

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 15-0855.02 Bart Miller x2173

SENATE BILL 15-210

SENATE SPONSORSHIP

Woods, Baumgardner, Holbert, Martinez Humenik

HOUSE SPONSORSHIP

Arndt,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING CREATION OF THE TITLE INSURANCE COMMISSION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill creates the title insurance commission (commission). The bill establishes the powers, duties, and functions of the commission and provides for the appointment of the members of the commission. With the exception of rate regulation and licensing, which will continue to be done by the insurance commissioner, the commission participates in the regulation of the title insurance business in Colorado by concurring in rules of the insurance commissioner, proposing rules for approval by the insurance commissioner, and reviewing and concurring in disciplinary

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

actions related to the regulation of the title insurance business. The commission is scheduled to sunset September 1, 2025, subject to continuation after a sunset review as provided by law.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 2 to article
3 11 of title 10 as follows:

4 PART 2

5 TITLE INSURANCE COMMISSION

6 **10-11-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY
7 BE CITED AS THE "TITLE INSURANCE COMMISSION ACT".

8 **10-11-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "AFFILIATE" MEANS A PERSON WHO DIRECTLY, OR INDIRECTLY
11 THROUGH ONE OR MORE INTERMEDIARIES:

12 (a) CONTROLS A TITLE ENTITY;

13 (b) IS CONTROLLED BY A TITLE ENTITY; OR

14 (c) IS UNDER COMMON CONTROL WITH A TITLE ENTITY.

15 (2) "ASSOCIATE" HAS THE SAME MEANING AS SET FORTH IN
16 SECTION 10-11-102 (2.5).

17 (3) "BUSINESS OF TITLE INSURANCE" HAS THE SAME MEANING AS
18 SET FORTH IN SECTION 10-11-102 (3).

19 (4) "CLOSING AND SETTLEMENT SERVICES" HAS THE SAME
20 MEANING AS SET FORTH IN SECTION 10-11-102 (3.5).

21 (5) "COMMISSION" MEANS THE TITLE INSURANCE COMMISSION.

22 (6) "CONCURRENCE" MEANS A VOTE BY A MAJORITY OF THE
23 COMMISSION IN AGREEMENT WITH THE ESTABLISHMENT OF RULES OR THE
24 IMPOSITION OF ANY DISCIPLINARY ACTION OR FINE UNDER SECTION

1 10-11-204.

2 (7) "DIVISION" MEANS THE DIVISION OF INSURANCE.

3 (8) "LICENSED TITLE PRODUCER" HAS THE SAME MEANING AS
4 "INSURANCE PRODUCER" AS DEFINED IN SECTION 10-2-103 (6).

5 (9) "MEMBER" MEANS A MEMBER APPOINTED UNDER SECTION
6 10-11-203.

7 (10) "NET ADMITTED ASSETS" MEANS TOTAL ASSETS LESS
8 NONADMITTED ASSETS, WHICH MUST EQUAL THE TITLE ENTITY'S NET
9 ADMITTED ASSETS AS REPORTED ON PAGE 2, LINE 28, COLUMN 3 OF THE
10 FINANCIAL STATEMENT FILED WITH ITS DOMICILIARY STATE AND THE
11 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

12 (11) "PERSON" HAS THE SAME MEANING AS IN SECTION 10-2-103
13 (8).

14 (12) "TITLE ENTITY" MEANS A TITLE INSURANCE AGENT OR A TITLE
15 INSURANCE COMPANY, UNLESS OTHERWISE PROVIDED BY RULE.

16 (13) "TITLE INSURANCE AGENT" HAS THE SAME MEANING AS SET
17 FORTH IN SECTION 10-11-102 (9).

18 (14) "TITLE INSURANCE COMPANY" HAS THE SAME MEANING AS
19 SET FORTH IN SECTION 10-11-102 (10).

