Schedule T loss ratios for each state and for each grouping of states within Demotech's rating categories is attached as Exhibit C.

Conclusions and Recommendations

After considering the loss ratios for each state and each of our rating categories and correlating the data with our analysis of the strength of each state's regulations, we came to the following conclusions. From 2004 through 2011:

Rating group 0 had a combined loss ratio of 6.25% and an average loss ratio of **9.32%**. The discrepancy is largely due to New York accounting for most of the volume in the group and having a low loss ratio of 5.16%.

Rating group 1 had a combined loss ratio of 11.27% and an average loss ratio of **10.57%**.

Rating group 2 had a combined loss ratio of 10.47% and an average loss ratio of **9.30%**.

Rating group 3 had a combined loss ratio of 8.88% and an average loss ratio of **10.25%**.

Rating group 4 had a combined loss ratio of 6.14% and an average loss ratio of **6.95%**.

Rating group 5 had a combined loss ratio of 6.85% and an average loss ratio of **5.55%**.

Rating group 6 had a combined loss ratio of 5.61% and an average loss ratio of **5.36%**.

In addition, rating groups 0, 1, 2, and 3, all of which were determined to have less regulation than the NAIC Model Act, had a combined loss ratio of 8.79% and an average loss ratio of **9.90%**.

Rating group 4, which included those states that had adopted the NAIC Model Act or its substantial equivalent, had a combined loss ratio of 6.14% and an average loss ratio of **6.95%**.

Rating groups 5 and 6, which were determined to have more regulation than the NAIC Model Act, had a combined loss ratio of 6.78% and an average loss ratio of **5.51%**.

Accordingly, states with stronger agent licensing requirements and stronger accounting oversight experienced fewer losses in large part, we believe, from reducing escrow theft. While we acknowledge the need for additional statistical information to segregate losses between "true" title insurance losses and losses resulting from escrow theft, we respectfully submit that the loss ratio observed in this study can reasonably be assumed to correspond with escrow theft loss.

The conclusion that necessarily results is that the adoption of the NAIC Model Act, an equivalent regulation, or a regulation that is stronger than the NAIC Model Act will mitigate the risk of escrow theft. Specifically, adopting strong licensing requirements will set up a barrier of entry to the profession that ensures only those who are competent, responsible, and trustworthy enough to serve in the role of title agent will be admitted. In addition, enacting strong oversight of agents' accounts and records will help regulators and insurers identify and prevent fraudulent activity.

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Exhibit A

Rating Categories and State Ratings

*States are categorized according to the strength of their regulations. However, states are listed alphabetically within each rating category and are not further subdivided by strength of regulation within each category.

Exhibit B

Analysis of State Regulations

0 - Limited or No Regulation

Alabama - 0

Alabama requires title agents to be residents of the state and to have a certificate of authority from a title insurer. Ala. Code § 27-25-4. Otherwise, Alabama does not regulate title agents, escrow agents, or the closing process.

Alabama is rated a 0 because it has very limited regulations pertaining to title agents. These regulations pose no barrier to entry into the profession and offer very little oversight of title agents, escrow agents, and the closing process.

Iowa - 0

Iowa does not permit the sale of title insurance. Iowa Code § 515.48(10); *see also Chicago Title Ins. Co. v. Huff*, 256 N.W. 2d 17 (Iowa 1977). As such, Iowa does not regulate title agents, escrow agents, or the closing process.

Iowa is rated a 0 because it has no regulations relating to title agents, escrow agents, or the closing process. Admittedly, Iowa is unique in that it is the only state that does not permit the sale of title insurance and the process of conveyancing is different from every other state. Nevertheless, Iowa has been assigned a rating of 0 because it enforces no regulations.

Kentucky - 0

The Kentucky Department of Insurance, Agent Licensing Division has advised that Kentucky does not license title agents. Letter from Sandra Chapman, Acting Director, Agent Licensing Division, Public Protection Cabinet, Department of Insurance, *Title Insurance Agents*, <http://insurance.ky.gov/documents/titleagentsletter051211.pdf>. Kentucky also does not license escrow agents. Any layperson who desires to conduct closings on behalf of third parties is permitted to do so. *Countrywide Home Loans Inc. v. Kentucky Bar Ass'n.*, 113 S.W.3d 105 (Ky. 2003).

Kentucky is rated a 0 because it has no regulations relating to title agents, escrow agents, or the closing process.

Massachusetts - 0

Massachusetts does not license title agents or escrow agents, but considers most activities related to real estate closings to be the practice of law. *Massachusetts Conveyancers Ass'n, Inc. v. Colonial Title and Escrow, Inc.*, 13 Mass. L. Rep. 633, 2001 Mass. Super. LEXIS 431 (Mass. Super. 2001); *In re Opinion of Justices*, 194 N.E. 313 (Mass. 1934); *Massachusetts Ass'n of Bank Counsel, Inc. v. Closings, Ltd.*, 1 Mass. L. Rep. 87, 1993 Mass. Super. LEXIS 239 (Mass. Super. 1993). Accordingly, title agents and escrow agents must be attorneys in Massachusetts, but no regulations exist unique to title insurance agents or the closing process. It should be noted that whether certain activities related to real estate transfers are the practice of law is a challenged issue in Massachusetts and is not entirely settled. See *Real Estate Bar Ass'n for Massachusetts, Inc. v. Nat'l Real Estate Info. Services*, 946 N.E.2d 665 (Mass. 2011).

Massachusetts is rated a 0 because it has no express regulations pertaining to title agents, escrow agents, or the closing process. While Massachusetts imposes a de facto regulation by limiting closing activities to attorneys, such an enforcement mechanism is ill-defined and the scope of this limitation is currently disputed. An essential element of a strong regulation is clarity. Although Massachusetts is similar to Connecticut in that attorneys generally act as title agents and escrow agents, the lack of clarity of Massachusetts' regulation renders it very weak.

New York - 0

New York exempts title agents from insurance agent licensing requirements and does not otherwise regulate title agents or escrow agents. N.Y. Ins. Law § 2101(4). Any person may act as a title agent in New York.

Likewise, escrow agents are not licensed or regulated in New York. Any person may provide closing and escrow services. New York case law indicates that certain aspects of closing real estate transactions constitute the practice of law. See *People v. Lawyers Title Corp.*, 27 N.E.2d 30 (N.Y. 1940). However, New York law exempts title companies from its prohibitions against the unauthorized practice of law as long as the work is necessary to the insuring of title or necessary or incidental to loans made by the title company. N.Y. Jud. Law § 495(5). The court in *Lawyers Title* did not specify which aspects of the closing process constituted the practice of law and tension exists between the case, the statutory exception for title companies, and the practice of title companies' involvement in closings.

New York is rated 0 because it enforces no regulations for title agents or escrow agents. Similar to Massachusetts, it appears that escrow agents may be subject to de facto regulation as attorneys, however, as in Massachusetts, this distinction is not well-defined.

1 - Substantially Less Regulation than the NAIC Model Act

Connecticut - 1

Connecticut requires title agents to be attorneys licensed in the state. Conn. Gen. Stat. § 38a-402. Connecticut has limited additional regulations for title agents. State regulations prohibit title agents from paying or receiving any rebates or inducements for the referral of title insurance business. Id. § 38a-414. In addition, Connecticut enforces a controlled business provision. Id. § 38a-416.

If a title agent issues a policy while acting as a closing agent, the agent must retain the file for ten years. Id. § 38a-407. Otherwise, there are no regulations relating to escrow agents or the closing process. It appears, however, that it is customary for attorneys to conduct real estate closings. See George T. Holler, *New Duties for Connecticut Mortgage Lenders: Responsibilities Focus on Supervision of Settlement Agents*, Connecticut Law Tribune, March 22, 2010.

Connecticut is rated a 1 because it clearly mandates that title agents must be attorneys licensed in the state but enforces no other meaningful licensing requirements or regulations for the oversight of escrow activities. The clarity of Connecticut's regulations distinguishes it from Massachusetts and New York. However, Connecticut's regulations overall remain very weak as it does not regulate the closing process or personnel involved in the closing process.

Georgia - 1

Title agents in Georgia must be licensed. Ga. Code Ann. § 33-23-4. Title agents must be appointed by an authorized insurer, provide fingerprints for a background check, and be of good character. Ga. Code Ann. § 33-23-5; Ga. Comp. R. & Regs. 120-2-3-.44. A license will not be granted to a person who has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Attorneys are exempt from title agent licensing requirements. Ga. Code Ann. § 33-23-1(b)(1).

Title agents are required to maintain records relating to their transactions. Ga. Code Ann. § 33-23-34(b). The commissioner may examine the books, records, and affairs of a title agent as deemed necessary. Id. § 33-2-12. Georgia enforces a controlled business provision, prohibits title agents from holding a license to secure rebates, and also prohibits kickbacks and fee-splitting. Id. § 33-23-21; 33-6-13; 33-6-4.

Georgia does not regulate escrow agents or the closing process but considers most activities relating to the real estate transfer and closing process to be the practice of law. Id. § 15-19-50. Accordingly, attorneys must close all real estate transactions but they may delegate certain functions to laypersons.

Georgia is rated a 1 because it lacks many essential regulations. Georgia enforces certain standard licensing procedures, including evidence of good character and background checks. In addition, Georgia maintains recordkeeping requirements and business activity controls. However, Georgia lacks other important regulations for title agents, including testing of applicants, bonding requirements, and continuing education. Also, the state has basic recordkeeping requirements but does not regulate escrow agents or enforce accountability requirements for escrow accounts. Accordingly, Georgia has substantially less regulation than the NAIC Model Act.

Mississippi - 1

Title agents in Mississippi must be licensed. Miss. Code Ann. §§ 83-15-3, 83-17-5, 83-17-25, 83-17-55. Attorneys are exempt from licensing requirements. Id. § 83-15-3. Applicants must pay the associated fees and must not have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. §§ 83-17-61, 83-17-71. Title agents must be appointed by an insurer and each insurer is required to investigate their agents prior to appointment to determine if they are of good moral character, qualified, fit and trustworthy. Id. § 83-17-75. The commissioner may request a credit report for an agent as deemed necessary. Id.

Mississippi enforces a controlled business provision. Id. § 83-17-1. And the state prohibits kickbacks and rebates. Id. § 83-17-7.

Escrow agents are not separately licensed in Mississippi, and the state does not regulate the closing process.

Mississippi is rated a 1. Although it enforces moderate licensing requirements, including the appointment and investigation of title agents by insurers, the state lacks many other licensing requirements, including bonding requirements, examinations, or pre-licensing education. In addition, Mississippi lacks any regulations relating to oversight of accounts and records. The barrier of entry in Mississippi is relatively high with much of the enforcement power in the hands of title insurers, but provisions relating to subsequent accountability appear to be very limited.

New Hampshire - 1

Title agents in New Hampshire are required to be licensed. N.H. Rev. Stat. Ann. § 416-A:15. Applicants must pass a written examination, pay the applicable fees, and complete a pre-licensing course. Id. § 402-J:6. A license may be denied or revoked if a person has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 402-J:12. Title agents must be appointed by a title insurer. Id. § 402-J:14. Attorneys are exempt from title agent licensing requirements, provided that the sale, solicitation, or negotiation of title insurance is conducted by a licensed agent. Id. § 416-A:15.

Title agents are required to retain business records. Id. § 416-A:6. The commissioner may examine such records as deemed necessary. Id. § 400-A:37. General insurance law prohibits rebates and kickbacks for the business of insurance. Id. § 402:39.

Escrow agents are not licensed in New Hampshire and the closing process is not regulated.

New Hampshire is rated a 1 because it has weak regulations for title agents and no regulations for escrow agents or the closing process. Although New Hampshire enforces basic licensing requirements and requires a pre-licensing course and examination, the regulations are not as intensive as most other states and notably lack certain character and financial responsibility requirements. These weak licensing requirements coupled with little oversight of escrow accounts and escrow activity results in a regulatory framework that is substantially weaker than the NAIC Model Act.

Rhode Island - 1

Title agents in Rhode Island must be licensed as insurance producers. R.I. Gen. Laws § 27-2.4-3. Applicants for a title agent license must pay the applicable fees, pass an examination, and cannot have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 27-2.4.-8; 27-2.4-14. Title agents are required to maintain an errors and omissions insurance policy. Id. § 27-2.4-23. Attorneys who do not sell, solicit, or negotiate insurance are exempt from licensing requirements. Id. § 27-2.4-5.

Title agents must disclose affiliate business relationships. Id. § 27-2.4-15.1. Rhode Island enforces a controlled business provision and a favored agent provision, and prohibits rebates and fee splitting. Id. § 27-2.6-11; 27-2.6-15; 27-2.6-14. Title agents must maintain premium funds in a fiduciary capacity and may not misappropriate such funds. Id. § 27-2.4-19. The commissioner may examine a title agent incidental to an examination of an insurer. Id. § 27-13.1-3(2).

