

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0757.01 Kip Kolkmeier x4510

SENATE BILL 18-125

SENATE SPONSORSHIP

Gardner and Kagan,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING FIDUCIARY RESPONSIBILITIES OF TITLE INSURANCE
102 ENTITIES TO PROTECT FUNDS HELD IN CONJUNCTION WITH REAL
103 ESTATE CLOSING SETTLEMENT SERVICES.

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://leg.colorado.gov>.)

The bill requires title insurance companies, title insurance agents, and their agents and affiliates to hold funds belonging to others in a fiduciary capacity. "Fiduciary funds" means all funds received in conjunction with real estate closing and settlement services. The commissioner of insurance shall promulgate rules regarding fiduciary

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

funds. Violation of title insurance entity fiduciary duties is an unfair act or deceptive practice in the business of insurance.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-11-127 as
3 follows:

4 **10-11-127. Fiduciary responsibilities of title insurance entities**
5 **- definition of fiduciary funds - deceptive act or practice - rules.** (1) A
6 TITLE INSURANCE COMPANY, TITLE INSURANCE AGENT, AND THEIR
7 AUTHORIZED AGENTS AND AFFILIATES IN POSSESSION OF FIDUCIARY FUNDS
8 RECEIVED AND BELONGING TO OTHERS SHALL HOLD THOSE FUNDS IN A
9 FIDUCIARY CAPACITY.

10 (2) THE COMMISSIONER SHALL PROMULGATE RULES NECESSARY
11 FOR THE PRESERVATION AND PROTECTION OF FIDUCIARY FUNDS AS WELL
12 AS THE ADMINISTRATION OF THIS SECTION.

13 (3) ANY VIOLATION OF THIS SECTION OR ANY RULE PROMULGATED
14 IN ACCORDANCE WITH THIS SECTION IS AN UNFAIR OR DECEPTIVE ACT OR
15 PRACTICE PURSUANT TO SECTION 10-3-1104 (1)(ss).

16 (4) FOR THE PURPOSES OF THIS SECTION, "FIDUCIARY FUNDS"
17 MEANS THE UNDERWRITER PORTION OF TITLE INSURANCE PREMIUMS,
18 EARNEST MONEY DEPOSITS, LOAN PROCEEDS, SELLER PROCEEDS,
19 HOMEOWNERS' ASSOCIATION DUES, AND ANY OTHER MONEY RECEIVED IN
20 CONJUNCTION WITH CLOSING AND SETTLEMENT SERVICES OTHER THAN A
21 FEE CHARGED BY THE TITLE INSURANCE COMPANY, TITLE INSURANCE
22 AGENT, OR THEIR AUTHORIZED AGENT OR AFFILIATE FOR THE CLOSING AND
23 SETTLEMENT OF A REAL ESTATE TRANSACTION.

24 **SECTION 2.** In Colorado Revised Statutes, 10-3-1104, **add**
25 (1)(ss) as follows:

1 **10-3-1104. Unfair methods of competition - unfair or deceptive**
2 **acts or practices.** (1) The following are defined as unfair methods of
3 competition and unfair or deceptive acts or practices in the business of
4 insurance:

5 (ss) VIOLATION OF SECTION 10-11-127 OR ANY RULE
6 PROMULGATED IN ACCORDANCE WITH THAT SECTION.

7 **SECTION 3. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.