20 **10-11-203. Title insurance commission - legislative declaration**
21 **- creation - members - meetings - effect of prior rules - repeal.**

22 (1) (a) THE COMMISSION IS HEREBY CREATED WITHIN THE DIVISION. THE
23 COMMISSION EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND
24 FUNCTIONS UNDER THE DIVISION AS IF TRANSFERRED TO THE DIVISION BY
25 A **TYPE 1** TRANSFER AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION
26 ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

27 (b) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES

1 THAT THE ORGANIZATION OF THE COMMISSION UNDER THE DIVISION AS A
2 **TYPE 1** AGENCY WILL PROVIDE THE AUTONOMY NECESSARY TO AVOID
3 POTENTIAL CONFLICTS OF INTEREST BETWEEN THE RESPONSIBILITY OF THE
4 COMMISSION IN THE REGULATION OF TITLE INSURANCE AGENTS, AGENCIES,
5 AND COMPANIES AND THE RESPONSIBILITY OF THE DIVISION IN THE
6 REGULATION OF LINES OF INSURANCE OTHER THAN TITLE INSURANCE. THE
7 GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT
8 THE PLACEMENT OF THE COMMISSION AS A **TYPE 1** AGENCY UNDER THE
9 DIVISION IS CONSISTENT WITH THE ORGANIZATIONAL STRUCTURE OF STATE
10 GOVERNMENT.

11 (2) (a) THE COMMISSION CONSISTS OF SEVEN MEMBERS, ALL
12 RESIDENTS OF COLORADO, APPOINTED BY THE GOVERNOR AS FOLLOWS:

13 (I) THREE MEMBERS SHALL BE EMPLOYEES OF TITLE COMPANIES
14 THAT MAINTAIN A PHYSICAL LOCATION IN COLORADO; EXCEPT THAT, IF
15 THERE ARE NO QUALIFIED APPLICANTS UNDER EITHER SUB-SUBPARAGRAPH
16 (C) OR (D) OF THIS SUBPARAGRAPH (I), THE GOVERNOR SHALL APPOINT A
17 CANDIDATE THAT OTHERWISE QUALIFIES UNDER SUB-SUBPARAGRAPHS (A)
18 AND (B) OF THIS SUBPARAGRAPH (I). EACH OF THE THREE MEMBERS SHALL
19 HAVE THE FOLLOWING QUALIFICATIONS:

20 (A) EACH SHALL BE A RESIDENT LICENSED TITLE PRODUCER IN THE
21 STATE OF COLORADO;

22 (B) EACH SHALL HAVE NOT LESS THAN FIVE YEARS OF EXPERIENCE
23 IN THE TITLE INSURANCE BUSINESS IN COLORADO;

24 (C) AT LEAST ONE SHALL BE A REPRESENTATIVE OF A TITLE
25 INSURANCE COMPANY THAT HAS NET ADMITTED ASSETS OF FIVE HUNDRED
26 MILLION DOLLARS OR MORE; AND

27 (D) AT LEAST ONE SHALL BE A REPRESENTATIVE OF A TITLE

1 INSURANCE COMPANY THAT HAS NET ADMITTED ASSETS OF LESS THAN
2 FIVE HUNDRED MILLION DOLLARS;

3 (II) THREE MEMBERS SHALL BE EMPLOYEES OF A TITLE INSURANCE
4 AGENT; EXCEPT THAT, IF THERE ARE NO QUALIFIED APPLICANTS FROM
5 EITHER SUB-SUBPARAGRAPH (C) OR (D) OF THIS SUBPARAGRAPH (II), THE
6 GOVERNOR SHALL APPOINT A CANDIDATE THAT OTHERWISE QUALIFIES
7 UNDER SUB-SUBPARAGRAPH (A) AND (B) OF THIS SUBPARAGRAPH (II).
8 EACH OF THE THREE MEMBERS SHALL HAVE THE FOLLOWING
9 QUALIFICATIONS:

10 (A) EACH MEMBER SHALL BE A RESIDENT LICENSED TITLE
11 PRODUCER IN THE STATE OF COLORADO;

12 (B) EACH MUST HAVE NOT LESS THAN FIVE YEARS OF EXPERIENCE
13 IN THE TITLE INSURANCE BUSINESS IN COLORADO;

