HB 679

Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 679 (Delegate Barkley, *et al.*)
Economic Matters Finance

Insurance - Title Insurers - Title Insurance Commitment and Binders

---

This bill specifies that a title insurance commitment or sample policy form (1) is a statement of the terms and conditions under which the title insurer is willing to issue its policy if it accepts a premium for the policy; (2) is not a representation as to the state of title; and (3) does not constitute an abstract of title. This information must be included in the written notice delivered to a buyer or the buyer's agent or attorney when a title insurer first accepts a premium.

The bill applies only prospectively and may not be applied or interpreted to have any effect on or application to any abstract of title or title insurance commitment completed before its October 1, 2014 effective date.

Fiscal Summary

State Effect: Maryland Insurance Administration (MIA) special fund revenues increase by as much as $2,000 due to rate and form filings submitted by the 16 title insurance companies in the State to incorporate the information required by the bill. Review of the filings can be handled with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines "abstract of title" to mean a representation of the state of title to property based on a review of the records that impart constructive notice relating to title to property in the State. "Abstract of title" includes a report of title and any other written or electronically created or preserved representation of the state of title to property. The bill defines "title insurance commitment" to mean a written statement of the terms and conditions by which a title insurer is willing to issue a policy of title insurance if the title insurer accepts a premium for the policy. "Title insurance commitment" includes a binder.

The rights, duties, and responsibilities applicable to the preparation or issuance of an abstract of title do not apply to the issuance of a title insurance commitment or sample policy form. The bill specifies the disclosure language to be inserted into a title insurance commitment or sample policy form.

Current Law: A title insurance producer (1) underwrites the policy's risk; (2) collects the title insurance policy premiums; (3) issues the title insurance policies; (4) conducts the settlement or closing; and (5) holds funds in escrow for mortgage payoffs, taxes, closing costs, commissions for real estate broker services, and other costs related to settlement or closing.

When a title insurer accepts a premium for a title insurance policy or mortgagee title insurance, the person first accepting the premium must insert the name of each insured in the binder for the title insurance or the title report and, immediately on receipt of the premium, must deliver a specified written notice to the buyer or the buyer's agent or attorney.

Before disbursing any funds, the person required to give this notice must obtain from the buyer, at the time the person delivers the notice, a statement in writing that the buyer has received the notice and whether the buyer wants title insurance. The person required to give the notice must retain the original signed statement of receipt and a copy of the notice for three years and make the documents available for inspection by the Commissioner upon request.

Background: Title insurance policies are marketed as a method of protecting the financial interests of real property owners and mortgage lenders by insuring against losses that may be suffered due to title defects, liens, or other matters relating to real property titles. In most cases, such policies will defend against lawsuits that attack the title of a property, or reimburse the insured for actual monetary losses associated with title issues. Title insurance can usually be purchased to protect any type of interest in real property, including fee-simple ownership, easements, leases, and mortgages. Although nearly all institutional mortgage lenders require title insurance on mortgaged properties in order to protect their investments, some mortgage lenders do not. The lack of title insurance can leave a property owner exposed to costly lawsuits challenging the legitimacy of their ownership.

Title insurance exists as a result of the complex land records system currently in use in most jurisdictions across the country. Unlike the large government-managed land registration systems that are used in other countries (as well as some U.S. cities including Minneapolis and Boston), most state recording systems rely on the person obtaining a property to record their interest following a transaction. Errors in this recording process can lead to a myriad of legal problems for property owners; the courts are the final arbiters of title matters, including liens, in nonregistration land record systems.

Additional Information

Prior Introductions: None.

Cross File: SB 624 (Senator Feldman) - Finance.

Information Source(s): Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2014
mm/ljm Revised - House Third Reader - March 20, 2014

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510