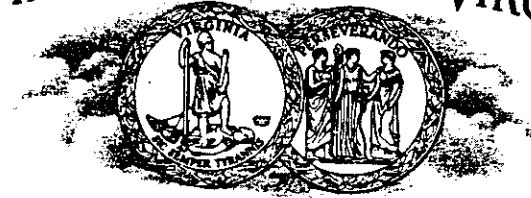


COMMONWEALTH OF VIRGINIA

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COMMISSIONER OF INSURANCE



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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

LETTER

REPLACED

By Administrative
Letter 1999-14

August 25, 1998

Administrative Letter 1998-10

- TO:** All Title Insurance Companies Licensed in Virginia and All
Title Insurance Settlement Agents Registered in Virginia
- RE:** *Revised Guidelines for Conducting Title Insurance
Company/Underwriter Analyses of Escrow Accounts
Maintained by Title Insurance Settlement Agents
(All changes to Administrative Letter 1998-1 are
italicized)*

In accordance with the legislative amendments enacted during the 1998 Session of the Virginia General Assembly, attached are the State Corporation Commission Bureau of Insurance guidelines for conducting title insurance company/underwriter analyses of escrow accounts maintained by title insurance settlement agents pursuant to Virginia Code § 6.1-2.21 E 2 and 14 VAC 5-395-50 C. The results of the analyses are required to be filed with the Bureau of Insurance within 60 days of completion of the analysis.

Any accounting or auditing questions pertaining to these guidelines should be referred to David Smith at (804) 371-9061. Any other questions should be referred to Michael Beavers at (804) 371-9465.

Please make sure that the appropriate person within your organization receives these guidelines.

Sincerely,

Alfred W. Gross
Commissioner of Insurance

AWG:dw
Attachment

**REVISED GUIDELINES FOR CONDUCTING TITLE INSURANCE COMPANY/
UNDERWRITER ANALYSES OF ESCROW ACCOUNTS MAINTAINED BY TITLE
INSURANCE AGENTS PURSUANT TO THE VIRGINIA CONSUMER REAL
ESTATE SETTLEMENT PROTECTION ACT (Virginia Code § 6.1-2.19 et seq.)**

Title insurance companies/underwriters conducting *analyses* of title insurance agent escrow accounts pursuant to Virginia Code § 6.1-2.21 E 2 and 14 VAC 5-395-50 C shall comply with the following guidelines. The guidelines are intended to be used as minimum guidelines in conducting analyses of title insurance agent escrow accounts. Additional procedures conducted by the title insurance companies should be documented in the Standard Report (see attached) issued by the title insurance company. The results of such *analyses* of escrow accounts maintained by title insurance agents are required to be filed with the Bureau of Insurance *within sixty days of the completion of the analysis*.

1. Obtain a listing of all agency bank accounts, including operating and other non-fiduciary accounts. Have the agent certify that the listing of bank accounts is complete and accurate. The listing should contain all of the information that is included in Schedule A of the Standard Report.
2. Obtain a listing of all of the agency's affiliated companies.* Have the agent certify that the listing of affiliated companies is complete and accurate. The listing should contain all of the information that is included in Schedule B of the Standard Report.
3. Review and test the agent's 3-way reconciliations (bank statement to book balance to open escrow trial balance) *for the most recent monthly period available* for all agent escrow accounts including, without limitation, all multiple and individual customer escrow accounts (regular, special/interest bearing, etc.), accounts established in connection with IRC Code § 1031 tax deferred exchanges, and other fiduciary accounts. The test of the reconciliations should, at a minimum, include the following procedures:
 - a. Foot reconciliation and any supporting schedules;
 - b. Compare bank balance per reconciliation with bank statement and have agent resolve differences;
 - c. Compare book balance per reconciliation with control account such as check book balance, general ledger, etc. and have agent resolve differences;
 - d. Compare reconciled balances to the related trial balance of the same date and have agent resolve differences;
 - e. Verify deposits in transit by tracing deposits to validated deposit slip or bank statement for the following month;
 - f. Verify outstanding check list by tracing to canceled checks returned with the subsequent month's bank statement. Follow up on all large outstanding checks not clearing in the subsequent month;
 - g. Verify propriety of other material reconciling items by reviewing appropriate support;