Escrow agents are not separately licensed in Rhode Island and the state enforces no regulations relating to the real estate settlement process.

Rhode Island is rated a 1 because it enforces only basic licensing regulations and has enacted very limited regulation regarding the oversight of agents' accounts and records. The state notably lacks certain character and financial responsibility standards, including background checks by the state or appointment by a title insurer. Also, although title agents must generally protect funds and may be examined in the course of an insurer examination, there are no specific recordkeeping or audit requirements. Accordingly, Rhode Island's regulations are substantially weaker than the NAIC Model Act.

South Dakota - 1

South Dakota requires individuals acting as title agents to be licensed as title abstracters. See American Land Title Association, Title Insurance Regulatory Survey: South Dakota, at 34 (2011). Accordingly, title agents must obtain a certificate of registration, file a bond, and pay the applicable fees. S.D. Codified Laws §§ 36-13-8, 36-13-15. Applicants must be a resident of the state and must be of good moral character and careful, temperate habits. S.D. Admin. R. § 20:36:03:01. Title agents are also required to submit fingerprints for a criminal background investigation and must pass an examination. S.D. Codified Laws §§ 36-13-11.1, 36-13-12.

South Dakota is rated a 1. South Dakota has standard licensing requirements that are relatively strong, but the state enforces no additional regulations for title agents or escrow agents. Although South Dakota's licensing standards require an investigation into an applicant's background and an examination to ensure competency, South Dakota has no regulatory oversight of title agents' books or records and imposes no account conditions or examination of escrow activities. Therefore, South Dakota's regulations for title agents are substantially weaker than the NAIC Model Act.

Vermont - 1

Vermont requires title agents to be licensed. Vt. Stat. Ann. tit. 8, §4793. Applicants must be deemed competent, trustworthy, financially responsible, and of good personal and business reputation. *Id.* §§ 4800, 4813f. In addition, they must pay the applicable fees, pass a written examination, submit fingerprints, and submit other documentation and information as required. *Id.* §§ 4800, 4813e, 4813f. A license may be denied or revoked if a person has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. *Id.* § 4804.

Title agents must complete continuing education. Id. § 4800a. Title agents must be appointed by a title insurer. Id. § 4813l. Vermont enforces a controlled business provision. Id. § 4795. Vermont also prohibits rebates, kickbacks, and other unfair or deceptive business practices. Id. § 4724.

Escrow agents are not separately licensed in Vermont.

Although Vermont enforces some moderate licensing regulations for title agents, it lacks certain essential regulations for the oversight of its title agents and enforces no regulation for the licensing of escrow agents or the oversight of the closing process. Notably, title agents are subject to no file retention or examination requirements and title agents have no bonding or insurance requirements. Accordingly, Vermont is rated a 1.



2 - Moderately Less Regulation than the NAIC Model Act

Colorado - 2

Title agents in Colorado are required to be licensed. Colo. Rev. Stat. §§ 10-11-116, 10-2-401. Applicants must pay the applicable fees, pass an examination, complete a pre-licensing course, be competent, trustworthy, of good moral character, and have a good business reputation. Id. §§ 10-2-402, 10-2-404. The commissioner may require the submission of any documents necessary to verify the information contained in an application. Id. § 10-2-404. A license may be denied or revoked if a person has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 10-2-801. Attorneys are not subject to the licensing requirements but may be appointed as title agents if a title insurer notifies the commissioner. Id. § 10-11-116.

The commissioner may examine the business affairs and conduct of title agents. Id. § 10-2-804. A license will not be issued for the purpose of controlled business and title agents and title insurers are required to disclose all affiliated business relationships. Id. §§ 10-2-401; 10-11-124. Rebates and kickbacks are prohibited. Id. § 10-11-108.

Escrow agents are not separately licensed but the business of title insurance is defined as including closing and settlement services. Id. § 10-11-102. Title agents are required to retain all settlement, escrow, and closing files. Id. § 10-11-116. In addition, title agents are required to hold all funds in a fiduciary capacity and keep them separate from other funds. 3 Col. Code Regs. § 702-3.

Colorado is rated a 2. Colorado has moderate licensing standards and enforces basic oversight of title agents' escrow activities. Notably, the state lacks any bonding requirements and continuing education requirements. In addition, although title agents are required to retain certain records and abide by basic fiduciary standards, the state lacks serious oversight of escrow activities. Colorado enforces certain positive regulatory requirements, but overall has a weaker regulatory framework than the NAIC Model Act and other states' regulations.

Delaware - 2

Delaware requires title agents to be licensed. Del. Code Ann. tit. 18, § 1703. Applicants must pay the applicable fees, pass an examination, and provide a statement of their criminal history. Id. § 1706. A license will be denied or revoked if the individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 1712. Title agents must be appointed by a title insurer. Id. § 1715. Delaware requires title agents to complete continuing education. Del. Code Ann. tit. § 1718; 18-500-504 Del. Code Regs. § 3.2.

Title agents are required to maintain records relating to title insurance policies and those records must remain open for inspection. Id. § 1707. The commissioner may examine title agents' records as he or she deems necessary. Id. §319. Title agents must hold premium funds in a fiduciary capacity and may not commingle funds. 18-500-505 Del. Code Regs. § 5. Delaware does not enforce any controlled business provision nor does it prohibit fee splitting. Delaware does however prohibit rebates and inducements for title insurance business. Del. Code Ann. § 2304. Furthermore, contracts for commission must be filed with the Commissioner. Id. § 4921.

Delaware does not regulate escrow agents or the closing process but considers real estate closings to be the practice of law. *In re Mid-Atlantic Settlement Services, Inc.*, 755 A.2d 389 (Del. 2000).

Delaware is rated a 2 because it enforces standard licensing requirements but does not articulate any regulations for the oversight of escrow accounts. Although real estate closings are considered to be the practice of law and escrow accounts are regulated through attorney standards of conduct, the state has neglected to enumerate important recordkeeping, accounting, and audit requirements. Accordingly, Delaware's regulations are weaker than the NAIC Model Act and the state is rated a 2.

Indiana - 2

Indiana requires title agents to be licensed. Ind. Code Ann. § 27-1-15.6-3. Applicants must pay the license fee and complete a pre-licensing course. Id. § 27-1-15.6-6. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 27-1-15.6-12. A title agent acting as an agent of an insurer must be appointed by that insurer. Id. § 27-1-15.6-14. Title agents are required to complete continuing education. Id. § 27-1-15.7-2.

Title agents are not statutorily required to maintain any records, but the department does have the authority to examine title agents. Id. § 27-7-3.6-1. Indiana enforces a controlled business provision. Id. § 27-1-15.6-12. And the state prohibits kickbacks, rebates, and inducements. Id. § 27-1-20-30.

Closing agents in Indiana must be licensed title agents. Id. §§ 27-7-3.7-1, 27-7-3.7-3. Escrow funds must be deposited into a separate escrow account unless the parties agree otherwise. Id. § 27-7-3.7-6. Closing agents may not disburse escrow funds unless such funds are wired and credited to the escrow account or are received as good funds. Id. §§ 27-7-3.7-7, 27-7-3.7-8.

Indiana is rated a 2. Indiana has enacted basic licensing requirements that are not as strong as the NAIC Model Act. Agents are not required to maintain insurance or file a bond and the state enumerates no recordkeeping or review requirements. In addition, although there is some regulation of escrow activities, there is no audit requirement. With only standard licensing procedures and minimal oversight of records and accounts, Indiana's regulations are weaker than the NAIC Model Act.

Michigan - 2

Title agents in Michigan must be licensed. Mich. Comp. Laws Serv. §§ 500.1201a, 500.7317. Applicants must pay the applicable fees and pass an examination. Id. §§ 500.1204, 500.1205. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 500.1239. The commissioner may require applicants to submit documentation to verify their application information. Id. § 500.1205. Title agents must be appointed by a title insurer. Id. §500.1208a.

Title agents are not statutorily required to retain records and Michigan does not impose audit requirements, but the commissioner may examine the books and records of a title agent at any time. Id. § 500.249. Michigan enforces a controlled business provision. Id. § 500.1208. In addition, kickbacks, rebates and inducements are prohibited. Id. §§ 500.1207, 500.2066, 500.2070.

Michigan does not separately license escrow agents. Title agents are required to hold funds in a fiduciary capacity and must use reasonable accounting methods to record such funds. These records must be kept open to examination by the commissioner. Id. § 500.1207.

Michigan is rated a 2 because it has some regulation for the title agents, but the regulation is fairly standard and is not as strong as the NAIC Model Act. Although Michigan requires applicants to pass an examination and demonstrate a certain level of integrity and competency, the state lacks explicit requirements for a background check, verification of financial responsibility, and bonding requirements. In addition, Michigan does not separately license escrow agents and imposes only limited regulations on title agents holding funds in a fiduciary capacity. The requirement for agents to observe reasonable accounting practices is a positive requirement, but Michigan lacks other important regulations relating to escrow oversight such as an audit requirement. Therefore, Michigan has standard regulations which are not as strong as the NAIC Model Act.

North Carolina - 2

In North Carolina, title insurance cannot be issued without the involvement of an attorney but title agents must still be licensed. N.C. Gen. Stat. §§ 58-26-1, 58-26-10, 58-33-26. Applicants must pay the applicable fees, pass an examination, and demonstrate sufficient education, training and experience. Id. §§ 58-33-30, 58-33-31. Applicants must also submit fingerprints for a background check. Id. § 58-33-48. Agents must be appointed by a title insurer. Id. § 58-33-26. Prior to such appointment, title insurers must investigate the agent and evaluate his or her character, competence, and trustworthiness. 11 N.C. Admin. Code § 6A.0412.

Title agents are required to maintain records relating to title policies sold. Id. § 19.0102. The commissioner may examine a title agent as necessary. N.C. Gen. Stat. § 58-2-195(e). Rebates, kickbacks, and inducements are prohibited. Id. § 58-33-85.

Any person involved in the settlement process may not receive any kickbacks or rebates. Id. § 58-27-5. Otherwise, North Carolina does not significantly regulate escrow agents or the closing process. Real estate brokers acting as escrow agents may not commingle funds and must disburse funds appropriately. Id. § 93A-6. Any funds received by someone acting as an escrow agent must be kept in a fiduciary capacity and must be disbursed appropriately. Id. § 45A-8.

North Carolina is rated a 2 because it has moderately strong licensing requirements and has some regulations in place to oversee the closing process, although escrow agents go largely unregulated. North Carolina imposes basic regulations governing how settlement funds must be kept and disbursed, but the state enforces no corresponding recordkeeping or auditing requirements. Accordingly, North Carolina's regulations are weaker than the NAIC Model Act.

Oklahoma - 2

Oklahoma requires title agents to be licensed. Okla. Stat. tit. 36, § 1435.4. Applicants must pay the appropriate fees, pass an examination, and cannot have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 1435.7, 1435.13. Title agents must be appointed by an insurer. Id. § 1435.15. Oklahoma also requires title agents to complete continuing education. Id. § 36 § 1435.29.

Title insurers are required to audit each of their agents every two years. Okla. Admin. Code § 365:20-3-5(b). Title agents must maintain records pertaining to title insurance transactions and must keep those records open for inspection. Okla. Stat. tit. 36, § 1435.13. Oklahoma does not enforce a controlled business provision. *Id.* 36, § 1435.21. But the state does prohibit rebates, kickbacks, and inducements relating to title insurance business. *Id.* §§ 1203, 1204.

Oklahoma does not separately license escrow agents and does not regulate the closing process.

Oklahoma is rated a 2 because although it enforces a few basic licensing procedures for title agents, it lacks certain important barriers to entry including bonding requirements and a background investigation. Although title insurers are required to audit agents every two years, Oklahoma does not have any regulations directly associated with escrow accounts. Oklahoma's regulations are moderate but are weaker than the NAIC Model Act and therefore the state is rated a 2.



South Carolina - 2

Title agents in South Carolina must be licensed. S.C. Code Ann. § 38-43-20. Applicants must pass an examination, must be of good moral character, cannot have been convicted of a felony or any crime involving moral turpitude, and must pay the applicable fees. Id. § 38-43-100. In addition, applicants must provide a copy of their criminal history record to the director. S.C. Code Ann. Regs. 69-23. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. S.C. Code Ann. § 38-43-130. Title agents must be appointed by title insurers and the title insurer is accountable for the accuracy and veracity of the certification of the applicant's reputation and trustworthiness. S.C. Code Ann. Regs. 69-23.

South Carolina requires title agents to maintain business records and keep those records open for inspection. S.C. Code Ann. § 38-43-250. The state requires the disclosure of controlled business activities and relationships. Id. § 38-75-960. Kickbacks, rebates, and inducements are prohibited. Id. §§ 38-55-50, 38-57-130.

Escrow agents and real estate closing activities are not directly regulated in South Carolina, but closing activities are considered the practice of law in South Carolina and therefore may be performed only by licensed attorneys or under the close supervision of an attorney. *State v. Buyers Serv. Co.*, 357 S.E.2d 15 (S.C. 1987).

