

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 324

An Act to amend and reenact § 55.1-1004 of the Code of Virginia, relating to property; duties of real estate settlement agents.

[S 1110]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-1004 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-1004. Duties of settlement agents.

A. A settlement agent shall exercise reasonable care and comply with all applicable requirements of this chapter and its licensing authority regarding licensing, financial responsibility, errors and omissions or malpractice insurance policies, fidelity bonds, employee dishonesty insurance policies, audits, escrow account analyses, and record retention.

B. A settlement agent who is not (i) a person described in subdivision A 5 of § 55.1-1003 or (ii) a title insurance company as defined in § 38.2-4601 shall maintain the following to the satisfaction of the appropriate licensing authority:

1. An errors and omissions or malpractice insurance policy providing a minimum of \$250,000 in coverage;

2. A blanket fidelity bond or employee dishonesty insurance policy covering persons employed by the settlement agent providing a minimum of \$100,000 in coverage. When the settlement agent has no employees except the owners, partners, shareholders, or members, the settlement agent may apply to the appropriate licensing authority for a waiver of this fidelity bond or employee dishonesty requirement; and

3. A surety bond of not less than \$200,000.

Notwithstanding the provisions of § 55.1-1016, the Commission may share information collected from a settlement agent or agency under subdivisions 1 and 3 with any party to the real estate transaction in connection with the actions of such agent or agency arising out of a settlement.

C. A settlement agent, other than an attorney or a title insurance company if such company's financial statements are audited annually by an independent certified public accountant, shall, at its expense, have an audit of its escrow accounts conducted by an independent certified public accountant at least once each consecutive 12-month period. The appropriate licensing authority shall require the settlement agent to provide a copy of its audit report to the licensing authority no later than 60 days after the date on which the audit is completed. A settlement agent that is a licensed title insurance agent under Title 38.2 shall also provide a copy of the audit report to each title insurance company that it represents. In lieu of such annual audit, a settlement agent that is licensed as a title insurance agent under Title 38.2 shall allow each title insurance company for which it has an appointment to conduct an analysis of its escrow accounts in accordance with regulations adopted by the Commission or guidelines issued by the Bureau of Insurance of the Commission, as appropriate, at least once each consecutive 12-month period, and each title insurance company conducting such analysis shall submit a copy of its analysis report to the appropriate licensing authority no later than 60 days after the date on which the analysis is completed. With the consent of the title insurance agent, a title insurance company may share the results of its analysis with other title insurance companies that will accept the same in lieu of conducting a separate analysis. A title insurance company shall retain a copy of the analysis or audit report, as applicable, for each title insurance agent it has appointed and such reports and other records of the insurance company's activities as a settlement agent shall be made available to the appropriate licensing authority when examinations are conducted pursuant to provisions in Title 38.2.