

Effective 5/12/2020

31A-23a-1001 Definitions.

As used in this part:

- (1) "Affiliated business" means the gross transaction revenue of a title entity's title insurance business in the state that is the result of an affiliated business arrangement.
- (2) "Affiliated business arrangement" means the same as that term is defined in 12 U.S.C. Sec. 2602, except the services that are the subject of the arrangement do not need to involve a federally related mortgage loan.
- (3) "Applicable percentage" means:
 - (a) on February 1, 2020, through January 31, 2021, 0.5%;
 - (b) on February 1, 2021, through January 31, 2022, 1%;
 - (c) on February 1, 2022, through January 31, 2023, 1.5%;
 - (d) on February 1, 2023, through January 31, 2024, 2%;
 - (e) on February 1, 2024, through January 31, 2025, 2.5%;
 - (f) on February 1, 2025, through January 31, 2026, 3%;
 - (g) on February 1, 2026, through January 31, 2027, 3.5%;
 - (h) on February 1, 2027, through January 31, 2028, 4%; and
 - (i) on February 1, 2028, through January 31, 2029, 4.5%.
- (4) "Associate" means the same as that term is defined in 12 U.S.C. Sec. 2602.
- (5) "Division" means the Division of Real Estate created in Section 61-2-201.
- (6) "Essential function" means:
 - (a) examining and evaluating, based on relevant law and title insurance underwriting principles and guidelines, title evidence to determine the insurability of a title and which items to include or exclude in a title commitment or title insurance policy to be issued;
 - (b) preparing and issuing a title commitment or other document that:
 - (i) discloses the status of the title as the title is proposed to be insured;
 - (ii) identifies the conditions that must be met before a title insurance policy will be issued; and
 - (iii) obligates the insurer to issue a title insurance policy if the conditions described in Subsection (6)(b)(ii) are met;
 - (c) clearing underwriting objections and taking the necessary steps to satisfy any conditions to the issuance of a title insurance policy;
 - (d) preparing the issuance of a title insurance policy; or
 - (e) handling the closing or settlement of a real estate transaction when:
 - (i) it is customary for a title entity to handle the closing or settlement; and
 - (ii) the title entity's compensation for handling the closing or settlement is customarily part of the payment or retention from the insurer.
- (7) "New or newly affiliated title entity" means a title entity that:
 - (a) is licensed as a title entity for the first time on or after May 14, 2019; or
 - (b)
 - (i) is licensed as a title entity before May 14, 2019; and
 - (ii) enters into an affiliated business arrangement for the first time on or after May 14, 2019.
- (8) "Producer" means the same as the term "person who is in a position to refer settlement service business" is defined in 12 C.F.R. Sec. 1024.15(c).
- (9) "RESPA" means the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.
- (10) "Section 8 of RESPA" means 12 U.S.C. Sec. 2607 and any rules promulgated thereunder.
- (11) "Sufficient capital and net worth" means:
 - (a) for a new or newly affiliated title entity:

- (i) \$100,000 for the first five years after becoming a new or newly affiliated title entity; or
- (ii) after the first five years after becoming a new or newly affiliated title entity, the greater of:
 - (A) \$50,000; or
 - (B) on February 1 of each year, an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000; or
- (b) for a title entity licensed before May 14, 2019, who is not a new or newly affiliated title entity:
 - (i) for the time period beginning on February 1, 2020, and ending on January 31, 2029, the lesser of:
 - (A) an amount equal to the applicable percentage of the title entity's average annual gross revenue over the two calendar years immediately preceding the February 1 on which the applicable percentage first applies; or
 - (B) \$150,000; and
 - (ii) beginning on February 1, 2029, the greater of:
 - (A) \$50,000; or
 - (B) an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000.
- (12) "Title entity" means:
 - (a) a title licensee as defined in Section 31A-2-402; or
 - (b) a title insurer as defined in Section 31A-23a-415.
- (13)
 - (a) "Title evidence" means a written or electronic document that identifies and describes or compiles the documents, records, judgments, liens, and other information from the public records relevant to the history and current condition of a title to be insured.
 - (b) "Title evidence" does not include a pro forma commitment.

Amended by Chapter 448, 2020 General Session