South Carolina is rated a 2. South Carolina has enacted relatively strong licensing requirements which require title agents to meet certain character and competency standards, and be appointed by a title insurer who verifies the agent's character. Despite these standards, South Carolina enforces no bonding requirements and only limited oversight of agent's records and activities. We recognize that South Carolina considers most closing activities to be the practice of law, but the state lacks any explicit regulations governing escrow accounts or transactions, which renders the regulations weaker than the NAIC Model Act. Accordingly, South Carolina is rated a 2.

West Virginia - 2

West Virginia requires title agents to be licensed. W. Va. Code Ann. § 33-12-3. Title agents are required to pay all applicable fees, pass an examination, and satisfy the commissioner that they are competent and trustworthy. Applicants cannot have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 33-12-6. The state may collect fingerprints and perform a background check prior to issuing a license. Id. § 33-12-37. West Virginia will not license an applicant who intends to use the application principally for controlled business. Id. § 33-12-6. Individual agents must be appointed by a title insurer and the insurer must investigate the suitability of each agent it appoints. W. Va. Code Ann § 33-12-18; W. Va. Code R. § 114-2-2.1. Title agents must complete continuing education. W. Va. Code Ann. § 33-12-8.

Title agents are required to retain business records and the commissioner may examine such records as he or she deems necessary. Id. § 33-2-9. West Virginia also enforces a controlled business provision and prohibits rebates and kickbacks. Id. §§ 33-12-24; 33-11-4.

West Virginia does not regulate escrow agents or the closing process. But West Virginia has determined that most actions related to the closing process are the practice of law. *McMahon v. Advanced Title Services Co. of W.V.*, 607 S.E.2d 519 (W. Va. 2004). Accordingly, real estate closings and escrow personnel are regulated only to the extent that such activities are considered the practice of law.

West Virginia is rated a 2. The state enforces strong licensing requirements, including investigations by both the state and the appointing insurer. Despite these strong licensing requirements, West Virginia has enacted no regulation for the direct oversight of escrow accounts. Without stronger oversight of recordkeeping and account activity, West Virginia's regulations remain weaker than the NAIC Model Act.

Wisconsin - 2

Title agents in Wisconsin must be licensed. Wis. Stat. Ann. § 628.03. Applicants must be competent and trustworthy, submit fingerprints for a criminal background check, and pass an examination. Wis. Stat. Ann. § 628.04; Wis. Admin. Code Ins. § 6.59. In determining if an applicant is competent and trustworthy, the commissioner may look to the an individual's criminal background and may also look to whether the applicant has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Wis. Admin. Code Ins. § 6.59. A license may be revoked or suspended if an agent does not comply with licensing requirements, is not of good character, has violated any insurance laws, utilizes business practices that endanger the public, or has inadequate financial resources. Wis. Stat. Ann. § 628.10. Title agents are required to complete continuing education. Wis. Admin. Code Ins. § 28.04.

Wisconsin requires title agents to maintain records relating to their title insurance business. Wis. Admin. Code Ins. § 6.61. The commissioner may examine the affairs and condition of title agents as deemed necessary. Wis. Stat. Ann. § 601.43. Wisconsin enforces a controlled business provision. Id. § 628.51. In addition, kickbacks, rebates and inducements are prohibited. Wis. Admin. Code Ins. § 3.32.

Wisconsin does not separately license escrow agents or settlement agents and does not regulate the closing process, except that a lender may not require a borrower to complete a loan settlement unless the lender unconditionally delivers qualified loan funds to the settlement agent. Wis. Stat. Ann. § 708.10.

Wisconsin is rated a 2. Wisconsin enforces moderate licensing standards, but lacks a bonding requirement and does not require agents to be appointed or verified by an insurer. In addition, the state has enacted basic recordkeeping and examination regulations but has not put in place any regulations specific to escrow agents or escrow activity. Wisconsin enforces weaker regulations than the NAIC Model Act.

3 - Slightly Less Regulation than the NAIC Model Act

Illinois - 3

Title agents in Illinois must be registered with the state by a title insurer. 215 Ill. Comp. Stat. 155/16; Ill. Admin. Code tit. 50, § 8100.1600. If an insurer requires, an agent must maintain an errors and omissions policy. Ill. Admin. Code tit. 50, § 8100.1600.

Title agents must maintain records relating to closings, escrow accounts, and all transactions. 215 Ill. Comp. Stat. 155/16, 155/21.3. The state may examine such records upon a showing of good cause. Id. 155/12. Illinois enforces a controlled business provision. 215 Ill. Comp. Stat. 155/18. Kickbacks, rebates, and inducements are also prohibited. Id. § 155/24.

Title agents and title companies may act as escrow agents. 215 Ill. Comp. Stat. 155/3. But the state also licenses independent escrowees to act in a similar capacity. Id. Independent escrowees must file a bond with the commissioner and must be certified. 215 Ill. Comp. Stat. § 155/17, 155/4; Ill. Admin. Code tit. 50, § 1800.1700. An independent escrowee's license may be denied or revoked if the individual has misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty or incompetence. Ill. Comp. Stat. § 155/21. An independent escrowee may act as an escrow agent provided they deposit escrow funds in a separate fiduciary account and maintain separate records of escrow transactions. Ill. Comp. Stat. § 155/17; Ill. Admin. Code tit. 50, § 1800.1708. Such records are subject to examination by the Secretary at any time. Id. Each independent escrowee must file an audited financial report annually. Ill. Admin. Code tit. 50, § 1800.1710. An independent escrowee must maintain its books in accordance with generally accepted accounting principles, and must detail escrow transactions. Id. § Ill. Admin. Code tit. 50, §§ 1800.1716, 1800.1720. A statement of account must be rendered to each principal to the escrow transaction. Ill. Admin. Code tit. 50, § 1800.1750.

Illinois is rated a 3. Illinois does not enforce strong licensing requirements for title agents. However, it does enforce very strong regulations for the oversight and accountability of escrow accounts and transactions. Independent escrowees are licensed separately and are required to submit audited financial reports. In addition, Illinois enforces strong regulations for independent escrowee accounting practices. On balance, Illinois has enacted relatively strong regulations to ensure accountability and to prevent fraud but the state's regulations remain weaker than the NAIC Model Act.

Maine - 3

Title agents in Maine are required to be licensed. Me. Rev. Stat. Ann. tit. 24-A, §§ 1411, 1420-B. Applicants must pay the applicable fees and pass an examination. Id. § 1420-E. A license will be denied or revoked if a person has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 1420-K. The superintendent may investigate an applicant's character, financial responsibility, experience, background and fitness. Id. § 1425. Title agents must be appointed by a title insurer. Id. § 1420-M. Title agents are also subject to continuing education requirements. Id. § 1482.

Title agents must maintain records and keep them open to inspection by the superintendent. Id. § 1447. In addition, title agents must account for and hold in a fiduciary capacity all premium funds. Id. § 1449. Maine allows kickbacks and rebates and has weak controlled business provisions but prohibits unfair and deceptive practices. See Me. Rev. Stat. Ann. tit. 24-A, §§ 425-A, 2151, 2152.

Settlement agents or settlement agencies must register with the state and the state may examine their books and records upon notice of a complaint. Me. Rev. Stat. Ann. tit. 10, § 1400-B. The registration requirements are nominal, however. Settlement agents must disburse funds within two days of settlement. Me. Rev. Stat. Ann. tit. 33, § 525.

Maine is rated a 3. Maine enforces moderately strong licensing requirements, which include an exam, investigations into an applicant's character, financial responsibility and background, and appointment by an insurer. But the state lacks other important licensing requirements such as bonding requirements. In addition, Maine requires settlement agents to register with the state, but such registration requirements are nominal. The state enforces basic recordkeeping and accounting requirements and the state has the authority to examine books and records upon the notice of a complaint. However, Maine's regulations for the oversight of escrow accounts and activities could be stronger. Accordingly, Maine's regulations are moderately strong, but are slightly weaker than the NAIC Model Act.

Minnesota - 3

Title agents, and all insurance producers, in Minnesota must be licensed. Minn. Stat. § 60K.32. Applicants must pay the required fees and submit fingerprints for a criminal history check. Id. § 60K.37. A license may be denied or revoked if the person has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 60K.43.

Title agents are required to maintain books and records for each client and transaction, and such records are to be made available for inspection by the commissioner. Minn. R. 2794.1400.



Minnesota licenses real estate closing agents separately. Closing agents must pay applicable license fees, submit an application, and complete an eight hour course on closing services. Minn. Stat. § 82.641. A license may be denied or revoked if the person has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 82.82. Closing agents must maintain accurate records, which may be examined by the commissioner. Id. §§ 82.72, 82.75. Also, closing funds must be kept in a trust account, may not be commingled with other funds, and must be disbursed appropriately. Id. § 82.75. Closing agents may not condition their services on the use of a particular title insurer or lender, and may not participate in other fraudulent or improper business practices. Id. § 82.81.

Minnesota is rated a 3. The state has enacted very basic licensing requirements for title agents, which include a background investigation but lack important financial responsibility and bonding requirements, an examination, and continuing education requirements. Minnesota does, however, license closing agents separately. Closing agents are required to maintain records and keep them open for inspection. In addition the state enforces certain escrow account requirements. Overall Minnesota's licensing standards for title agents and closing agents are not as strong as the NAIC Model Act and the state's oversight of escrow accounts lacks an audit or reporting requirement. Minnesota's regulations are moderately strong but are weaker than the NAIC Model Act.

Missouri - 3

Title agents and title agencies in Missouri must be licensed. Mo. Rev. Stat. § 381.115. Applicants for a title agent license must pay the associated fee, pass an examination, and cannot have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Mo. Rev. Stat. §§ 375.015, 375.118, 375.141; Mo. Code Regs. Ann. tit. 20, §§ 700-8.100, 700-8.150. Title agents in Missouri must complete continuing education. Mo. Rev. Stat. § 375.020; Mo Code Regs. Ann. tit. 20, § 700-8.160. The director may examine the books and records of title agents at any time. Mo. Rev. Stat. § 381.122. And title agents may not condition services on placing business with a title insurer. Id. § 381.161.

Title agents are permitted to conduct closings but Missouri requires that escrow funds be kept in a separate account and such funds must be appropriately disbursed. Id. § 381.022. Title agents must maintain records relating to their escrow business. Id. § 381.038. Title insurers are required to conduct an annual review of their agents' escrow practices. Id. § 381.023. In addition title agents must prepare an annual financial statement detailing the agent's accounts and practices, including a three-way reconciliation of each escrow account. Id.

Missouri is rated a 3 because it enforces moderate regulations for the licensing of title agents and the oversight of escrow activities. Missouri has not enacted certain significant provisions including bonding requirements or a background check, and does not require agents to be appointed by an insurer. However, Missouri does enforce strong regulations for the oversight of escrow accounts, including account conditions, annual audits, and a three-way reconciliation of each escrow account. Despite these strong escrow regulations for title agents, Missouri's licensing standards are not as strong as the NAIC Model Act and therefore the state is rated a 3.

New Jersey - 3

New Jersey requires the licensure of all title agents. N.J. Stat. Ann. § 17:22A-29. Applicants must pay the applicable fees, submit fingerprints for a background check, complete a pre-licensing course, and pass an examination. Id. § 17:22A-32. Individuals may have their license denied or revoked if they have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 17:22A-40. Title agents must complete continuing education. N.J. Admin. Code § 11:17-3.6.

Title agents must maintain books and records detailing all insurance-related transactions. N.J. Admin. Code § 11:17C-2.5. Such books and records may be examined by the commissioner at any time. Id. § 11:17C-2.6. In addition, if there is reason to believe an agent has violated any rule, the commissioner must examine the agent's books and records. N.J. Stat. Ann. § 17:46B-36. New Jersey enforces a controlled business provision. Id. § 17:46B-39. The state further prohibits kickbacks, rebates, inducements, and fee splitting. Id. §§ 17:46B-34 - 17:46B-38.

New Jersey does not separately license escrow agents. Title agents typically engage in closing activities and are required to maintain separate records relating to escrow transactions. Id. § 17:46B-10.1. Title agents must keep escrow funds in a separate trust account and may not commingle funds. Id. Such funds must be disbursed appropriately. Id.

New Jersey is rated a 3. New Jersey has moderately strong licensing requirements and oversight regulations. The requirement for agents to complete a pre-licensing course, pass an examination, and submit fingerprints provides for a good licensing process. But certain important elements are lacking, including bonding and financial responsibility requirements. In addition, New Jersey has basic recordkeeping and examination provisions and imposes separate recordkeeping requirements and account conditions for escrow transactions. But again, certain important elements, most notably an audit requirement, are not imposed. New Jersey's regulations are moderately strong but are slightly weaker than the NAIC Model Act. Accordingly, New Jersey is rated a 3.

