

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 900
Finance

(Senator Astle, *et al.*)

Economic Matters

Title Insurers - Required Reserves, Capital Stock, and Surplus

This bill requires a title insurer domiciled in the State to have and maintain a specified amount of paid-in capital stock and a minimum amount of surplus. The bill also decreases the minimum statutory reserves or unearned premium reserves that must be maintained by a title insurer from 10% of the title insurance risk premiums written per calendar year to 8% of the title insurance risk premiums written per calendar year.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: None. The bill does not affect State finances or operations.

Local Effect: None. The bill does not affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Bill Summary:

Capital Stock and Surplus Requirements: Notwithstanding other provisions of law, a title insurer domiciled in the State must have and maintain paid-in capital stock in the amount of \$500,000 as of July 1, 2010; \$625,000 as of July 1, 2011; and \$750,000 as of July 1, 2012, and annually thereafter. A title insurer domiciled in the State must also maintain minimum surplus in the same amounts as of July 1 of each respective year.

Required Reserves: The bill also requires a title insurer to calculate retroactively adjusted statutory reserves or unearned premium reserves on an aggregate basis on January 1, 2010, instead of January 1, 2001. The adjusted aggregate reserve must be recalculated as if a specified formula had been in effect for the 20 years preceding January 1, 2010. The bill requires any excess reserves that result from the recalculated reserves formula to be released over a three-year period beginning in calendar 2010.

Unearned premium reserves may not be released if the release would result in the aggregate reserve falling below an amount required by law. Unearned premiums that may not be released are considered unearned premium reserves and may not be considered supplemental reserves.

Current Law: In determining the financial condition of a title insurer, capital stock and liabilities to be charged against the insurer's assets include:

- the amount of any capital stock outstanding;
- the estimated amount that is needed to pay all of the insurer's losses and claims incurred on or before the required annual statement date and the expenses of adjusting or settling those losses and claims;
- any additional reserves that the Commissioner reasonably requires for title insurance;
- taxes, expenses, and other obligations that are due or have accrued by the required annual statement date; and
- the amount of reserves equal to the unearned gross premiums charged on policies in force, computed in accordance with the Insurance Article.

In addition to adequate reserves for outstanding losses, a title insurer must maintain a statutory reserve of at least 10% of the total amount of the risk premiums written in the calendar year for title insurance contracts. During each of the 20 years following the year in which the contract was issued, the applicable reserve must be reduced by a specified formula, which requires an initial 35% decrease of the aggregate sum on the next July 1.

Title insurers must calculate retroactive adjusted statutory reserves or unearned premium reserves on an aggregate basis on January 1, 2001. The adjusted aggregate reserve must be recalculated as if the specified reduction formula had been in effect during the 20 years preceding January 1, 2001. The sum of any excess reserves that result from a recalculation must be released over a six-year period in equal installments per year beginning with the 2001 calendar year.

Each title insurer must file with its required annual statement a specified certification as to the adequacy of the title insurer's reserves. The actuarial certification must conform to

the National Association of Insurance Commissioners' annual statement instructions for title insurers.

Background: Chapters 356 and 357 of 2008 created the Commission to Study the Title Insurance Industry in Maryland. The commission was 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 and the effectiveness of those mechanisms;
- identify title insurance issues that affect State consumers;
- 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 title insurance producers, builders, title insurance companies, realtors, lenders, and other businesses involved with the settlement of real estate transactions to determine the impact of those arrangements on title insurance rates; and
- study any other issue with significant impact on the title insurance industry.

In addition, the commission was required by Chapter 361 of 2009 to examine the adequacy of the blanket surety bond or letter of credit required under the Insurance Article and the impact of raising the bonding requirements on title insurance producers. The commission held eight meetings, including two public hearings, and solicited testimony and presentations to fully study each of its charges. Although the commission made seven recommendations, this bill does not stem from the commission's recommended changes to State title insurance laws.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 12, 2010
mam/ljm Revised - Senate Third Reader - April 2, 2010

Analysis by: Jason F. Weintraub

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