

SENATE BILL 640

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1998 Regular Session
8lr2117
CF 8lr2157

By: **Senator Della**

Introduced and read first time: February 6, 1998

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Title Insurance - Title Plants**

3 FOR the purpose of requiring a title plant to be allowed as an admitted asset for a
4 title insurer for purposes of determining the financial condition of the insurer
5 under certain circumstances; specifying certain costs that may and may not be
6 capitalized costs with reference to the valuation of a title plant under certain
7 circumstances; imposing a certain restriction on the aggregate carrying value of
8 an investment in a title plant under certain circumstances; permitting a title
9 insurer to sell a title plant or certain ownership rights in the title plant under
10 certain circumstances; permitting a title insurer to participate in the ownership,
11 management, and control of a title plant in certain ways under certain
12 circumstances; requiring a title insurer to comply with certain investment
13 requirements under certain circumstances; defining certain terms; and
14 generally relating to title insurers and title plants.

15 BY repealing and reenacting, with amendments,
16 Article - Insurance
17 Section 5-101(b)
18 Annotated Code of Maryland
19 (1997 Volume)

20 BY adding to
21 Article - Insurance
22 Section 5-104
23 Annotated Code of Maryland
24 (1997 Volume)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Insurance

2 5-101.

3 (b) In determining the financial condition of an insurer, the following items
4 related to investments, securities, properties, or loans that the insurer owns shall be
5 allowed as admitted assets:

6 (1) interest that is due or accrued on a bond or evidence of indebtedness
7 that is:

8 (i) not in default; and

9 (ii) not valued on a basis that includes accrued interest;

10 (2) declared and unpaid dividends on shares of stock, unless the amount
11 of those dividends has otherwise been allowed as an asset;

12 (3) interest that is due or accrued on a collateral loan and that does not
13 exceed 1 year's interest on the loan;

14 (4) interest that is due or accrued on deposits in solvent banks, solvent
15 trust companies, or savings and loan associations insured by an instrumentality of
16 the United States or of Canada;

17 (5) if the Commissioner considers that the interest is a collectible asset,
18 interest that is due or accrued on other assets;

19 (6) if the interest has not accrued for more than 18 months, interest that
20 is due or accrued on a mortgage loan, in an amount not more than any amount by
21 which the value of the property, reduced by the amount of delinquent taxes, exceeds
22 the unpaid principal;

23 (7) rent that is due or accrued on real property if:

24 (i) the rent is not past due for more than 3 months; or

25 (ii) the payment is adequately secured by property held in the name
26 of the tenant and conveyed to the insurer as collateral; [and]

27 (8) the unaccrued part of taxes on real property paid before the due date;
28 AND

29 (9) FOR A TITLE INSURER, TITLE PLANTS AS PROVIDED IN § 5-104 OF
30 THIS SUBTITLE.

31 5-104.

32 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
33 INDICATED.

1 (2) "BACKPLANT" MEANS A TITLE PLANT THAT ANTEDATES THE PERIOD
2 OF TIME COVERED BY AN EXISTING TITLE PLANT.

3 (3) "TITLE PLANT" MEANS AN INTEGRATED AND INDEXED COLLECTION
4 OF TITLE RECORDS CONSISTING OF DOCUMENTS, MAPS, SURVEYS, OR ENTRIES
5 AFFECTING TITLE TO REAL PROPERTY OR ANY INTEREST IN OR ENCUMBRANCE ON
6 THE PROPERTY WHICH HAS BEEN FILED OR RECORDED IN THE JURISDICTION FOR
7 WHICH THE TITLE PLANT IS ESTABLISHED OR MAINTAINED.

8 (B) A TITLE PLANT SHALL BE ALLOWED AS AN ADMITTED ASSET FOR A TITLE
9 INSURER UNDER § 5-101 OF THIS SUBTITLE SUBJECT TO THE PROVISIONS OF THIS
10 SECTION.

11 (C) (1) THE COSTS SPECIFIED IN THIS SUBSECTION SHALL BE CAPITALIZED
12 COSTS WITH REFERENCE TO THE VALUATION OF A TITLE PLANT.

13 (2) UNTIL A TITLE PLANT CAN BE USED BY AN INSURER TO CONDUCT
14 TITLE SEARCHES AND ISSUE TITLE INSURANCE POLICIES, THE COSTS INCURRED TO
15 CONSTRUCT A TITLE PLANT, INCLUDING THE COSTS INCURRED TO OBTAIN,
16 ORGANIZE, AND SUMMARIZE HISTORICAL INFORMATION IN AN EFFICIENT AND
17 USEFUL MANNER SHALL BE CAPITALIZED COSTS. THE CAPITALIZED COSTS MUST BE
18 DIRECTLY RELATED TO, AND PROPERLY IDENTIFIED WITH, THE ACTIVITIES
19 NECESSARY TO CONSTRUCT THE TITLE PLANT.