North Dakota - 3

Title agents in North Dakota must be licensed. N.D. Cent. Code § 26.1-26-03. Applicants must pay the applicable fees and cannot have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. §§ 26.1-26-13.3, 26.1-26-42. In addition, each applicant must be deemed competent, trustworthy, financially responsible, and of good personal and business reputation. Id. § 26.1-26-15. The commissioner may conduct an investigation regarding an applicant's qualifications as deemed necessary. Id. § 26.1-26-14.

Title agents must be appointed by a title insurer. Id. § 26.1-26-13.1. Title agents must either be licensed attorneys, licensed abstracters, or have at least eighty hours of training by a title insurer. N.D. Admin. Code 45-02-02-04. Title agents are required to complete continuing education. N.D. Cent. Code § 26.1-26-313.1; N.D. Admin. Code 45-02-04-03.

The commissioner may examine the books and records of a title agent if it is believed the agent has violated any statutes or regulations. N.D. Cent. Code § 26.1-26-48. North Dakota enforces a controlled business provision. Id. § 26.1-26-53. The state further prohibits kickbacks, rebates, and inducements. Id. § 26.1-25-16.

North Dakota does not separately license escrow agents and does not regulate the closing process.

North Dakota is rated a 3 because although it has relatively strong licensing requirements for title agents and enforces standard oversight provisions, it has no regulations relating to escrow agents separately or to title agents engaging in escrow services, nor does it regulate the closing process. North Dakota's title agent licensing standards are strong as they include competency, integrity, financial responsibility, and personal reputation requirements. In addition, title agents are required to be licensed attorneys, licensed abstracters, or complete substantial training. The state's oversight of escrow activities, however, is weaker than the NAIC Model Act as it includes no audit requirement or account conditions. On balance, the state enforces moderate regulations that remain weaker than the NAIC Model Act. Accordingly, North Dakota is rated a 3.

Pennsylvania - 3

Title agents in Pennsylvania must be licensed by the state and appointed by a title insurer. 40 Pa. Stat. Ann. § 910-26, 3103. Applicants are required to pass an examination and must have an errors and omissions policy, a fidelity bond, and a surety bond. Id. § 910-26, 910-26.1. Applicants must also pay the applicable fees and provide fingerprints for a criminal background check. Id. § 310.5. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 310.11. The department of insurance may investigate an applicant to ensure they have complied with all licensing requirements and that they possess the general fitness, competence and reliability to act as a title agent. Id. § 310.6. Title agents are required to complete continuing education. Pa. Stat. Ann. § 910-26; 31 Pa. Code § 39 et seq.

Title agents are required to maintain books and records relating to their title insurance business, which are to be open to inspection by the commissioner. Pa. Stat. Ann. § 910-27. The commissioner may examine the books and records of a title agent as deemed necessary. Id. § 323.3. Kickbacks, rebates, and inducements are prohibited. Id. §§ 310.45, 310.46, 910-31.

Escrow agents are not separately licensed in Pennsylvania. Title agents are expressly permitted to conduct closings and engage in escrow business. Pennsylvania permits title agents to engage in escrow business as long as they deposit escrow funds in a separate fiduciary trust account, maintain separate records for escrow transactions, and comply with all other regulations pertaining to escrow operations. Id. § 910-39.1.

Pennsylvania is rated a 3. Pennsylvania's licensing requirements are the substantial equivalent of those contained in the NAIC Model Act. The state requires applicants to pass an examination, have errors and omissions insurance and maintain bonds, submit to a criminal background investigation, and demonstrate competency, fitness and reliability. In addition, the state enforces standard recordkeeping and examination requirements and requires title agents to maintain separate accounts and records for escrow funds. Although Pennsylvania has relatively strong regulations in place, it notably lacks an audit requirement for agents' escrow activities. Because Pennsylvania does not mandate an audit or review, its regulations are slightly weaker than the NAIC Model Act and the state is rated a 3.

Tennessee - 3

Tennessee requires title agents to be licensed. Tenn. Code Ann. §§ 56-6-103, 56-35-201. Applicants must pay the applicable fees, complete a pre-licensing course, and pass an examination. Id. § 56-6-106. The commissioner may require any documentation to verify the information in the application. Id. § 56-6-106. A license will be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 56-6-112. Title agents must be appointed by an insurer and each insurer must file a certification of each of its agents annually. Id. § 56-6-115, 56-35-204. Also, title agents are required to complete continuing education. Tenn. Comp. R. & Regs. 0789-01-56.08(1). Tennessee requires title agents to have a surety bond. Tenn. Code Ann. § 56-35-202.

Title agents must maintain books and records relating to their title business and must maintain separate books and records for all escrow transactions. Id. § 56-35-130. The commissioner may examine the books and records of a title agent. Id. §§ 56-1-1409, 56-6-120. Tennessee enforces a controlled business provision. Id. § 56-35-131. The state further prohibits kickbacks, rebates, and inducements. Id. §§ 56-35-111, 56-35-119.

Tennessee enforces limited regulations relating to the closing process. The state does not separately license escrow agents but provides that title agents and title insurance companies may handle escrows, settlements, and closings. Id. § 56-35-103, 56-35-130. As noted above, title agents must maintain separate records for escrow transactions and must maintain separate accounts for escrow funds. Id. § 56-35-130.

Tennessee is rated a 3. The state enforces standard licensing and oversight regulations, which are not as strong as the NAIC Model Act. Tennessee's licensing requirements include most of the important elements and require agents to be appointed and annually certified by an insurer. Although the licensing regulations are relatively strong, the state enforces only basic oversight of title agents' accounts. Tennessee lacks a specific audit requirement and enforces only limited regulations relating to account conditions.

Washington - 3

Title agents in Washington must be licensed. Wash. Rev. Code Ann. § 48.17.060. To apply for a license, a person must be a resident of Washington, pay the associated fee, submit fingerprints, and cannot have committed any act that is a ground for denial. Id. § 48.17.090. Acts that are a ground for denial include violating laws, misappropriating funds, engaging in fraudulent activities, or demonstrating dishonesty, incompetence, or irresponsibility. Id. § 48.17.530. In addition, applicants must prove their financial responsibility by obtaining a fidelity bond or fidelity insurance, as well as a surety bond. Id. §§ 48.17.090, 48.29.155. Title agents are required to maintain county tract indexes. Id. § 48.29.160.

Washington does not require each individual to be licensed, but rather only the agency needs to be licensed. Id. § 48.29.170.

Title agents may not kickback business or receive any consideration for referrals of title insurance business. Id. § 48.29.210. The state requires title agents to maintain records of all transactions and keep those records open for inspection. Id. § 48.17.470. The commissioner may examine these records in his or her discretion. Id. Title agents must account for all funds and maintain those funds in a separate account. Id. § 48.17.480; 48.17.600.

Washington licenses escrow agents separately from title agents, but title agents are exempt from the escrow agent licensing requirements. Id. § 18.44.021. Attorneys are also exempt from escrow agent licensing requirements provided they do not receive compensation for their closing services and as long as they are not principally engaged as escrow agents.

Similar to the title agent requirements, escrow agent licenses may be granted to either individuals or business entities. Id. § 18.44.011. Applicants must provide fingerprints for a background check, information relating to business experience and history, a personal credit report, and evidence of compliance with Washington's bonding requirements. Id. § 18.44.031. Escrow agents are required to have a fidelity bond, an errors and omissions policy, and a surety bond. In addition, escrow agents are required to be supervised by an escrow officer.

Escrow officers are separately licensed. Id. § 18.44.081. Escrow officers must comply with the escrow agent licensing requirements and are required to pass an examination. Id. §§ 18.44.081, 18.44.195. They must also pay a license fee and provide evidence of honesty, truthfulness, and good reputation.

Escrow agents and officers may not kickback business or receive consideration for the referral of title insurance business and may not engage in fraudulent or deceptive practices. Id. § 18.44.301-305. In addition they must keep records of all transactions and must maintain separate accounts. Id. § 18.44.400. Title agents acting as escrow agents must also keep adequate records and maintain the appropriate accounts. Id. § 48.29.190.

Washington is rated a 3. Washington's regulations are similar to the NAIC Model Act but are lacking in a few respects. Title agent applicants are not required to pass an examination or complete continuing education. In addition, despite relatively strong regulations pertaining to escrow accounts and activities, Washington imposes no mandatory audit or reporting requirements. Washington's regulations are moderately strong but are slightly weaker than the NAIC Model Act.

Wyoming - 3

Wyoming requires title agents and title agencies to be licensed. Wyo. Stat. Ann. § 26-23-316. Title agents must be appointed by a title insurer, pass an examination, pay the applicable fee, and provide evidence of financial responsibility. Id. § 26-23-316, 317, 318. Applicants for a title agent license must also submit fingerprints for a background check. Id. § 26-9-206. The commissioner may deny or revoke a license if the applicant has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 26-23-321. Wyoming requires title agents to complete continuing education. Id. § 26-9-231. Title agents must also maintain books and records, which may be examined by the commissioner. Id. § 26-23-319.

Rebates and inducements for title insurance business are prohibited. Id. § 26-23-322, 324. Also, Wyoming enforces controlled business provisions. 044-000-003 Wyo. Code R. §§ 5-8.

Wyoming does not separately license escrow agents and any person may engage in the escrow or closing business. Wyoming permits title agents to engage in escrow activities and closings as long as the funds are deposited into a trust account or a federally insured bank and as long as the agent maintains separate records relating to the escrow activities. Wyo. Stat. Ann. § 26-23-314. No other regulations are articulated.

Wyoming is rated a 3. Wyoming has enacted relatively strong licensing requirements but only basic oversight of escrow records and activities. Title agents are required to pass an examination, prove their financial responsibility, submit to a background check, and be appointed by an insurer, but Wyoming does not articulate any bonding requirements. Overall, Wyoming's licensing standards are similar to the NAIC Model Act. The state's standards for overseeing and regulating escrow activity are weaker than the NAIC Model Act. Account conditions are imposed and title agents must adhere to certain recordkeeping requirements, but audits are not required. Accordingly, Wyoming is rated a 3.

4 - The NAIC Model Act or Substantially Equivalent Regulation

Arizona - 4

Title agents in Arizona are required to be licensed. Ariz. Rev. Stat. § 20-1580. Arizona law does not enumerate the application requirements, but rather states that individuals must submit an application on forms approved by the director. Id.

Title agents must maintain books and records which may be examined by the director. Id. § 20-1581. Arizona enforces a controlled business provision, prohibits rebates and reduced fees, and prohibits inducements for placing title insurance business. Id. § 20-1585 to 20-1587.

Arizona licenses escrow agents separately. Id. § 6-813. However, title agents may engage in escrow business provided they maintain escrow transaction records and do not commingle funds. Id. § 20-1581. A title agent's license may be revoked if the agent fails to comply with Arizona law or is found guilty of fraud. Id.

An applicant for an escrow agent license must provide general information regarding his or her escrow business, the plan and character of operation, the length of time they have been engaged in the escrow business, and any other information the director may require. Ariz. Rev. Stat. § 6-814; Ariz. Admin Code § R20-4-708. Escrow agents must have a surety bond. Id. The state may deny or revoke a license if the escrow agent is insolvent, has violated laws, is in poor financial condition, engaged in fraudulent activities, or does not have the financial resources, experience, character, or competence to carry on the escrow business. Id. § 6-817.

Escrow agents must retain records and are subject to an annual audit. Ariz. Rev. Stat. 6-831, 6-832; Ariz. Admin. Code §§ R20-4-702 - R20-4-703. Escrow agents must disclose all affiliate business relationship and may not condition their services on the use of an affiliate. Ariz. Rev. Stat. § 6-840. Arizona prohibits escrow agents from receiving or paying commissions or fees to induce or compensate for escrow business. Id. § 6-836. Agents must have an internal control structure in place to prevent errors and fraud and may not commingle funds or commit fraud. Id. § 6-841 - 6-841.01. Escrow funds must be deposited and disbursed appropriately. Id. §§ 6-834, 6-843.

Arizona is rated a 4 because it has very strong regulations for the licensing and oversight of escrow agents, along with standard oversight of title agents. Although Arizona's licensing requirements for title agents are not well-defined statutorily, its regulations pertaining to escrow agents and escrow transactions are very strong. Arizona allows title agents to provide escrow services if they abide by certain recordkeeping and account requirements. In addition, escrow agents are subject to strong licensing requirements including bonding, competency and experience requirements, and financial requirements. Oversight of escrow activities is very strong as the state requires annual audits and an internal control structure to prevent fraud. Overall, Arizona has strong regulations in place, the equivalent of the NAIC Model Act.

