Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 61 (Senator Kelley, *et al.*)
Finance Economic Matters

Commission to Study the Title Insurance Industry in Maryland

This bill establishes a Commission to Study the Title Insurance Industry in Maryland jointly staffed by the Department of Labor, Licensing, and Regulation and the Maryland Insurance Administration, to make recommendations for changes to laws relating to the title insurance industry. The commission is required to report on its findings and recommendations to the Governor and the General Assembly by December 15, 2009.

The bill takes effect July 1, 2008 and terminates June 30, 2010.

Fiscal Summary

State Effect: Any expense reimbursements for members and staffing costs for MIA and DLLR could be handled with the existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: In order to develop recommendations, the commission is required to • review State laws relating to the title insurance industry; • review the mechanisms available to enforce State laws relating to the title insurance industry; • identify title insurance industry issues that affect consumers in Maryland; • examine the rate-setting factors for title insurance premiums; • examine how rates and services in a title plant state compare to those in Maryland; • identify ways to improve consumer education about the title insurance industry; • study whether mechanics' liens on properties scheduled for settlement have an impact on the timeliness of settlements or on title insurance premium rates; • review the time limits, subsequent to closing, for the issuance of title insurance policies; • study affiliated business arrangements among businesses involved with the settlement of real estate transactions to determine the impact of these arrangements on title insurance premium rates; and • study any other issue with significant impact on the title insurance industry.

Commission members may not receive compensation, but are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Current Law/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, typically noninstitutional, 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.

Title insurance regulation and the title insurance industry have come under heightened scrutiny recently, due in large part to a significant rise in property foreclosure rates in many areas, including Maryland. Much of the concern regarding title insurance stems from cases in which title insurers have utilized illegal sales tactics. While property purchasers are free to choose their own title insurance provider, in most cases purchasers defer this decision to their real estate agent or mortgage lender. This has led to situations in which title insurers have sometimes provided kickbacks to these decision makers or developed other conflicts of interest.

MIA interacts with the title insurance industry in a variety of ways. For example, MIA investigates consumer complaints and questions concerning insurance companies operating in Maryland, and resolves insurance appeals and grievances concerning coverage decisions or claims denials. MIA also periodically examines all insurance companies organized under the laws of Maryland, and scrutinizes nonresident companies doing business in the State. Several offices within MIA deal with title insurance, including the Compliance and Enforcement Section, the Consumer Education and Advocacy Section, the Examining and Auditing Section, and the Insurance Fraud Division.

DLLR includes the Maryland Office of Financial Regulation, which is the primary regulator for many State-chartered financial institutions, including banks, credit unions, and trust companies, as well as State-licensed financial entities such as consumer finance companies, mortgage lenders, and brokers. The office is responsible for supervising the activities of these businesses to ensure compliance with the financial institution laws and regulations of Maryland. Supervision includes periodic on-site examinations as well as off-site monitoring programs. The office also oversees licensing requirements for mortgage originators and provides continuing education for mortgage lenders.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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Analysis by: Alexander M. Rzasa

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