

Section: 381.0031.1

381.031. As used in sections 381.011 to 381.241, the following terms mean:

- (1) "**Alien title insurer**", any title insurer incorporated or organized under the laws of any foreign nation or any province or territory thereof;
- (2) "**Applicant**", a person, whether or not a prospective insured, who applies to a title insurer or title agent, or agency for a title insurance policy and who, at the time of the application, is not a title agent or agency;
- (3) "**Approved attorney**", an attorney at law who is not an agent or employee of a title insurer, and whose certification as to status of title a title insurer is willing to accept as the basis for issuance of its title insurance policy;
- (4) "**Charge**", any fee billed by a title agent, agency, or title insurer for the performance of services other than fees that fall within the definition of premium in this section. "Charge" includes, but is not limited to, fees for document preparation, fees for the handling of escrows, settlements, or closing, and fees for services commenced but not completed. "Charge" does not include fees collected by a title insurer, title agency, or title agent in an escrow, settlement or closing when the fees are limited to the amount billed for services rendered by an entity independent of the title insurer, title agent, or agency;
- (5) "**Controlled business**", any portion of a title insurer's, title agency's or title agent's business of title insurance in this state, referred to it by any producer of title business or by any associate of such producer, where the producer of title business, the associate, or both, have a financial interest in the title insurer, title agency, or title agent to which business is referred;
- (6) "**Director**", the director of the department of insurance;
- (7) "**Domestic title insurer**", a title insurer organized under the laws of this state;
- (8) "Escrow, settlement or closing fee", the consideration for supervising the actual execution, delivery or recording of transfer and lien documents and for disbursing funds;
- (9) "**Financial interest**", any interest, legal or beneficial, that entitles the holder directly or indirectly to one percent or more of the net profits or net worth of the entity in which the interest is held, but does not include payments of principal or interest made to a mortgage holder of the title agency;
- (10) "**Foreign title insurer**", any title insurer organized under the laws of any other state of the United States, the District of Columbia, or any other jurisdiction of the United States;
- (11) "**Gross operating revenue**", all amounts received by a title insurer, title agency, or title agent from premiums and charges;

(12) "**Net retained liability**", the total liability retained by a title insurer for a single risk, after taking into account the deduction for ceded reinsured liability, if any;

(13) "**Person**", any natural person, partnership, association, cooperative, corporation, trust, or other legal entity;

(14) "**Premium**", risk rates charged to the insured;

(15) "**Producer of title business**" or "**producer**", any person, including any officer, director, or owner of five percent or more of the equity or capital of any person, engaged in this state in the trade, business, occupation or profession of:

(a) Buying or selling interests in real property;

(b) Making loans secured by interests in real property; or

(c) Acting as broker, agent, representative or attorney of a person who buys or sells any interest in real property or who lends or borrows money with such interest as security;

(16) "**Single risk**", the insured amount of any title insurance policy, except that where two or more title insurance policies are issued simultaneously covering different estates in the same real property, "single risk" means the sum of the insured amounts of all such title insurance policies. Any title insurance policy insuring a mortgage interest, a payment under which reduces the insured amount of a fee or leasehold title insurance policy, shall be excluded in computing the amount of a single risk to the extent that the insured amount of the mortgagee title insurance policy does not exceed the insured amount of the fee or leasehold title insurance policy;

(17) "**Title agent**" or "**title insurance agent**", any authorized agent of a title insurer or representative of the title agent or agency, who acts as a title agent in the solicitation of, negotiation for, or procurement or making of any title insurance contract. The following persons are not title agents or title insurance agents:

(a) Approved attorneys;

(b) Salaried officers or employees of title insurers, title agents or title insurance agencies who do not do any of the following:

a. Establish premiums for policies of title insurance;

b. Determine insurability; or

c. Issue commitments, policies or other contracts of title insurance;

(18) "**Title insurance agency**" or "**agency**", any individual transacting or doing business under any name other than his true name, any partnership, unincorporated association or corporation, transacting or doing business with the public or title insurance companies as a title insurance agent;

(19) **"Title insurance business" or "business of title insurance"** means:

- (a) Issuing as insurer or offering to issue as insurer a title insurance policy;
- (b) Transacting or proposing to transact by a title insurer, title agency, or title agent any of the following activities when conducted or performed by a title agent, title agency, or title insurer in conjunction with the issuance of its title insurance:
 - a. Soliciting or negotiating the issuance of a title insurance policy;
 - b. Guaranteeing, warranting, or otherwise insuring the correctness of title searches;
 - c. Handling of escrows, settlements, or closings;
 - d. Execution of title insurance policies, reports, commitments, binders, and endorsements;
 - e. Effecting contracts of reinsurance; or
 - f. Abstracting, searching, or examining titles;
- (c) Transacting by a title insurer, title agent, or agency of matters subsequent to the issuance of a title insurance policy and arising out of it; or
- (d) Doing or proposing to do any business in substance equivalent to any of the foregoing in order to evade any provision of this act;

(20) **"Title insurance policy" or "policy"**, a contract insuring or indemnifying against loss or damage arising from any or all of the following:

- (a) Defects in or liens or encumbrances on the insured title;
- (b) Unmarketability of the insured title; or
- (c) Invalidity or unenforceability of liens or encumbrances on the stated property.

"Title insurance policy" does not include a preliminary report, binder, commitment, or abstract;

(21) **"Title insurer"**, a company organized under laws of this state for the purpose of transacting as insurer the business of title insurance and any foreign or alien title insurer engaged in this state in the business of title insurance as insurer;

(22) **"Title plant"**, an index of the records of a county which imparts constructive notice to purchasers of real property, which encompasses at least the most recent forty-five years. The index shall be kept geographically as to those records containing a legal description of affected land, and otherwise by name of affected person.