

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

House Bill 717 (Delegate Braveboy, *et al.*)  
Environmental Matters

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Sales of Residential Real Property - Right of Purchaser to Select Title Insurance Company

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This bill specifically authorizes a purchaser of residential real property to choose from any title insurance company to provide title insurance for the residential real property. A person involved in the sale of residential real property may not require, directly or indirectly, as a condition to the sale that the purchaser obtain title insurance from a specific title insurance company. A person in violation of the bill is liable to the purchaser in an amount three times the amount paid to obtain title insurance.

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Fiscal Summary

**State Effect:** The bill does not materially affect State finances or operations.

**Local Effect:** The bill does not materially affect local government finances or operations.

**Small Business Effect:** Potential minimal.

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Analysis

**Current Law/Background:** Section 9 of the federal Real Estate Settlement Procedures Act (RESPA) prohibits a home purchaser from being required to purchase title insurance from a particular company as a condition of the sale. Purchasers may sue a violator for an amount equal to three times all charges made for the title insurance.

Generally, before a transfer of real property, a title search is conducted to identify any prior owners or outstanding liens, easements, or other encumbrances. Title insurance

protects against any defect not discovered by the title search. It is unique among insurance policies because it protects against events which occurred prior to the policy.

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.

A title insurance producer must obtain a license from the Maryland Insurance Administration (MIA) and an appointment from an insurer and is subject to the regulation and examination of MIA. MIA conducts market examinations every five years to verify insurer solvency. Other protections include an annual on-site review of each title insurance producer's underwriting, claims, and escrow practices and the requirement that resident title insurers participate in the Property and Casualty Insurance Guaranty Corporation. According to an MIA report on the title insurance industry, there were over 7,000 title insurance producers and 25 title insurers authorized to issue policies in Maryland in 2009.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), United States Code, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - March 9, 2011  
ncs/kdm

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