Arkansas - 4

Title agents in Arkansas must be licensed, appointed by a title insurer, and affiliated with a title agency. Ark. Code Ann. § 23-103-403. Applicants must complete a pre-licensing education course and pass an examination. Id. § 23-103-202. In addition, applicants must be deemed competent, trustworthy, financially responsible, and of good personal and business reputation, have two thousand hours of prior title work experience, and complete a criminal background check. 054-00-087 Ark. Code R. § 5. A license may be suspended or revoked if an agent has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Ark. Code Ann. § 23-64-216. Before being appointed by a title insurer, an agent's background and fitness must be reviewed by the insurer. Id. § 23-64-219. Title agents must also complete continuing education. Ark. Code Ann. § 26-64-301; 054-00-087 Ark. Code R. § 6.

Title agents must maintain an inventory of policy forms and policy numbers, as well as books and records relating to their title insurance and escrow operations. Ark. Code Ann. §§ 23-64-201, 23-64-220, 23-103-410, 23-103-414; 054-00-087 Ark. Code R. § 13. The commissioner may examine a title agent's books and records at any time. Ark. Code Ann. § 23-103-406. At least once a year, a title insurer must audit the practices and records, including escrow accounts and practices, of its agents. Id. § 23-103-411; 054-00-087 Ark. Code R. § 12. All funds received by a title agent must be kept in a fiduciary capacity. Ark. Code Ann. § 23-64-223. Arkansas does not enforce a controlled business provision. The state does prohibit rebates. Id. § 23-66-206.

Arkansas requires title agents to maintain certain escrow records and title insurers must audit their agent's escrow accounts annually. Ark. Code Ann. § 23-103-411. In addition, settlement agents must disburse funds appropriately when funds have been received and are available for withdrawal. Ark. Code Ann. § 18-12-703.

Arkansas is rated a 4. Although the state does not enforce bonding requirements, its licensing requirements are strong enough to be the substantial equivalent of the NAIC Model Act. Its lack of bonding requirements is balanced by additional requirements of pre-licensing education, a significant amount of prior work experience, and a review of the agent's background by both the state and an appointing insurer. In addition, title agents must maintain records, are subject to examination, and are subject to an annual audit by their appointing insurer. Arkansas has strong regulations that are the substantial equivalent of the NAIC Model Act.

District of Columbia - 4

Title agents in the District of Columbia must be licensed. D.C. Code Ann. § 31-5041.02. Applicants for a title agent license must pay the applicable fees and cannot have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 31-1131.06. The District of Columbia also requires applicants to submit fingerprints for a background check. Id. § 31-1131.06b. In addition, title agents must be appointed by an insurer and are required to participate in continuing education. Id. §§ 31-1131.14, 1131.07b.

Title agents are required to have an errors and omissions insurance policy and fidelity coverage. Id. The District of Columbia requires title agents to maintain records relating to their business, including escrow operations. Id. § 31-5041.04. Such records may be examined by the commissioner. Id. § 31-5041.03. In addition, title agents who maintain fiduciary trust accounts are subject to an annual audit. Id. § 31-5041.06

Title agents must deposit escrow funds in a fiduciary trust account and such funds may be disbursed in accordance with written instructions. Id. § 31-5041.06. The District of Columbia prohibits fee splitting, rebates, and inducements for title insurance business. Id. § 31-5041.07. In addition, as noted above, an agent's escrow accounts are subject to an annual audit by a title insurer. Id. § 31-5031.13.

Title insurers may operate as escrow agents provided they deposit all escrow funds in a fiduciary trust account and disburse such funds in accordance with written instructions. Id. § 31-5031.14.

The District of Columbia recently adopted most of the NAIC Model Act. Accordingly, it is rated a 4. The District of Columbia has strong licensing requirements including a background check, errors and omissions insurance, and bonding. In addition, escrow activities are regulated and title agents must adhere to certain account conditions and are subject to an annual audit. With the adoption of the NAIC Model Act, the District of Columbia now enforces strong regulatory requirements.

Hawaii - 4

Hawaii requires title agents to be licensed. Haw. Rev. Stat. Ann. § 431:9A-103. Each applicant for a title agent license must pass an examination. Id. § 431:9A-105. Licensees must pay the applicable fee, submit fingerprints, and cannot have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 431:9A-106; 431:9A-112.

Title agents are required to maintain records of their transactions and such records must be open to inspection. Id. § 431:9A-123. The commissioner may examine an agent's records in his or her discretion. Id. § 431:2-303. Hawaii regulates the reporting and accounting of premium funds and requires that the funds be maintained and disbursed appropriately. Id. § 431:9A-123.5. Hawaii enforces a controlled business provision. Id. § 431:9A-112.5.

Hawaii regulates escrow depositories and requires them to be licensed. Id. § 449-5. Escrow depositories must be under the direction of an escrow officer, whose experience, integrity, and competency must be reported to the commissioner. Id. § 449-7.5. Escrow depositories must have a surety bond and a fidelity bond, and must maintain errors and omissions insurance. Id. § 449-9; 449-11; 449-12. The commissioner requires depositories to maintain records of their escrow business and to submit annual financial statements. . Id. § 449-21; 449-15. Books and records may be examined as deemed necessary. Id. § 449-22. In addition, Hawaii enforces regulations prohibiting the commingling of funds and prescribing the appropriate process for disbursing funds. Id. § 449-16. The commissioner may revoke a depository's license for misrepresentations, fraud, fee-splitting, and other dishonest and irresponsible acts. Id. § 449-17.

Hawaii is rated a 4. Although the state does not have bonding requirements for title agents, it has strong licensing requirements overall for both title agents and escrow depositories, requires an annual review of financial statements, and also enforces certain account conditions. Therefore, Hawaii's regulations are the substantial equivalent of the NAIC Model Act.

Idaho - 4

Idaho requires title agents to be licensed and to own or lease tract indexes for each county in which they do business. Idaho Code Ann. § 41-2710. Applicants for a license must be residents of Idaho and must show that they have reasonable experience in title insurance and have not violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. *Id.* In addition, agents must be endorsed by a title insurer that they have a good reputation and are trustworthy. *Id.* Title agents are required to have a surety bond. *Id.*

Title agents are required to maintain records and the commissioner may examine those records at any time. *Id.* Idaho enforces a controlled business provision and prohibits illegal rebates, kickbacks and fee splitting. *Id.* §§ 41-2708, 41-2709.

Escrow agents are separately licensed. Id. 30-903. Title agents are exempt from such licensing requirements. Id. § 30-905. Applicants for an escrow agent license must pay the applicable fees and cannot have been convicted of a felony or any crime involving dishonesty, nor can they have demonstrated a lack of fitness to transact escrow business. Id. § 30-907. Escrow agents must have a fidelity bond, a surety bond, and an errors and omissions insurance policy. Id. § 30-909.



Idaho requires escrow agents to maintain records of all escrow transactions which may be inspected at any time by the state. Id. § 30-914; 30-917. Escrow funds must be kept in a separate trust account and must be accounted for and disbursed properly. Idaho Code Ann. § 30-914; Idaho Admin. Code § 18.01.25.011. Escrow funds must be disbursed pursuant to instructions and agents may not pay or receive any referral fee as inducement for business. Idaho Code Ann. § 18.01.25.011; 18.01.56 et seq.; Idaho Code Ann. § 30-919. At least once every three years, an escrow agent must submit an audit to the insurance department. Idaho Admin. Code § 18.01.25.011(7). Escrow agents may not have a conflict of interest in any closing and must disclose any conflict that does exist. Idaho Code Ann. § 30-915.

Idaho is rated a 4. Idaho has strong regulations that are the substantial equivalent to the NAIC Model Act. The application procedures for both title agents and escrow agents are stringent. Also, the oversight of title agents, escrow agents, and the closing process is strong. Idaho enforces strong recordkeeping requirements and account conditions and requires a periodic audit of escrow accounts. Idaho's regulations are strong overall and are the substantial equivalent of the NAIC Model Act.

Kansas - 4

Title agents in Kansas must be licensed. Kan. Stat. Ann. § 40-4905. Applicants must pay the applicable fees, pass an examination, and cannot have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Kan. Stat. Ann. §§ 40-4905, 40-4909; Kan. Admin. Regs. §§ 40-7-7, 40-7-13. Title agents must be appointed by a title insurer and the insurer must determine that the agent is of good business reputation and has adequate experience or training. Kan. Stat. Ann. § 40-4912. Title agents must complete continuing education. Id. § 40-4903.

Kansas enforces a controlled business provision and prohibits other unfair trade practices. Id. § 40-2404. Kansas also prohibits kickbacks, rebates, and inducements for title insurance business. Kan. Stat. Ann. § 40-2404 ; Kan Admin. Regs. § 40-3-42.

Title agents may operate as escrow agents provided they deposit escrow funds in a fiduciary trust account and disburse such funds in accordance with written instructions. Kan. Stat. Ann. § 40-1137. Title agents are subject to an annual audit. Id. Title agents must maintain records relating to their escrow operations and the commissioner may examine those records as he or she deems necessary. Id. § 40-1138. NAIC. Title agents who handle escrow accounts must have a surety bond or letter of credit. Id. § 40-1139. Kansas does not prohibit fee-splitting.

Kansas is rated a 4. Kansas has adopted substantial portions of the NAIC Model Act and generally enforces strong regulations. As a whole, Kansas' regulatory framework for title agents and escrow transactions reflects the NAIC Model Act. Kansas is not lacking any significant provisions from the NAIC Model Act and has enacted all of the essential regulations, including character and competency requirements, bonding for individuals handling escrow accounts, recordkeeping requirements, account conditions, and annual audits. Therefore, Kansas has strong regulations and is rated a 4.

Louisiana - 4

Title agents in Louisiana must be licensed. La. Rev. Stat. Ann. § 22:1543. Applicants must pay the applicable fee, pass an examination, and cannot have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. §§ 22:1546, 22:1554. Applicants must also submit fingerprints for a criminal background check. Id. § 22:1546. Title agents must complete continuing education. Id. § 22:1573.

Title agents are required to have an errors and omissions policy. Id. § 22:518. Title agents must maintain records relating to their title insurance and escrow accounts. Id. § 22:533. At least once every three years a title insurer must audit the accounts and practices of its agents. Id. § 22:526. In addition, the commissioner may examine the books and records of a title agent at any time. Id. §§ 22:519, 22:1981. Louisiana will not issue a license to a title agent for the purpose of writing controlled business. Id. § 22:1544(C). The state limits kickbacks, rebates, and inducements and requires all fees to be disclosed. Id. § 22:855. Louisiana also prohibits certain unfair trade practices. Id. §§ 22:1963, 22:1964.

Title agents may act as an escrow agent and conduct real estate closings as long as escrow funds are deposited in a separate trust account and disbursed only according to written instructions. *Id.* § 22:532.

Louisiana is rated a 4. Louisiana has enacted many of the essential provisions from the NAIC Model Act and enforces strong licensing and oversight regulations. The state imposes general licensing standards, similar to most other states, requiring an examination, a background check, and an errors and omissions policy. In addition, Louisiana's requirements regarding escrow activities are strong as they include recordkeeping and audit requirements, as well as certain account conditions.

Maryland - 4

Maryland requires all title agents to be licensed. Md. Code Ann., Ins. § 10-103. Applicants must be of good character and trustworthy, must have the requisite experience or complete pre-licensing education, and must pass an examination. Id. § 10-104. A license will be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 10-126. Title agents must complete continuing education. Id. § 10-116. In addition, title agents must have a fidelity bond as well as a surety bond or letter of credit. Id. § 10-121. Attorneys are exempt from title agent licensing, bonding, examination, and experience requirements, unless they own or work for a title agency. Id. § 10-125.

Title agents must retain books and records. Id. § 10-128.1. Title insurers are required to review the accounts and practices of their agents on an annual basis. Id. § 10-121(k). In addition, the commissioner may examine a title agent's books at records at any time. Id. § 2-206. Maryland does not enforce a strict controlled business provision but does require the disclosure of affiliate business relationships. Id. § 8-104, 8-105. Maryland prohibits kickbacks, rebates and inducements. Id. §§ 10-130, 27-212.



Both attorneys and title agents may conduct real estate closings. Id. § 10-101(i). Title agents are prohibited from misappropriating escrow funds. Id. § 10-121.

Maryland is rated a 4 because it has strong regulations of title agents and standard oversight of agents' accounts and records. Maryland has adopted the essential licensing requirements and account condition regulations of the NAIC Model Act.

Ohio - 4

Title agents in Ohio must be licensed. Ohio Rev. Code Ann. § 3953.22. Applicants must apply to the superintendent and must submit fingerprints and consent to a criminal background check. Id. § 3905.05. Applicants must also pass an examination. Id. § 3905.04. Applicants are required to be of good reputation and character, honest and trustworthy, and otherwise suitable to be licensed. Id. § 3905.06. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 3905.14. Title agents must complete continuing education. Id. § 3905.481.

