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SENATE BILL 18-125

BY SENATOR(S) Gardner and Kagan;
also REPRESENTATIVE(S) Lee, Exum, Gray, Singer, Valdez.

CONCERNING FIDUCIARY RESPONSIBILITIES OF TITLE INSURANCE ENTITIES TO
PROTECT FUNDS HELD IN CONJUNCTION WITH REAL ESTATE CLOSING
SETTLEMENT SERVICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 10-11-102, **amend** the introductory portion; and **add** (9.5) and (11) as follows:

10-11-102. Definitions. As used in this article *11*, unless the context otherwise requires:

(9.5) "TITLE INSURANCE AGENCY" MEANS A CORPORATION, PARTNERSHIP, FOREIGN ENTITY, OR DOMESTIC ENTITY AS THOSE TERMS ARE DEFINED IN SECTION 7-90-102, OR ASSOCIATION OR OTHER LEGAL ENTITY THAT TRANSACTS THE BUSINESS OF TITLE INSURANCE.

(11) "TITLE INSURANCE ENTITY" MEANS A TITLE INSURANCE AGENT, TITLE INSURANCE AGENCY, OR TITLE INSURANCE COMPANY.

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. In Colorado Revised Statutes, **add** 10-11-127 as follows:

10-11-127. Fiduciary responsibilities of title insurance entities - definition of fiduciary funds - deceptive act or practice - rules. (1) A TITLE INSURANCE ENTITY AND ITS AFFILIATES OR SUBSIDIARIES IN POSSESSION OF FIDUCIARY FUNDS RECEIVED AND BELONGING TO OTHERS SHALL HOLD THOSE FUNDS IN A FIDUCIARY CAPACITY.

(2) THE COMMISSIONER SHALL PROMULGATE REASONABLE RULES THAT ARE CONSISTENT WITH THIS SECTION AND ARE NECESSARY OR PROPER TO:

(a) REQUIRE THE SEGREGATION AND ACCOUNTING OF FIDUCIARY FUNDS;

(b) REQUIRE NOTICE TO THE COMMISSIONER BY TITLE INSURANCE COMPANIES WHO ARE AWARE OF A VIOLATION OF THE FIDUCIARY FUND SEGREGATION AND ACCOUNTING RULES, AND THE APPOINTMENT, SUSPENSION, OR DISMISSAL OF TITLE INSURANCE AGENTS; AND

(c) PROVIDE FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS SECTION.

(3) FOR THE PURPOSES OF THIS SECTION, "FIDUCIARY FUNDS" MEANS ANY MONEY RECEIVED IN CONJUNCTION WITH CLOSING AND SETTLEMENT SERVICES OTHER THAN A FEE CHARGED BY THE TITLE INSURANCE COMPANY OR TITLE INSURANCE AGENT TO PERFORM THE CLOSING AND SETTLEMENT SERVICES FOR A REAL ESTATE TRANSACTION.

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO