

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

**3901-7-02 Title insurance agents maintenance of surety bond and errors and omissions coverage.**

(A) Purpose

The purpose of this rule is to set forth the requirements regarding the surety bond and errors and omissions coverage to be maintained by title insurance agents or agencies under conditions specified in section 3953.23 of the Revised Code.

(B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041 and 3953.23 of the Revised Code.

(C) Surety bond

All title insurance agents or agencies that handle escrows in real property transactions not involving the issuance of title insurance shall have a surety bond in place that protects all parties to such transactions against theft, misappropriation, fraud, or any other failure to properly disburse settlement, closing, or escrow funds.

- (1) The surety bond shall be on a form approved by the superintendent and shall provide coverage in the minimum amount of one hundred fifty thousand dollars.
- (2) The surety bond shall be kept in full force and effect as a condition precedent to the title agent's authority to transact escrow, settlement, or closing functions for real estate transactions not involving the issuance of title insurance and the title insurance agent shall supply the superintendent with satisfactory evidence thereof upon request.
- (3)
  - (a) Licensed agents who are employees of title insurance companies authorized to do business in this state and direct operations of title insurance companies authorized to do business in this state are not required to maintain separate surety bond coverage.
  - (b) Title insurance companies authorized to do business in this state may self-insure wholly-owned subsidiary title agencies and employees of those agencies who are licensed as title insurance agents for the purpose of surety bond coverage.

(D) Errors and omissions insurance

- (1) All title insurance agents or agencies shall maintain an errors and omissions insurance policy that includes but is not limited to coverage for the agent's or agency's delegation of any agent or agency function to a third party. The policy must provide a minimum coverage amount of two hundred fifty thousand dollars.
- (2) It is the title agent's or agency's responsibility to ensure that all subcontractors are covered under the agent's or agency's errors and omissions insurance policy or that

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any subcontractor not so covered maintains an errors and omissions policy with minimum coverage of fifty thousand dollars.

(3)

(a) Licensed agents who are employees of title insurance companies authorized to do business in this state and direct operations of title insurance companies authorized to do business in this state are not required to maintain separate errors and omissions insurance coverage.

(b) Title insurance companies authorized to do business in this state may self-insure wholly-owned subsidiary title agencies and employees of those agencies who are licensed as title insurance agents for the purposes of errors and omissions insurance coverage.

(E) Details of surety bond and errors and omissions coverage to be provided at escrow account review

Details of any surety bond and errors and omissions coverage required under this rule shall be provided on a form that is prescribed for such use by the superintendent. The details of such coverage shall be provided at the time the annual escrow account review is performed pursuant to section 3953.33 of the Revised Code.

(F) Penalties

Failure to maintain the required errors and omissions coverage or failure to maintain a surety bond as necessary shall be grounds for suspension or revocation of a title insurance license.

(G) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms or provisions shall be and continue in full force and effect.