

**Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-0757.01 Kip Kolkmeier x4510

**SENATE BILL 18-125**

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**SENATE SPONSORSHIP**

**Gardner and Kagan,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**

Business, Labor, & Technology

**House Committees**

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**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.**

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**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.

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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**  
5 **companies and title insurance agents - definition of fiduciary funds**  
6 **- deceptive act or practice - rules.** (1) A TITLE INSURANCE COMPANY OR  
7 TITLE INSURANCE AGENT IN POSSESSION OF FIDUCIARY FUNDS RECEIVED  
8 AND BELONGING TO OTHERS SHALL HOLD THOSE FUNDS IN A FIDUCIARY  
9 CAPACITY.

10           (2) THE COMMISSIONER SHALL PROMULGATE RULES NECESSARY  
11 TO:

12           (a) REQUIRE THE SEGREGATION AND ACCOUNTING OF FIDUCIARY  
13 FUNDS;

14           (b) REQUIRE NOTICE TO THE COMMISSIONER BY TITLE INSURANCE  
15 COMPANIES WHO ARE AWARE OF A VIOLATION OF THE FIDUCIARY FUND  
16 SEGREGATION AND ACCOUNTING RULES, AND THE APPOINTMENT,  
17 SUSPENSION, OR DISMISSAL OF TITLE INSURANCE AGENTS; AND

18           (c) PROVIDE FOR THE ADMINISTRATION OF THIS SECTION.

19           (3) A KNOWING VIOLATION OF A RULE REQUIRING NOTICE IN  
20 ACCORDANCE WITH THIS SECTION IS AN UNFAIR OR DECEPTIVE ACT OR  
21 PRACTICE PURSUANT TO SECTION 10-3-1104 (1)(ss).

22           (4) FOR THE PURPOSES OF THIS SECTION, "FIDUCIARY FUNDS"  
23 MEANS ANY MONEY RECEIVED IN CONJUNCTION WITH CLOSING AND  
24 SETTLEMENT SERVICES OTHER THAN A FEE CHARGED BY THE TITLE  
25 INSURANCE COMPANY OR TITLE INSURANCE AGENT TO PERFORM THE

1 CLOSING AND SETTLEMENT SERVICES FOR A REAL ESTATE TRANSACTION.

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

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

8 (ss) A KNOWING FAILURE TO COMPLY WITH RULES REGARDING  
9 NOTICE PROMULGATED IN ACCORDANCE WITH SECTION 10-11-127.

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