Ohio enforces a controlled business provision. Ohio Admin. Code § 3901-7-04. Ohio also prohibits kickbacks, rebates, and inducements to title insurance business. Ohio Rev. Code Ann. §§ 3933.01; 3953.26. Ohio further prohibits certain unfair trade practices. Id. §§ 3901.20 - 3901.22

Title agents must maintain books and records. Id. § 3953.23. Title agents who handle escrow accounts must maintain separate records related to escrow transactions, may not commingle funds, and are subject to an annual independent review. Ohio Rev. Code Ann. §§ 3953.23, 3953.33; Ohio Admin. Code § 3901-7-01. All title agents are required to have an errors and omissions policy. Ohio Rev. Code Ann. § 3953.23. Title agents who handle real estate closings not involving the issuance of a title insurance policy must also have a surety bond. Ohio Admin. Code § 3901-7-02. Escrow funds must be held in an interest bearing account and must be disbursed appropriately. Ohio Rev. Code Ann. § 3953.231.

Ohio is rated a 4. Ohio's regulations reflect those of the NAIC Model Act in substantial part. The state has enacted strong licensing requirements that include all of the significant provisions including competency and character requirements, as well as bonding requirements for agents handling escrow funds. In addition, certain account conditions are imposed and agents are subject to an annual independent review. Ohio's regulations are as strong as the NAIC Model Act and the state is therefore rated a 4.

Oregon - 4

Title agents in Oregon must be licensed. Or. Rev. Stat. Ann. § 744.053. Applicants must pay the applicable fee and cannot have violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 744.059. Oregon requires title agents to be residents of the state. Id. § 744.063. Agents must be appointed by a title insurer to transact business. Id. § 744.078.

Title agents must maintain records relating to their business and keep those records open for inspection. Id. § 744.068. Premium funds must be kept in a separate trust account. Id. § 744.083. Oregon enforces a controlled business provision and prohibits inducements, rebates, kickbacks, and other unfair trade practices. Or. Rev. Stat. Ann. §§ 746.055, 746.065; Or. Admin. R. §§ 836-080-0305 - 0320.

Escrow agents in Oregon must be licensed separately. Or. Rev. Stat. Ann. § 696.511. An applicant must provide general information regarding the business and the business plan, and the commissioner may require additional information including evidence of the agent's qualifications and financial resources, fingerprints, and other information relating to the applicant's experience and background. Or. Rev. Stat. Ann. §§ 696.511, 696.790; Or. Admin. R. §§ 863-049-0010, 863-049-0025. The commissioner may deny or revoke a license if the agent or agency is insolvent, untrustworthy, convicted of a crime, or is involved in other fraudulent or dishonest activity. Or. Rev. Stat. Ann. § 696.535. Escrow agents must have a surety bond. Id. § 696.525.

Escrow agents must retain records relating to all transactions. Or. Rev. Stat. Ann. § 696.534; Or Admin R. §§ 863-050-0100 - 0115. The commissioner may audit the books and records of an escrow agent at any time. Or. Rev. Stat. Ann. § 696.541. Escrow agents are required to submit an annual report to the state including financial statements and information regarding escrow transactions. Or. Admin. R. 863-049-0055. Escrow agents must place escrow funds in a designated trust account. Or. Rev. Stat. Ann. § 696.578. Agents must adhere to all written escrow instructions and must disburse funds appropriately. Id. § 696.581; 696.582.

Oregon is rated a 4 because it enforces strong licensing requirements for title agents and escrow agents, and strong regulations for the oversight of escrow activities. Title agents and escrow agents are licensed separately but both are subject to significant application procedures. In particular, escrow agents must demonstrate adequate financial resources, experience, and character, and must have a surety bond. Oregon's requirement of an annual report of an escrow agent's financial condition and escrow transactions is an important and strong regulation, as are the other account conditions and recordkeeping requirements the state imposes. Oregon's regulations are the substantial equivalent of the NAIC Model Act.

5 - More Regulation than the NAIC Model Act

Alaska - 5

Title agents in Alaska must be licensed. Alaska Stat. § 21.27.010, 21.66.270. In addition, title agents must be appointed by a title insurer. Id. § 21.27.550. Applicants must pass an examination and be trustworthy. Id. § 21.27.020. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 21.27.410. Applicants must also pay the applicable fee and provide fingerprints for a criminal background check. Alaska Stat. § 21.27.040; Alaska Admin. Code tit. 3, § 23.010. Title agents are required to possess the necessary competence to act as a title agent. Alaska Stat. § 21.27.530.

Title agents are required to maintain books and records pertaining to their title insurance business. Id. §§ 21.27.350, 21.66.280. The director may examine a title agent's books and records at any time and if there is reason to believe the agent has violated any insurance regulations. Id. §§ 21.27.350, 21.66.330. Alaska enforces certain reporting and accounting procedures for premiums and other funds held in a fiduciary capacity. Id. § 21.27.360. Alaska enforces a controlled business provision. Id. § 21.27.030. Alaska also prohibits kickbacks, rebates and inducements for the referral of title insurance business. Id. §§ 21.66.310, 21.66.240.

Title agents may close real estate transactions and there are no separate licensing requirements for escrow agents. Id. § 21.66.280. Title agents handling closings must maintain separate records for escrow transactions, must comply with the director's solvency standards, and must submit financial statements to the director as required. Id. § 21.66.280. Title agents who accept trust money must submit annual financial statements. Alaska Admin. Code tit. 3, § 23.570. Any person acting as a settlement agent must maintain records of all escrow transactions and must deposit escrow funds in the appropriate accounts. Alaska Stat. § 34.80.020. Settlement agents must disburse escrow money according to written instructions and must record and deliver escrow transaction documents appropriately. Id. § 34.80.040, 34.80.050.

Alaska is rated a 5. Although Alaska does not enforce all of the provisions included in the NAIC Model Act, its licensing requirements and oversight of escrow activities are slightly stronger than the NAIC Model Act. Most notably, the state enforces account conditions and title agents must comply with solvency standards and submit financial reports to the director.

California - 5

California does not license title agents per se, but does license title underwritten companies, which perform a similar function to title agents in other states. Cal. Ins. Code §§ 12389, 12389.5. The commissioner will consider the applicant's net worth and working capital; business plan; quality of investments; financial stability; competency, character and integrity; fairness and honesty of methods of doing business; and other considerations. Id. § 12389.1. Underwritten title companies must be domestic corporations and must maintain a minimum net worth. Id. § 12389.

Underwritten title companies must furnish an annual audit to the commissioner as well as quarterly financial statements. *Id.* §§ 12389(a)(4), 12389.4. The commissioner may examine an underwritten title company as he or she deems necessary. *Id.* § 12389(c).

California permits underwritten title companies to act as an escrow agent provided they maintain records of escrow transactions and deposit \$7,500 for each county in which they transact business. Id. § 12389(b). California prescribes that the underwriting agreement between a title insurer and an underwritten title company require either a fidelity bond or insurance policy, require disbursements of escrow funds to be reviewed by the title insurer, or have in place certain account review processes and oversight and internal control guidelines. Id. § 12389.6. California enforces a controlled business provision. Id. § 12397. California also prohibits kickbacks, rebates, and inducements. Id. § 12404.

Although title companies are permitted to engage in escrow business, California also licenses independent and controlled escrow companies. Cal. Fin. Code § 17200. One person within an escrow company must have at least five years of escrow experience. Id. § 17200.8. Applicants must provide certain general information as well as a statement of estimated receipts and expenditures for the first year of operations, an audited financial statement, and fingerprints of all persons managing or participating in the escrow business. Id. § 17209. Escrow companies and all individuals who have access to an escrow company's money or negotiable securities must deposit a bond with the commissioner. Id. §§ 17202 - 17206. Escrow agents must maintain adequate net worth. Id. § 17210.

Escrow agents must keep accurate books and records. *Id.* § 17404. Such books and records are subject to inspection at any time, but at least every two years. *Id.* § 17405. Escrow agents must furnish an annual audit as well as a schedule of its escrow liability. *Id.* §§ 17348, 17406.

Both underwritten title companies and escrow agents must keep escrow funds in a separate trust account, and such funds must be disbursed appropriately. Cal. Ins. Code § 12413.5; Cal. Fin. Code § 17409.1.



California's title insurance industry is different than most other states but its regulations are very strong and it is rated a 5. Title underwritten companies perform a similar function as title agents and are subject to stringent licensing requirements, including capital, financial stability, competency, and character requirements. These entities are also subject to very strong reporting requirements including the furnishing of annual audits and quarterly statements. In addition, title insurers are required by the state to review a title underwritten company's escrow accounts or put in place accountability controls. In addition, the state separately licenses escrow companies which are also subject to strong licensing standards and annual audits. Overall, California enforces very strong regulations, which are stronger than the NAIC Model Act.

Florida - 5

Title agents in Florida must be licensed. Fla. Stat. Ann. § 626.8412. Applicants must be trustworthy and competent, complete a pre-licensing education course or have a year of experience in the title insurance industry, and pass an examination. Id. §§ 626.8414, 626.8417. Attorneys are exempt from these licensing requirements. Id. The state may further investigate the character, experience, background, and fitness of an applicant. Id. § 626.8423. In addition, title agents must be appointed by title insurers. Id. § 626.8412. Title insurers must secure and keep a credit and character report for each agent. Id. § 626.842. The department may deny or revoke a title agent license if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 626.8437. Title agents must complete continuing education. Id. § 626.2815.

Title agencies must have a surety bond, fidelity bond and errors and omissions insurance. Id. §§ 626.8418, 626.8419. Title agents are required to submit an accounting of outstanding forms to their insurers at least once a year. Id. § 627.7773. Florida does not enforce a controlled business provision and permits certain rebates.

Title agents may act as an escrow agent in real estate transactions involving the issuance of title insurance policies provided they hold escrow funds in a fiduciary capacity and maintain separate records for all escrow transactions. Id. § 626.8473. Title agents must also maintain a monthly reconciliation report of escrow accounts and furnish such reports to their appointing title insurer. Fla. Admin. Code Ann. r. 69O-186.009(1).

Florida law is not settled on whether title agents and title insurers may act as escrow agents in situations where title policies are not issued. See Fla. Stat. Ann. § 626.8473; see also *Florida Bar v. McPhee*, 195 So. 2d 552 (Fla. 1967), holding title agents may conduct real estate closings involving the issuance of title policies and acting as an escrow agent in "simple escrow" transactions where no title insurance is involved.

Florida is rated a 5 because it has strong licensing requirements and strong regulations for the oversight of escrow activities. Florida imposes significant barriers to entry to the title agent profession including pre-licensing education or experience, an examination requirement, character and financial responsibility requirements, and a bonding requirement. In addition, title agents are subject to strong oversight of their accounts and records including, most notably, a requirement of a monthly reconciliation report which must be furnished to the title insurer. Florida's regulations are stronger than the NAIC Model Act.

Montana - 5

Montana requires title agents to be licensed. Mont. Code Ann. § 33-17-201. Applicants must pay the applicable fees, pass an examination, be competent, trustworthy and of good reputation, have experience in title insurance, and submit to a pre-licensing background investigation. Id. § 33-17-211. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. §§ 33-17-1001, 33-25-301. Title agents must complete continuing education. Id. § 33-17-1203.

Title agents must retain records relating to their title insurance business. Id. § 33-25-214. The commissioner may examine the books and records of a title agent at any time. Id. § 33-1-402. A license will not be issued for the purpose of writing controlled business.

Montana enforces a controlled business provision and prohibits rebates, kickbacks, and inducements. Mont. Code Ann. §§ 33-25-401, 33-25-402, 33-25-403; Mont. Admin. Rules 6.6.2203.

Escrow agents are licensed separately in Montana. Id. § 32-7-109. But title agents are exempt from such licensing requirements and may provide escrow services provided they deposit escrow funds in a separate fiduciary trust account, use the funds only in accordance with the written instructions, and maintain records of all escrow transactions subject to inspection by the commissioner. Id. § 33-25-201.

Applicants for an escrow agent license must submit general information regarding their business including their general plan and character of the business, their experience and qualifications, and other relevant information. Id. § 32-7-109. Escrow agents are required to have a bond. Id. § 32-7-109. Escrow agents must maintain detailed books and records relating to all aspects of their escrow business, and must file an annual statement of their financial condition. Id. § 32-7-115. The state may examine an escrow agent as it deems necessary and specifically may investigate an escrow agent if it appears the agent is conducting its business in an unsafe or injurious manner. Id. §§ 32-7-108, 32-7-122. In addition, the state may request an audit every three years. Mont. Admin. Rules 6.6.2202. Escrow funds must be deposited in a separate account with a financial institution and must be held and disbursed appropriately. Mont. Code Ann. § 32-7-117; see also Mont. Admin. Rules 6.6.2202.

Montana is rated a 5. Although the state lacks a bonding requirement for title agents, it has very strong continuing education requirements and its overall licensing regulations are strong. Applicants in Montana must be competent, trustworthy, and of good reputation and must adhere to account conditions and recordkeeping requirements if they are engaged in escrow services. Escrow agents are separately licensed and are also subject to strong licensing standards, which notably include experience and qualifications requirements. In addition, escrow oversight is strong as escrow agents are required to submit annual financial statements and are subject to state audits. Montana's regulations are slightly stronger than the NAIC Model Act.

Nebraska - 5

Title agents in Nebraska must be licensed. Neb. Rev. Stat. Ann. § 44-19,109. Applicants for a title agent license must pay the applicable fees, complete a pre-licensing course, and pass an examination. Id. § 44-4053. A license may be denied or revoked if the individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 44-4059. In addition, title agents must be appointed by a title insurer. Id. § 44-4061. Nebraska requires title agents to complete continuing education. Id. § 44-3904.

Title agents and any employee of a title agency handling escrow funds or security deposits must maintain a surety bond and must provide annual proof to insurers of the bond. Id. § 44-19,109.

Title agents must maintain records of all transactions, including escrow operations, which the director may inspect. Neb. Rev. Stat. Ann. § 44-19,117; 210 Neb. Admin. Code § 34-007. Records for each title insurer must be maintained separately and both the title insurer and the director may access the books and records of the title agent. Neb. Rev. Stat. Ann. § 44-19,114. Title agents are required to submit an annual financial statement to their title insurer and the insurer must conduct annual on-site reviews of the books, records, and claims, underwriting, and escrow practices of each agent. Neb. Rev. Stat. Ann. §§ 44-19,114, 44-1993; 210 Neb. Admin. Code §§ 34-006, 34-006.03. The director may examine the books and records of a title agent at any time. Neb. Rev. Stat. Ann. § 44-19,110.

Nebraska enforces a controlled business provision. Id. § 44-361.01. And the state requires agents and insurers to disclose all affiliated business relationships. Id. § 44-19,112. Kickbacks, rebates, and inducements are prohibited. Id. §§ 44-1995, 44-19,111.

Nebraska does not separately license escrow agents but real estate closing agents must be licensed by one or more regulating entities, including the Supreme Court, the Department of Insurance, the State Real Estate Commission, and a number of other entities. Id. §§ 76-2,121, 76-2,122. All real estate closing agents must hold funds in a trust account and must disburse funds appropriately. Id. § 76-2,122. Each regulating entity may examine the books and records of real estate closing agents at any time. Id. § 76-2,123. Specifically, title agents may act as closing agents provided escrow funds are deposited in a separate fiduciary trust account and disbursed according to written instructions. Id. § 44-19,116. Title insurers may examine the escrow accounts maintained by each title agent, and specifically shall review the escrow closing files of each title agent. Neb. Rev. Stat. Ann. § 44-9,116; 210 Neb. Admin. Code § 34-006.11.

Nebraska has adopted the NAIC Model Act in substantial part and is rated a 5 because it has also enacted certain provisions above and beyond the NAIC Model Act. Of note, title agents must submit annual financial statements to title insurers and the insurer is required to conduct annual on-site reviews of the agent's accounts and escrow practices. Nebraska has standard licensing requirements in place and enforces very strong oversight of escrow activities. Accordingly, the state's regulations are stronger than the NAIC Model Act and Nebraska is rated a 5.

Nevada - 5

Nevada requires title agents and escrow officers to be licensed. Nev. Rev. Stat. Ann. § 692A.100. The title agent and escrow officer applications require certain general information about the applicant's work experience, require the applicant to be a resident of Nevada or live within 50 miles of the state, and require the person to be competent, trustworthy, and financially responsible. Nev. Admin. Code §§ 692A.030, 692A.040. Escrow officers must demonstrate competency by having at least one year of relevant experience and by passing a written examination. Id. In addition, title agents must be appointed by a title insurer. Nev. Admin. Code § 692A.040. Title agents must have a surety bond. Id. § 692A.1041.

Title agents must maintain books and records relating to title insurance. Nev. Rev. Stat. Ann. § 692A.100. Title agents and escrow officers may handle escrow transactions provided they maintain separate accounts and separate records for escrow transactions. Id. The commissioner may examine the affairs, books, and records of title agents and escrow officers as deemed necessary. Id. Nevada enforces a controlled business provision. Id. § 692A.190. Nevada also prohibits kickbacks, rebates, and inducements. Id. § 686A.130.

Nevada licenses escrow agents separately. Id. § 645A.020. Applicants must submit certain general information including the plan and character of the business, the length of time the applicant has been engaged in the escrow business, and a financial statement. Id. § 645A.020. The commissioner will examine the experience, character, financial condition, business reputation and general fitness of each applicant. Id. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility in their escrow practices. Id. § 645A.090. Applicants must also complete a pre-licensing course. Id. § 645A.021. A surety bond must be deposited with the commissioner by each escrow agent. Id. § 645A.041.

Escrow agents are required to maintain a place of business in the state. Id. § 645A.036. Nevada requires all escrow agents complete continuing education. Id. § 645A.039. Files and records relating to escrow transactions must be kept by escrow agents and an annual financial statement must be filed with the commissioner as required. Nev. Rev. Stat. Ann. § 645A.070; Nev. Admin. Code § 645A.040. If it appears an escrow agent is conducting business in manner that is unsafe to the public, the commissioner may investigate such agent. Id. § 645A.110. Escrow funds must be kept in a separate account and may not be disbursed until funds are received and deposited into the account. Nev. Rev. Stat. Ann. §§ 645A.160, 645A.171; Nev. Admin. Code § 645A.050.

Nevada is rated a 5. Nevada imposes strong licensing standards for both title agents and escrow agents, both of which include residency requirements and strong standards for agent competency and work experience. In addition, state oversight of escrow activities is strong as the state requires the filing of annual financial statements and imposes account conditions. Nevada's regulations are stronger than the NAIC Model Act.

Texas - 5

Title agents in Texas must be licensed. Tex. Ins. Code Ann. § 2651.001. Applicants must pay the license fee and submit an application verified by a title insurance company. Id. § 2651.002. The application must state that the agent has assets in excess of liabilities, has reasonable experience in title insurance, that the title insurer knows the agent has a good business reputation and is trustworthy, and that the individual has completed a pre-licensing training program. Id. § 2651.002. In addition an agent must maintain a surety bond. Id. § 2651.001, 2651.101. Applicants are also required to submit fingerprints for the purpose of a criminal background investigation. Id. § 2551.001, 4001.103. The department may conduct an investigation into an individual's application to ensure the licensing requirements have been satisfied. Id. § 2651.004. A license may be denied or revoked if any individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty. Id. § 2651.301. Title agents must complete continuing education. Id. § 2651.204. Texas requires title agents to own, control, or lease an abstract plant. Id. § 2501.003.

Title agents are required to retain records relating to title insurance policies. Id. § 2704.001. In addition, title agents are required to maintain separate accounts and separate records for escrow funds. Id. § 2651.301. Title agents are subject to an annual audit of trust fund accounts. Id. § 2651.151.

Title attorneys must also be licensed. In addition the licensing requirements for lay title agents, title attorneys must be in good standing of the State Bar of Texas and be appointed by a title insurer in which the attorney owns shares of stock. Id. 2552.101. Title attorneys, like title agents, are subject to an annual audit of trust fund accounts. Id. § 2552.251.

Texas prohibits kickbacks, rebates, and inducements. Id. § 2502.051.

Escrow officers are separately licensed in Texas. Id. § 2652.001. Escrow officers must pay a license fee and file an application, which states the individual is a resident of Texas or an adjacent state, is an attorney or employee of an attorney licensed as an escrow officer or a title insurance agent, and has reasonable experience. Id. § 2652.051. The department may investigate an applicant to ensure that all licensing requirements have been satisfied. Id. § 2652.053. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty. Id. § 2652.201. Escrow officers must maintain a surety bond. Id. §§ 2652.001, 2652.101. In addition, escrow officers must complete continuing education. Id. § 2652.058.

Escrow officers must maintain records relating to escrow transactions. Title Ins. Basic Manual, Sec. IV, P-32. Escrow accounts are subject to an annual audit, a copy of which must be submitted to the department. Tex. Ins. Code Ann. § 2652.005; Title Ins. Basic Manual Sec. IV, P-49. In addition, an escrow officer may not disburse funds from a trust fund account until good funds related to the transaction have been received. Tex. Ins. Code Ann. § 2652.004.

Texas is rated a 5 because it has very strong regulations for both the licensing and oversight of title agents and other closing personnel. The licensing standards for title agents are stronger than the NAIC Model Act. Specifically, in addition to standard requirements, Texas requires agents to meet certain capital requirements, have a good business reputation, and own or lease a title plant. Title attorneys and escrow officers are separately licensed and, along with title agents, are subject to an annual audit. Texas has enacted very strong regulations for licensing title agents and other parties involved in handling escrow funds and imposes strong regulations for the oversight and accountability of these parties.



Virginia - 5

Title agents in Virginia must be licensed and appointed by an insurer. Va. Code Ann. § 38.2-1822. Applicants must satisfy the commission that they are of good character and have a good reputation for honesty. Id. § 38.2-1820. The commission may require any documents necessary to verify an applicant's information. Id. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 38.2-1831. Applicants for a title agent license must complete a pre-licensing education course and must pass a written examination. Id. § 38.2-1814.1. Title agents are required to complete continuing education. Id. § 38.2-1866.

Title agents must retain records relating to their insurance business and must make those records available for inspection. Id. § 38.2-1809. Virginia enforces a controlled business provision only insofar as certain controlled business relationships relating to settlement services must be disclosed. Id. § 55-525.13. Kickbacks, rebates, and inducements are prohibited. Id. § 38.2-4614.

Settlement agents must be licensed in Virginia as title agents, title companies, attorneys, real estate brokers, or financial institutions. Id. § 55-525.19. Individuals who have been convicted of a felony involving fraud or deceit may not act as a settlement agent or assist in settlement services. Id. § 55-525.21. Settlement agents are required to maintain an errors and omissions policy, a fidelity bond, and a surety bond. Va. Code Ann. § 55-525.20; 14 Va. Admin. Code § 5-395-40.

All escrow funds must be held in a fiduciary capacity, deposited in a separate trust account, and disbursed according to written instructions. Va. Code Ann. § 55-525.24; 14 Va. Admin. Code § 5-395-60. Settlement agents must maintain records for each settlement. Va. Code Ann. § 55-525.27. Agents are required to have an independent audit of their escrow accounts at least once a year, which must be provided to the licensing authority. Title agents must submit a copy of the audit to their insurer or may opt for having their title insurer examine their escrow accounts once a year. Va. Code Ann. § 55-525.20; 14 Va. Admin. Code § 5-395-50. In addition, title agents must make all escrow records available to inspection. 14 Va. Admin. Code § 5-395-70. Settlement agents are specifically prohibited from falsifying settlement statements. Id. § 55-525.25. Kickbacks, rebates, and inducements are prohibited. Id. § 55-525.12. Settlement agents are required to disclose all affiliated business relationships. Id. § 55-525.13.

Virginia is rated a 5. Virginia enforces strong licensing requirements for title agents which are stronger than the NAIC Model Act. The state also licenses settlement agents separately and imposes significant regulations relating to settlement agents and escrow accounts. These regulations are particularly strong because of the independent audit and reporting requirements. Accordingly, Virginia's regulations are stronger than the NAIC Model Act.

6 - Substantially More Regulation than the NAIC Model Act

New Mexico - 6

Title agents in New Mexico must be licensed. N.M. Stat. Ann. § 59A-12-6. Applicants for a title agent license must pass an examination, be competent, trustworthy, and financially responsible, and must be appointed by an insurer. Id. § 59A-12-12; 59A-12-16. Each applicant must list general information, experience and training, and other information as may be required on the application, and may be required to provide fingerprints for a criminal background check. Id. § 59A-11-2. In addition, a title agent must own, operate, or control a title plant for each county in which the agent operates. Id. § 59A-12-13. A license may be suspended or revoked if an agent has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 59A-11-14. Title agents are required to complete continuing education. N.M. Stat. Ann. § 59A-12-26; N.M. Code R. § 13.4.7.10.

New Mexico requires title agents to retain records, which must be open to inspection by the superintendent. N.M. Stat. Ann. § 59A-30-11, 59A-12-21. In addition, title agents must report income and expenses on an annual basis. N.M. Code R. § 13.14.2.14. The superintendent audits agents' experience reports on a random basis and may examine the books and records of a title agent. N.M. Code R. § 13.14.2.15; N.M. Stat. Ann. § 59A-4-3. New Mexico enforces a controlled business provision and a license will not be issued for the purpose of writing controlled business. N.M. Stat. Ann. § 59A-12-8. The state also prohibits kickbacks, rebates, and inducements. Id. § 59A-16-15, 59A-16-17. Other unfair trade practices are also prohibited. Id. § 59A-16-14

Escrow agents in New Mexico are required to be licensed, but title agents and title insurers may also provide escrow services. N.M. Stat. Ann. § 58-22-7; N.M. Code R. § 13.14.4.8. An application for a license must include general information, an itemized statement of the estimated receipts and expenditures of the proposed first year of operations, experience and qualifications, and any additional information that may be required. N.M. Stat. Ann. § 58-22-8. An application may be denied if the director knows the applicant has been convicted of fraud, embezzlement or any crime involving moral turpitude, or if the applicant lacks the necessary experience. N.M. Stat. Ann. § 58-22-15; N.M. Code R. § 12.25.2.8. Escrow agents and employees of escrow companies with access to money held in trust must have a surety bond. N.M. Stat. Ann. § 58-22-10; N.M. Code R. § 12.25.2.8.

