

Effective 5/10/2016

31A-4-117 Closing or settlement protection.

- (1) A title insurer may issue closing or settlement protection in the form of a closing protection letter filed with the department to a person who is a party to a transaction in which a title insurance policy is issued.
- (2) Closing or settlement protection may indemnify a person who is a party to a transaction referred to in Subsection (1) against loss that the title insurer approves for the closing or settlement protection, under the terms and conditions of the closing protection letter issued by the title insurer, because of one or more of the following acts of a title insurance policy issuing individual title insurance producer or agency title insurance producer or other settlement service provider:
 - (a) theft or misappropriation of settlement funds in connection with a transaction in which one or more title insurance policies are issued by or on behalf of the title insurer issuing the closing or settlement protection, but only to the extent that the theft or misappropriation relates to the status of the title to that interest in land or to the validity, enforceability, and priority of the lien of the mortgage on that interest in land; or
 - (b) failure to comply with the written closing instructions when agreed to by the settlement agent, title agent, or employee of the title insurer, but only to the extent that the failure to follow the written closing instructions relates to the status of the title to that interest in land or the validity, enforceability, and priority of the lien of the mortgage on that interest in land.
- (3) A title insurer may not make the fee charged by a title insurer for each party receiving closing or settlement protection coverage subject to any agreement requiring a division of fees or premiums collected on behalf of the title insurer. The fee charged for a closing or settlement coverage protection letter will be filed by the title insurer with the department 30 days before use.
- (4) A title insurer may not provide any other protection that purports to contractually indemnify against improper acts or omissions of a person who is a party to a transaction referred to in Subsection (1) with regard to settlement or closing services.
- (5) Subject to Section 31A-23a-407, a title insurer that is represented by an individual title insurance producer or an agency title insurance producer is liable for the acts or omissions of the individual title insurance producer or agency title insurance producer for closing or settlement only to the extent of the liability undertaken in the closing protection letter according to terms and provisions in the closing protection letter issued pursuant to this section. The liability to the title insurer, if any, of the individual title insurance producer or agency title insurance producer that issues the title insurance policy for acts or omissions of the individual title insurance producer or agency title insurance producer may not be limited or modified because the title insurer has provided closing protection to one or more parties to a real property transaction, escrow, settlement, or closing.

Amended by Chapter 314, 2016 General Session