- h. Note any material reconciling items more than 30 days old and discuss with agency personnel;
 - i. Examine voided checks and verify that they are properly defaced.
- 4. Review 3-way reconciliations for all agent escrow accounts (same accounts as referred to in Item # 3 of these Guidelines) for three months of *the preceding twelve-month period* which shall be selected on a random basis. Determine the timeliness of the preparation of bank reconciliations. Determine management review and approval. Any reconciliations that were not prepared in a timely manner or reviewed by management should be noted in the Specific Findings section of the Standard Report.
- 5. Review the agent's trial balance *for the most recent monthly period available* for all escrow accounts for unusual items and investigate any such items. The lack of a *timely* trial balance and/or any unusual items that are not adequately resolved by the *person performing the analysis* should be noted in the Specific Findings section of the Standard Report.
- 6. Review all escrow account bank statements and trial balances for unusual items, e.g. negative balances, non-sufficient funds or other large or frequent bank service charges, or large even-dollar disbursements, and investigate any such items. Any unusual items that are not adequately resolved by the *person performing the analysis* should be noted in the Specific Findings section of the Standard Report.
- 7. For each escrow account, select a representative sample of canceled checks and wire transfers *for the preceding twelve-month period* and review same for unusual items. The actual number of canceled checks and wire transfers sampled should be disclosed in the Standard Report, along with an explanation of the number selected. The following items, although not all inclusive, should result in further investigation and resolution by the *person performing the analysis*. Any of the following items that are not adequately resolved by the *person performing the analysis* should be noted in the Specific Findings section of the Standard Report:
 - a. checks or wire transfers for large amounts payable to the agency or its affiliates or owners which do not appear to be fees;
 - b. large even-dollar amounts;
 - c. checks or wire transfers with no file reference;
 - d. checks or wire transfers with unusual references;
 - e. slow clearing payoffs or proceeds;
 - f. improper or unusual endorsements;
 - g. alterations to canceled checks;
 - h. checks payable to "cash" or "bearer" or to banks for cashier's checks; and
 - i. unusual transfers between files and/or bank accounts.
- 8. Review the clearing of a representative sample of payoffs, proceeds, or other large escrow account checks or wire transfers *for the most recent monthly period available*. Trace payments to underlying source documentation. The actual number of payoffs, proceeds, or

other large escrow account checks or wire transfers sampled should be disclosed in the Standard Report, along with an explanation of the number selected. Investigate instances in which such large checks or wire transfers failed to clear within 30 days of issuance. Any unusual items that are not adequately resolved by the *person performing the analysis* should be noted in the Specific Findings section of the Standard Report.

9. Review a representative sample of files for written external support of the escrow account records, e.g., signed HUD-1 settlement statements, external invoices or lender instructions. The files for review should be selected from the 3-way reconciliation review from significant untimely clearing items at steps 3 and 8 above, dormant files and open and closed files at random. The actual number of files sampled should be disclosed in the Standard Report, along with an explanation of the number selected. Any instances of inadequate external support that are not resolved by the *person performing the analysis* should be noted in the Specific Findings section of the Standard Report.

Title insurance companies/underwriters conducting *analyses* of title insurance agent escrow accounts pursuant to Virginia Code § 6.2-2.21 E 2 and 14 VAC 5-395-50 C shall make all work papers prepared in the conduct of such *analyses* available to the Bureau upon request.

The title insurance company/underwriter may condition its provision of *analysis* services in satisfaction of Virginia Code § 6.1-2.21 E 2 and 14 VAC 5-395-50 C upon the title insurance agent undertaking and providing to the title insurance company/underwriter all documentation and records reasonably deemed necessary to accomplish the foregoing *analysis* guidelines.