20 (3) (I) THE COSTS TO PURCHASE A TITLE PLANT, INCLUDING A
21 PURCHASE OF AN UNDIVIDED INTEREST IN A TITLE PLANT SHALL BE CAPITALIZED
22 COSTS. THE COSTS SHALL BE RECORDED AT THE COSTS AT THE DATE OF
23 ACQUISITION.

24 (II) FOR A TITLE PLANT ACQUIRED SEPARATELY, THE COSTS SHALL
25 BE MEASURED BY THE FAIR MARKET VALUE OF THE CONSIDERATION GIVEN.

26 (III) FOR A TITLE PLANT ACQUIRED AS PART OF A GROUP OF
27 ASSETS, THE COSTS SHALL BE MEASURED FIRST BY THE FAIR MARKET VALUE OF
28 THE CONSIDERATION GIVEN, AND THEN THE COST SHALL BE ALLOCATED TO THE
29 TITLE PLANT BASED ON THE FAIR MARKET VALUE OF THE TITLE PLANT IN RELATION
30 TO THE TOTAL FAIR MARKET VALUE OF THE GROUP OF ASSETS ACQUIRED.

31 (4) THE COSTS TO PURCHASE OR CONSTRUCT A BACKPLANT MAY BE
32 CAPITALIZED IF THE COSTS ARE PROPERLY IDENTIFIABLE.

33 (D) (1) THE COSTS SPECIFIED IN THIS SUBSECTION MAY NOT BE
34 CAPITALIZED COSTS WITH REFERENCE TO THE VALUATION OF A TITLE PLANT.

35 (2) COSTS INCURRED AFTER A TITLE PLANT IS OPERATIONAL TO:

36 (I) CONVERT THE INFORMATION FROM ONE STORAGE AND
37 RETRIEVAL SYSTEM TO ANOTHER SHALL NOT BE CAPITALIZED COSTS; OR

1 (II) MODIFY OR MODERNIZE THE STORAGE AND RETRIEVAL
2 SYSTEM SHALL NOT BE CAPITALIZED COSTS.

3 (E) THE FOLLOWING COSTS SHALL BE EXPENSED AS INCURRED WITH
4 REFERENCE TO THE VALUATION OF A TITLE PLANT:

5 (1) COSTS INCURRED TO MAINTAIN A TITLE PLANT; AND

6 (2) COSTS INCURRED TO PERFORM TITLE SEARCHES.

7 (F) THE AGGREGATE CARRYING VALUE OF AN INVESTMENT IN A TITLE PLANT
8 MAY NOT EXCEED THE LESSER OF:

9 (1) 20% OF THE ADMITTED ASSETS; OR

10 (2) 40% OF THE SURPLUS TO POLICYHOLDERS.

11 (G) A TITLE INSURER MAY SELL:

12 (1) A TITLE PLANT AND RELINQUISH ALL RIGHTS TO FUTURE USE OF
13 THE TITLE PLANT;

14 (2) AN UNDIVIDED OWNERSHIP INTEREST IN ITS TITLE PLANTS; AND

15 (3) A COPY OF A TITLE PLANT OR THE RIGHT TO USE A TITLE PLANT.

16 (H) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, A TITLE INSURER
17 MAY:

18 (1) ENTER INTO AN AGREEMENT WITH ONE OR MORE OTHER TITLE
19 INSURERS AUTHORIZED TO DO BUSINESS IN THE STATE FOR THE PURPOSE OF
20 JOINTLY PARTICIPATING IN THE OWNERSHIP, MANAGEMENT, AND CONTROL OF A
21 TITLE PLANT SO AS TO SERVE THE NEEDS OF THE INSURERS; OR

22 (2) HOLD STOCK IN A CORPORATION THAT OWNS AND OPERATES A
23 TITLE PLANT FOR THE PURPOSE OF PARTICIPATING IN THE OWNERSHIP,
24 MANAGEMENT, AND CONTROL OF A TITLE PLANT.

25 (I) EXCEPT AS PROVIDED IN THIS SECTION, TITLE INSURERS SHALL COMPLY
26 WITH THE INVESTMENT REQUIREMENTS UNDER SUBTITLE 6 OF THIS TITLE.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1998.