



LOUISIANA DEPARTMENT OF INSURANCE
TIMOTHY J. TEMPLE
COMMISSIONER

ADVISORY LETTER 2024-02

TO: TITLE INSURERS AND/OR TITLE INSURANCE PRODUCERS
FROM: TIMOTHY J. TEMPLE, COMMISSIONER OF INSURANCE
RE: AUDITING REQUIREMENTS
DATE: SEPTEMBER 6, 2024

The Louisiana Department of Insurance (LDI) hereby issues Advisory Letter 2024-02 to advise all title insurers and title insurance producers transacting the business of insurance in the state of Louisiana to be mindful of the requirements for Title 22. It has come to the LDI's attention that certain practices of title insurers and title insurance producers may be in violation of [La. R.S. 22:532](#).

[La. R.S. 22:532](#) provides for maintenance, conditions; escrow, closing, or settlement services, deposit accounts by title insurer or its producer. Pursuant to [La. R.S. 22:532\(A\)](#), a title insurer or a title insurance producer may operate in a fiduciary capacity as a closing, escrow, or settlement agent, provided that:

1. All funds deposited with the title insurer or the title insurance producer in connection with any closing, escrow agreement, or security agreement shall be deposited or submitted for collection to a qualified financial institution no later than the close of the next business day following receipt or, in the case where a borrower has a right of rescission, no later than the close of the next business day following the termination of the right of rescission, in accordance with the following requirements:
 - a. All funds collected for the business of title insurance shall be deposited and held in an escrow account as defined herein, in the name of the title insurer or title insurance producer and clearly titled as an escrow, settlement, closing, or trust account.
 - b. The funds shall be property of the person or persons entitled to them under the provisions of the escrow instructions and shall be identified for each depositor in the manner that permits the funds to be identified on an individual basis.
 - c. The funds shall be used only in accordance with the terms of the escrow instructions.
2. Funds held in an escrow account shall be disbursed only pursuant to escrow instructions specifying how and to whom the funds may be disbursed.

3. Funds held in a security agreement for the purpose of clearing, writing over, or insuring over an exception to title shall be disbursed only pursuant to a written agreement specifying:
 - a. The necessary actions to satisfy the obligation under the arrangement.
 - b. The duties of the title insurer or the title insurance producer with respect to disbursement of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositor or his designee.
4. Funds held in connection with a real estate closing where no escrow instructions or security agreement is applicable shall be disbursed in accordance with a signed closing or disbursement statement.

Pursuant to [La. R.S. 22:532\(B\)](#), all disbursements shall be drawn out of an escrow account only if:


1. The funds directly relating to the transaction are in amounts at least equal to the disbursements;
2. The funds are in the possession of the title insurer or title insurance producer; and
3. The funds are in one or more of the following forms:
 - a. Cash.
 - b. Wire transfers unconditionally received by the title insurer or the title insurance producer or the depository of the insurer or producer.
 - c. A depository check, including a certified check, cashier's check, or teller's check as defined by the Expedited Funds Availability Act, 12 U.S.C. 4001 et seq.
 - d. A personal check or other item which has been presented for payment and for which funds have been unconditionally collected by the title insurer or the title insurance producer.
 - e. Credit transfers through the Automated Clearing House which have been deemed available by the depository institution receiving the credit. The credit shall conform to the operating rules established by the National Automated Clearing House Association.

- f. Checks unconditionally issued by mortgage lenders which are subject to periodic audit by the Department of Housing and Urban Development or the secretary of Veterans Affairs, and which are drawn on financial institutions insured by the Federal Deposit Insurance Corporation.
- g. A check or checks, drawn on the trust account or sales escrow account of the real estate broker licensed under [La. R.S. 37:1430 et seq.](#), in an amount up to the amount of the then current guarantee provided by the Real Estate Recovery Fund as established in [La. R.S. 37:1463](#).
- h. A personal or commercial check or checks in an aggregate amount not exceeding two thousand five hundred dollars per closing if the settlement agent making the deposit has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the settlement agent's trust or escrow account.
- i. Checks unconditionally issued by credit unions chartered by applicable state or federal statute.
- j. Checks unconditionally issued by municipalities or political subdivisions of the state of Louisiana.
- k. Checks drawn on the escrow accounts of title insurers or title insurance producers when the title insurance producer issuing the check shall have certified by affidavit the following:
 - i. That funds drawn at the time of the real estate closing and settlement are from an escrow account as defined by [La. R.S. 22:512\(6\)](#).
 - ii. That the funds disbursed are from those funds received by the title insurance producer at the time of the real estate closing and settlement and were in one of the forms enumerated in Paragraph (3) of this Subsection.

Accordingly, all title insurers and title insurance producers are required to comply with [La. R.S. 22:532](#). Please ensure you are compliant with [La. R.S. 22:532](#).

If there are any questions or concerns regarding Advisory Letter 2024-02, please contact the Deputy Commissioner for the Office of Property and Casualty at (225) 342-5203 or electronically at public@ldi.la.gov.

Baton Rouge, Louisiana this 6th day of September 2024.

A handwritten signature in blue ink, appearing to read 'TJ Temple', is written above a horizontal line.

TIMOTHY J. TEMPLE
COMMISSIONER OF INSURANCE