* An affiliated company is defined as any person that is, directly or indirectly, owned or controlled by the same person or by the same group of persons that directly or indirectly, own or control the agency. This term includes parent and subsidiaries. Control and affiliated status shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or hold proxies, representing 10% or more of the voting securities of any other person.

**VIRGINIA CONSUMER REAL ESTATE
SETTLEMENT PROTECTION ACT ("CRESPA")
Standard Report of Escrow Accounts Maintained by Title Insurance Agents**

Title Insurance Company/Underwriter _____

Title Insurance Agent/Agency _____

Name of Owner/Principal Officer _____

Agency Address _____

Agent/Agency License # _____

Procedures

In accordance with the guidelines for "Title Insurance Company/Underwriter *Analyses* of Escrow Accounts Maintained by Title Insurance Agents Pursuant to CRESPA," (Title Insurance Company Name) performed the following procedures:

1. Obtained a listing of all agency bank accounts, including operating and other non-fiduciary accounts. See Schedule A.
2. Obtained a listing of all of the agency's affiliated companies. See Schedule B.
3. Reviewed and tested the agent's 3-way reconciliation(s) (bank statement to book balance to open escrow trial balance) for _____ for all agent escrow accounts.
(*fill in month reviewed*)
4. Reviewed 3-way reconciliations for all agent escrow accounts for the three months *selected*. Determined the timeliness of the preparation of bank reconciliations. Determined management review and approval.
5. Reviewed the agent's _____ trial balance for all escrow accounts for "unusual items" and investigated any such items.
(*fill in month reviewed*)
6. Reviewed all escrow account bank statements and trial balances for "unusual items" and investigated any such items.
7. Reviewed a representative sample of canceled checks and wire transfers, if any, for "unusual items" as defined in the Guidelines. (The actual number of canceled checks and wire transfers sampled should be disclosed here, along with an explanation of the number selected.)

8. Reviewed the clearing of a representative sample of _____ payoffs, proceeds,
(fill in month reviewed)
or other large escrow account checks or wire transfers. Traced payments to underlying source documentation. (The actual number of payoffs, proceeds, or other large escrow account checks or wire transfers sampled should be disclosed here, along with an explanation of the number selected.)
9. Reviewed a representative sample of files for written external support of the escrow account records. (The actual number of files sampled should be disclosed here, along with an explanation of the number selected.)

Specific Findings

In accordance with the guidelines for "Title Insurance Company/Underwriter *Analyses* of Escrow Accounts Maintained by Title Insurance Agents Pursuant to CRESPA," (Title Insurance Company Name) noted the following specific findings during the *analysis* of (Title Insurance Agent).

This report is intended solely for the use of (Title Insurance Agent) and the Virginia State Corporation Commission Bureau of Insurance and should not be used for any other purpose.

By signing below, I certify that I have performed the procedures above, and have noted the applicable specific findings, and the report is accurate and complete to the best of my knowledge.

Signature of Title Insurance Company Representative

Print Name

Title of Representative

Date of Report

Telephone No.

**SCHEDULE A
LISTING OF AGENCY BANK ACCOUNTS**

AGENCY NAME: _____

DATE: _____

BANK NAME	ACCOUNT NUMBER	BANK ADDRESS	AUTHORIZED CHECK SIGNERS	DATE OF MOST CURRENT RECONCILIATION

I HEREBY CERTIFY THAT THIS IS A COMPLETE AND ACCURATE LISTING OF ALL BANK ACCOUNTS MAINTAINED BY: _____

(Agency Name)

Printed Name: _____

Signature: _____

Job Title: _____

Date: _____

SCHEDULE B
LISTING OF AFFILIATED COMPANIES OF THE AGENCY

AGENCY NAME: _____

DATE: _____

COMPANY	AFFILIATION	TYPE OF BUSINESS TRANSACTED WITH AGENCY, IF ANY

I HEREBY CERTIFY THAT THIS IS A COMPLETE AND ACCURATE LISTING OF ALL AFFILIATED COMPANIES OF: _____

(Agency Name)

Printed Name: _____

Signature: _____

Job Title: _____

Date: _____