14 (C) AT LEAST ONE SHALL BE REPRESENTATIVE OF A TITLE
15 INSURANCE AGENT THAT OPERATES IN AT LEAST ONE OF THE FOLLOWING
16 COUNTIES: ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER,
17 DOUGLAS, EL PASO, JEFFERSON, OR LARIMER; AND

18 (D) AT LEAST ONE SHALL BE REPRESENTATIVE OF A TITLE
19 INSURANCE AGENT THAT OPERATES IN COUNTIES OTHER THAN THOSE
20 LISTED IN SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (II);

21 (III) ONE MEMBER SHALL BE A REPRESENTATIVE OF THE PUBLIC AT
22 LARGE. THE MEMBER FROM THE PUBLIC SHALL NOT BE ENGAGED IN THE
23 BUSINESS OF TITLE INSURANCE.

24 (b) NO MORE THAN ONE MEMBER OF THE COMMISSION MAY BE
25 APPOINTED FROM A SINGLE COMPANY OR AN AFFILIATE OR SUBSIDIARY OF
26 THE COMPANY.

27 (3) (a) EXCEPT AS REQUIRED BY PARAGRAPHS (b) AND (c) OF THIS

1 SUBSECTION (3), AS TERMS OF CURRENT MEMBERS EXPIRE, THE GOVERNOR
2 SHALL APPOINT EACH NEW MEMBER TO A FOUR-YEAR TERM ENDING ON
3 JUNE 30.

4 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (3),
5 THE GOVERNOR SHALL, AT THE TIME OF APPOINTMENT, ADJUST THE
6 LENGTH OF TERMS TO ENSURE THAT THE TERMS OF THE COMMISSION
7 MEMBERS ARE STAGGERED SO THAT APPROXIMATELY HALF OF THE
8 MEMBERS APPOINTED UNDER SUBPARAGRAPH (I) OF PARAGRAPH (a) OF
9 SUBSECTION (2) OF THIS SECTION AND HALF OF THE MEMBERS APPOINTED
10 UNDER SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS
11 SECTION ARE APPOINTED EVERY TWO YEARS.

12 (c) UPON THE DEATH, RESIGNATION, REMOVAL, OR INCAPACITY OF
13 ANY MEMBER OF THE COMMISSION, THE GOVERNOR SHALL APPOINT A
14 MEMBER TO FILL THE UNEXPIRED TERM. THE GOVERNOR MAY REMOVE
15 ANY MEMBER FOR MISCONDUCT, NEGLECT OF DUTY, OR INCOMPETENCE.

16 (d) IF A COMMISSION MEMBER'S EMPLOYMENT OR LICENSE STATUS
17 CHANGES DURING THE MEMBER'S TERM SO THAT THE MEMBER IS NO
18 LONGER QUALIFIED TO SERVE ON THE COMMISSION, THE GOVERNOR SHALL
19 APPOINT A MEMBER TO FILL OUT THE UNEXPIRED TERM.

20 (e) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
21 SUBSECTION (3), A MEMBER SERVES UNTIL A SUCCESSOR IS APPOINTED BY
22 THE GOVERNOR.

23 (4) A MEMBER OF THE COMMISSION MAY NOT RECEIVE
24 COMPENSATION OR BENEFITS FOR THE MEMBER'S SERVICE BUT MAY
25 RECEIVE TRAVEL EXPENSES FOR TRAVEL IN EXCESS OF FIFTY MILES.
26 PAYMENT FOR ALL TRAVEL EXPENSES SHALL BE MADE OUT OF THE
27 GENERAL FUND.

1 (5) MEMBERS OF THE COMMISSION SHALL ANNUALLY SELECT ONE
2 MEMBER TO SERVE AS CHAIR.

3 (6) (a) THE COMMISSION SHALL MEET AT LEAST MONTHLY. A
4 MEMBER SHALL PHYSICALLY ATTEND A REGULARLY SCHEDULED MEETING
5 OF THE COMMISSION AND MAY NOT ATTEND THROUGH ELECTRONIC
6 MEANS. A MEMBER MAY ATTEND SUBCOMMITTEE MEETINGS, EMERGENCY
7 MEETINGS, OR OTHER NOT REGULARLY SCHEDULED MEETINGS
8 ELECTRONICALLY.

9 (b) THE CHAIR OF THE COMMISSION MAY CALL ADDITIONAL
10 MEETINGS:

11 (I) AT THE CHAIR'S DISCRETION;

12 (II) UPON REQUEST OF THE COMMISSIONER; OR

13 (III) UPON THE WRITTEN REQUEST OF THREE OR MORE MEMBERS.

14 (c) (I) FIVE MEMBERS CONSTITUTE A QUORUM FOR THE
15 TRANSACTION OF BUSINESS.

16 (II) THE ACTION OF A MAJORITY OF THE MEMBERS WHEN A
17 QUORUM IS PRESENT IS THE ACTION OF THE COMMISSION.

18 (7) MEMBERS OF THE COMMISSION, CONSULTANTS, EXPERT
19 WITNESSES, AND COMPLAINANTS ARE IMMUNE FROM SUIT IN ANY CIVIL
20 ACTION BASED UPON ANY DISCIPLINARY PROCEEDINGS OR OTHER OFFICIAL
21 ACTS PERFORMED IN GOOD FAITH.

22 (8) IT IS THE DUTY OF THE COMMISSIONER, PERSONALLY OR BY
23 DESIGNEE, TO AID IN THE ADMINISTRATION OF THE COMMISSION, PERFORM
24 SUCH DUTIES OF THE COMMISSION AS THE COMMISSION PRESCRIBES, AND
25 ACT ON BEHALF OF THE COMMISSION ON SUCH OCCASIONS AND IN SUCH
26 CIRCUMSTANCES AS THE COMMISSION DIRECTS.

27 (9) ALL RULES PROMULGATED BY THE COMMISSIONER PRIOR TO

1 THE EFFECTIVE DATE OF THIS PART 2 REMAIN IN FULL FORCE AND EFFECT
2 UNTIL REPEALED OR MODIFIED BY THE COMMISSION. THE COMMISSION HAS
3 THE AUTHORITY TO ENFORCE ANY PREVIOUSLY PROMULGATED RULES OF
4 THE COMMISSIONER AND ANY RULES PROMULGATED BY THE COMMISSION.

5 (10) (a) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1,
6 2025.

7 (b) PRIOR TO SUCH REPEAL, THE FUNCTIONS OF THE COMMISSION
8 SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

9 **10-11-204. Powers, duties, and functions - rules.**

10 (1) NOTWITHSTANDING PART 1 OF THIS ARTICLE, TO THE EXTENT
11 PROVIDED IN THIS PART 2, THE COMMISSIONER SHALL ADMINISTER AND
12 ENFORCE THE PROVISIONS OF THIS TITLE RELATED TO THE STANDARDS,
13 PROCEDURES, AND PROCESSES RELATED TO TITLE INSURANCE, INCLUDING
14 TITLE INSURANCE RATES, FEES, AND THE LICENSING OF TITLE INSURANCE
15 PRODUCERS.

16 (2) (a) SUBJECT TO THIS PART 2, THE COMMISSIONER, PERSONALLY
17 OR BY DESIGNEE, SHALL ADMINISTER AND ENFORCE THE REGULATION OF
18 THE BUSINESS OF TITLE INSURANCE.

19 (b) THE COMMISSIONER MAY ESTABLISH SUCH REASONABLE RULES
20 AS ARE NECESSARY WITH REGARD TO THE STANDARDS, PROCEDURES, AND
21 PROCESSES RELATED TO TITLE INSURANCE, SUBJECT TO THE CONCURRENCE
22 OF THE COMMISSION.

23 (3) (a) THE COMMISSION SHALL:

24 (I) PROPOSE, ADVISE, AND RECOMMEND RULES SUBJECT TO
25 APPROVAL BY THE COMMISSIONER FOR THE IMPLEMENTATION AND
26 ADMINISTRATION OF THE BUSINESS OF TITLE INSURANCE. ALL RULES
27 APPROVED BY THE COMMISSION AND COMMISSIONER SHALL BE

1 PROMULGATED UNDER ARTICLE 4 OF TITLE 24, C.R.S.

2 (II) PROPOSE, ADVISE, AND RECOMMEND BULLETINS AND POSITION
3 STATEMENTS CONCERNING ANY SUBJECT RELATED TO THE BUSINESS OF
4 TITLE INSURANCE FOR ISSUANCE BY THE COMMISSIONER. ALL BULLETINS
5 AND POSITION STATEMENTS SHALL BE PROMULGATED UNDER THE
6 RULE-MAKING PROCEDURES IN ARTICLE 4 OF TITLE 24, C.R.S.

7 (III) CONDUCT AN ADMINISTRATIVE HEARING NOT DELEGATED BY
8 THE COMMISSION TO AN ADMINISTRATIVE LAW JUDGE RELATED TO THE:

9 (A) LICENSING OF AN APPLICANT;

10 (B) CONDUCT OF A TITLE LICENSEE;

11 (C) APPROVAL OF A CONTINUING EDUCATION PROGRAM; OR

12 (D) ADVISING OF THE COMMISSIONER ON THE ADMINISTRATION
13 AND ENFORCEMENT OF ANY MATTER AFFECTING THE TITLE INSURANCE
14 INDUSTRY.

15 (b) FOLLOWING AN INVESTIGATION OF A COMPLAINT BY THE
16 COMMISSIONER, THE COMMISSION SHALL RECOMMEND DISCIPLINARY
17 ACTIONS IN CONFORMITY WITH THIS TITLE TO THE COMMISSIONER. THE
18 COMMISSIONER SHALL PROVIDE A WRITTEN REPORT TO THE COMMISSION
19 RECOMMENDING DISCIPLINARY ACTION AND FINES AS THE COMMISSIONER
20 DEEMS APPROPRIATE FOR FURTHER REVIEW BY THE COMMISSION. THE
21 IMPOSITION OF ANY DISCIPLINARY ACTION OR FINE REQUIRES THE
22 CONCURRENCE OF THE COMMISSION AND THE COMMISSIONER.

23 (4) THE COMMISSION MAY PROPOSE RULES TO THE COMMISSIONER
24 ESTABLISHING AN EXAMINATION FOR A LICENSE.

25 **SECTION 2.** In Colorado Revised Statutes, 24-1-122, **amend** (2)

26 (b) (I) as follows:

27 **24-1-122. Department of regulatory agencies - creation.**

1 (2) The department of regulatory agencies shall consist of the following
2 divisions:

3 (b) (I) Division of insurance, the head of which shall be the
4 commissioner of insurance. The division of insurance of the state of
5 Colorado, created by section 10-1-103, C.R.S., and its powers, duties, and
6 functions are transferred by a **type 1** transfer to the department of
7 regulatory agencies as the division of insurance. THE TITLE INSURANCE
8 COMMISSION, CREATED IN SECTION 10-11-203, C.R.S., AND ITS POWERS,
9 DUTIES, AND FUNCTIONS ARE TRANSFERRED AS IF BY A **TYPE 1** TRANSFER
10 TO THE DEPARTMENT OF REGULATORY AGENCIES AND ALLOCATED TO THE
11 DIVISION OF INSURANCE.

12 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **add** (56)
13 (d) as follows:

14 **24-34-104. General assembly review of regulatory agencies**
15 **and functions for termination, continuation, or reestablishment.**

16 (56) The following agencies, functions, or both, terminate on September
17 1, 2025:

18 (d) THE TITLE INSURANCE COMMISSION, CREATED IN SECTION
19 10-11-203, C.R.S.

20 **SECTION 4. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly
23 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,
24 if a referendum petition is filed pursuant to section 1 (3) of article V of
25 the state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part will not take effect
27 unless approved by the people at the general election to be held in

- 1 November 2016 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.