Escrow agents must keep accounts and records relating to escrow transactions, which are subject to annual examination by the director. N.M. Stat. Ann. § 58-22-17; N.M. Code R. § 12.25.2.8. Escrow funds must be deposited in a separate trust account and must be disbursed appropriately, according to written instructions. N.M. Stat. Ann. §§ 58-22-20, 58-22-26. The books and records of an escrow company must be maintained with generally accepted accounting principles and receipts and disbursements must be reconciled at least monthly. N.M. Code R. § 12.25.2.8. Escrow companies must submit detailed annual financial statements to the director. Id. § 12.25.2.8.

Similarly, title agents performing escrow services must keep funds in a separate fiduciary account and disburse funds according to written instructions. Id. § 13.14.4.8. Title agents must also maintain separate books and records pertaining to escrow transactions. N.M. Code R. § 13.14.4.9. Title agents must abide by generally accepted accounting principles, have each reconciliation approved by a supervisor or another employee, have two signatures on all escrow checks, and maintain detailed accounts. N.M. Code R. § 13.14.4.10. New Mexico requires an independent accountant to perform a detailed audit of a title agent's escrow accounts. N.M. Code R. 13.14.4.11.

New Mexico is rated a 6. New Mexico's regulations are significantly stronger than the NAIC Model Act. The state imposes substantial licensing requirements for both title agents and escrow agents. In addition, New Mexico mandates accounting procedures for escrow accounts, monthly reconciliation, and the submission of financial statements annually. The requirements of supervisor approval and multiple signatures, as well as independent audits, provide an added layer of protection that is substantially stronger than the NAIC Model Act and most states' regulations.

Utah - 6

Title agents in Utah must be licensed. Utah Code Ann. § 31A-23a-103. Title agents may be licensed in one or more categories including search, escrow, and title marketing representative. Id. § 31A-23a-106. Applicants must provide information regarding their personal history, experience, education, and business record. Id. § 31A-23a-104. A license may be denied or revoked if an individual has violated laws, misappropriated funds, engaged in fraudulent activities, or demonstrated dishonesty, incompetence, or irresponsibility. Id. § 31A-23a-111. The department may require applicants to provide fingerprints for a criminal background check. Id. § 31A-23a-105. Applicants must be competent and trustworthy and must pass a written examination. Id. §§ 31A-23a-107, 31A-23a-108. Utah requires title agents to complete continuing education. Id. § 31A-23a-202. Title agents must have an errors and omissions policy or a bond or other financial protection. Id. §§ 31A-23a-203.5, 31A-23a-204.

Title agents must maintain separate books and records for all transactions, which must be open to inspection by the commissioner. Id. § 31A-23a-412. In addition, title agents are required to file an annual report with the commissioner. Id. § 31A-23a-413; Utah Admin. Code r. R592-11-4. Utah enforces a controlled business provision. Id. § 31A-23a-503. Agents accepting business from a controlled business source must record such transactions and maintain records accordingly. Utah Code Ann 31 A-23a-503.; Utah Admin. Code r. R592-11-5. Utah also prohibits kickbacks, rebates, and inducements. Utah Code Ann. § 31A-23a-501, 31A-23a-402; Utah Admin. Code r. R592-6-4.

A title agent may perform escrow functions only after being examined on the fiduciary duties and procedures involved in those functions. Utah Code Ann. § 31A-23a-204. Title agents may engage in escrow business provided they are properly licensed and appointed by a title insurer, deposit escrow funds in a separate trust account, maintain separate records of escrow accounts, hold the funds in a fiduciary capacity, and disburse the funds appropriately. Utah Code Ann. § 31A-23a-406; Utah Admin. Code r. R590-170-5. Statements from trust accounts must be reconciled monthly and account records must be maintained in a manner that facilitates an audit. Utah Admin. Code r. R590-170-7.

Escrow agents are separately licensed. Id. § 7-22-102. Escrow agents must register annually and must provide a financial statement with each annual application for registration. Id. § 7-22-103. Utah requires escrow agents to maintain a positive net worth of \$50,000 or 10% of the agent's daily escrow liabilities during the previous year. Id. § 7-22-104. Escrow agents are also required to have a surety bond. Id. § 7-22-105. Records, books, and accounts pertaining to escrow transactions and the agent's financial condition must be maintained by each agent and must remain open to inspection. Id. § 7-22-106. The department may examine the books and records of an agent at any time. Id. § 7-22-107. Escrow funds are required to be placed in separate trust accounts and must be held in a fiduciary capacity. Id. § 7-22-108.

Utah is rated a 6. Utah's licensing requirements for title agents incorporate the essential aspects of the NAIC Model Act. In addition to standard recordkeeping requirements and account conditions, the state's requirement that trust account statements be reconciled monthly enhances the strength of its regulations. Utah's regulations are further strengthened by the independent licensing of escrow agents and the requirements that such agents register and provide a financial statement on an annual basis. Utah's licensing standards for title agents and escrow agents are the among the strongest of any jurisdiction, and the additional regulations pertaining to account oversight makes Utah's regulations substantially stronger than the NAIC Model Act.

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Exhibit C

Loss Ratios

Rating	State	Premiums Earned	Losses Incurred	Loss Ratio for State	Average Loss Ratio for Group
0	Alabama	\$715,777,325	\$78,815,296	11.01%	
0	Iowa	\$48,778,202	\$6,348,383	13.01%	
0	Kentucky	\$470,361,994	\$46,157,482	9.81%	
0	Massachusetts	\$1,920,780,737	\$146,378,171	7.62%	
0	New York	\$7,363,569,067	\$380,127,970	5.16%	
Group 0	Total	\$10,519,267,325	\$657,827,302	6.25%	9.32%
1	Connecticut	\$1,083,887,817	\$95,772,691	8.84%	
1	Georgia	\$1,759,799,401	\$218,903,526	12.44%	
1	Mississippi	\$298,298,769	\$65,946,580	22.11%	
1	New Hampshire	\$289,506,775	\$22,294,818	7.70%	
1	Rhode Island	\$234,510,437	\$19,192,289	8.18%	
1	South Dakota	\$115,670,366	\$5,782,722	5.00%	
1	Vermont	\$109,713,036	\$10,650,947	9.71%	
Group 1	Total	\$3,891,386,601	\$438,543,573	11.27%	10.57%
2	Colorado	\$2,136,180,342	\$169,324,514	7.93%	
2	Delaware	\$355,507,530	\$12,936,865	3.64%	
2	Indiana	\$759,470,802	\$78,423,963	10.33%	
2	Michigan	\$2,569,103,742	\$347,788,699	13.54%	
2	North Carolina	\$1,035,274,560	\$191,934,965	18.54%	
2	Oklahoma	\$439,584,435	\$26,354,034	6.00%	
2	South Carolina	\$857,027,641	\$77,400,337	9.03%	
2	West Virginia	\$160,187,929	\$14,136,283	8.82%	
2	Wisconsin	\$1,032,900,663	\$60,545,803	5.86%	
Group 2	Total	\$9,345,237,644	\$978,845,463	10.47%	9.30%

Rating	State	Premiums Earned	Losses Incurred	Loss Ratio for State	Average Loss Ratio for Group
3	Illinois	\$2,283,860,309	\$310,504,537	13.60%	
3	Maine	\$249,247,857	\$20,917,128	8.39%	
3	Minnesota	\$1,045,000,942	\$159,958,005	15.31%	
3	Missouri	\$491,866,849	\$137,397,586	27.93%	
3	New Jersey	\$3,394,497,496	\$250,059,904	7.37%	
3	North Dakota	\$54,138,653	\$4,103,602	7.58%	
3	Pennsylvania	\$3,932,624,131	\$178,800,834	4.55%	
3	Tennessee	\$1,048,508,844	\$76,244,695	7.27%	
3	Washington	\$2,283,916,137	\$188,928,857	8.27%	
3	Wyoming	\$216,217,945	\$4,830,027	2.23%	
Group 3	Total	\$14,999,879,163	\$1,331,745,175	8.88%	10.25%
Groups 0-3	Total			8.79%	9.90%
4	Arizona	\$3,678,936,495	\$215,327,883	5.85%	
4	Arkansas	\$370,425,217	\$31,903,253	8.61%	
4	District of Columbia	\$386,475,712	\$47,781,958	12.36%	
4	Hawaii	\$638,209,221	\$52,926,807	8.29%	
4	Idaho	\$840,125,933	\$54,529,823	6.49%	
4	Kansas	\$345,129,481	\$19,429,994	5.63%	
4	Louisiana	\$849,526,562	\$47,599,695	5.60%	
4	Maryland	\$2,085,255,770	\$154,833,998	7.43%	
4	Ohio	\$2,814,318,766	\$147,541,043	5.24%	
4	Oregon	\$1,622,221,448	\$65,130,062	4.01%	
Group 4	Total	\$13,630,624,605	\$837,004,516	6.14%	6.95%

Demotech, Inc.
Escrow Theft: Today's Challenge in Title Insurance

Rating	State	Premiums Earned	Losses Incurred	Loss Ratio for State	Average Loss Ratio for Group
5	Alaska	\$283,266,812	\$9,573,867	3.38%	
5	California	\$16,274,201,636	\$1,520,804,635	9.34%	
5	Florida	\$11,293,555,073	\$789,764,601	6.99%	
5	Montana	\$388,519,626	\$18,523,102	4.77%	
5	Nebraska	\$333,369,543	\$9,811,619	2.94%	
5	Nevada	\$1,696,657,366	\$147,550,875	8.70%	
5	Texas	\$10,689,885,907	\$363,772,005	3.40%	
5	Virginia	\$2,795,804,950	\$136,845,400	4.89%	
Group 5	Total	\$43,755,260,913	\$2,996,646,104	6.85%	5.55%
6	New Mexico	\$776,649,880	\$36,173,802	4.66%	
6	Utah	\$1,608,613,956	\$97,573,528	6.07%	
Group 6	Total	\$2,385,263,836	\$133,747,330	5.61%	5.36%
Groups 5-6	Total			6.78%	5.51%

ABOUT JOSEPH L. PETRELLI, ACAS, MAAA, FCA
PRESIDENT

Mr. Petrelli began his insurance career in 1969. Since that date, he has acquired progressively responsible Property and Casualty (P&C) actuarial and financial analysis experience. He has extensive experience with loss and loss adjustment expense reserve evaluation, product development, and pricing for virtually all P&C and Title insurance products as well as expertise with loss cost filings, Financial Stability Ratings® (FSRs) and merger and acquisition valuations.

He has been actively engaged in the Title insurance industry since 1992. Prior to founding Demotech, Inc. he was employed by a large national P&C insurer, a regional property and casualty insurer and Insurance Services Office.

He is a Member in good standing of the Casualty Actuarial Society, American Academy of Actuaries and the Conference of Consulting Actuaries. Mr. Petrelli has a Bachelors of Actuarial Science from The College of Insurance at St. John's University and an MBA from The Ohio State University.

ABOUT W. BURKE COLEMAN, ESQ.
LEGAL COUNSEL AND COMPLIANCE MANAGER

Mr. Coleman began his career in private practice, representing small businesses and individuals in a variety of legal matters. He advised clients on issues of policy, procedure and corporate governance. This experience enabled Mr. Coleman to bring a broad-based legal background in compliance, transactional matters and litigation to Demotech.

Since joining Demotech, his focus has been supporting the advancement of the organization's business interests, as well as providing counsel on all legal issues and compliance matters. Mr. Coleman also supports Demotech's client companies by providing insight into legal and regulatory developments affecting the Property and Casualty and Title insurance industries.

He is a member in good standing of the Ohio State Bar Association and the Columbus Bar Association.

ABOUT DEMOTECH, INC.

Demotech, Inc. is a financial analysis firm specializing in evaluating the financial stability of regional and specialty insurers. Since 1985, Demotech has served the insurance industry by assigning accurate, reliable and proven Financial Stability Ratings® (FSRs) for Property & Casualty insurers and Title underwriters. FSRs are a leading indicator of financial stability, providing an objective baseline of the future solvency of an insurer. Demotech's philosophy is to review and evaluate insurers based on their area of focus and execution of their business model rather than solely on financial size. This philosophy was the catalyst for the Demotech Company Classification System, which was published in Insurance Journal, in order to stratify and categorize insurers into operational categories. Visit www.demotech.com for more information.





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