

MBIA Letter of Support with Amendments SB 962.pdf

Uploaded by: Lori Graf

Position: FAV

March 6, 2024

The Honorable William Smith
Chair, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD, 21401

RE: SB 962 - Real Property - Contracts of Sale - Title Report Requirement

Dear Chairman Smith,

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **SB 962 - Real Property - Contracts of Sale - Title Report Requirement**. **MBIA submits a position of Favorable w/ Amendments.**

SB 962 would require the require the seller of any real property to provide a title report to the buyer prior to closing; permitting a buyer to rescind a contract of sale for real property under certain circumstances. While we appreciate the intent of providing more transparency for the buyer, certain provisions such as a complete search of public records covering a period of 60 years and in that period if any of the defects as listed in the bill existed at one point in that time period the sale of the property could be rescinded.

We support the proposed amendment to establish a task force to Study Property Fraud Prevention and to study information, research, initiatives, and policies regarding property fraud prevention; and generally relating to the Task Force to Study Property Fraud Prevention.

For these reasons, MBIA respectfully urges the Committee to adopt the proposed amendment and give this measure a **favorable with amendments** report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Judicial Proceedings Committee

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Uploaded by: Justin Ready

Position: FWA



SB0962/903328/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

06 MAR 24
15:39:50

BY: Senator Ready
(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 962
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “**Task Force to Study Property Fraud Prevention**”; strike beginning with “requiring” in line 3 down through “reports” in line 6 and substitute “establishing the Task Force to Study Property Fraud Prevention; and generally relating to a task force to study property fraud prevention”; and strike in their entirety lines 7 through 26, inclusive.

AMENDMENT NO. 2

On page 2, in line 2, strike “the Laws of Maryland read as follows”.

On pages 2 and 3, strike in their entirety the lines beginning with line 3 on page 2 through line 8 on page 3, inclusive, and substitute:

- “(a) There is a Task Force to Study Property Fraud Prevention.
- (b) The Task Force consists of the following members:
- (1) one member of the Senate of Maryland, appointed by the President of the Senate;
 - (2) one member of the House of Delegates, appointed by the Speaker of the House;
 - (3) the Executive Director of the Maryland Real Estate Commission, or the Executive Director's designee;

(4) the Chair of the Conference of Circuit Court Clerks, or the Chair's designee; and

(5) the following members, appointed by the Governor:

(i) one representative of the Maryland Building Industry Association;

(ii) one representative of the Maryland Association of Realtors;

(iii) one representative of the Maryland Land Title Association;

(iv) one representative from the Maryland Bankers Association;
and

(v) one representative of NAIOP, the Commercial Real Estate Development Association.

(c) The Governor shall designate the chair of the Task Force.

(d) The Maryland Real Estate Commission shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) conduct a survey to determine the availability of information related to property fraud and property fraud prevention;

(2) conduct a survey of property fraud prevention programs or systems offered by:

(i) local governments in the State; and

(ii) other states and local governments in other states;

(3) evaluate:

(i) the nature and extent of property fraud;

(ii) whether there has been an increase in property fraud in recent years; and

(iii) the effectiveness of prevention programs and systems offered by:

1. local governments in the State; and

2. other states and local governments in other states; and

(4) develop recommendations on property fraud prevention programs or systems that could be offered by the State.

(g) (1) On or before December 1, 2024, the Task Force shall report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly its findings and recommendations, including:

(i) a list of sources reviewed and experts consulted;

(Over)

- (ii) findings on the current nature and extent of property fraud;
- (iii) actions, interventions, and policies that could reduce property fraud; and
- (iv) recommended legislation to be introduced for the 2025 legislative session.

(2) On or before December 1, 2025, the Task Force shall report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly its findings and recommendations, including:

- (i) a list of sources reviewed and experts consulted;
- (ii) findings on the current nature and extent of property fraud;
- (iii) actions, interventions, and policies that could reduce property fraud; and
- (iv) recommended legislation to be introduced for the 2026 legislative session.”;

in line 10, strike “October” and substitute “July”; and in the same line, after the period insert “It shall remain effective for a period of 2 years and, at the end of June 30, 2026, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.”.

SB 962 Task Force to Study Property Fraud Preventi

Uploaded by: Justin Ready

Position: FWA

JUSTIN READY
Legislative District 5
Carroll County

—
MINORITY WHIP
—
Finance Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 7, 2024

Senator Justin Ready
SB 962 Task Force to Study Property Tax Fraud

Chair Smith, Vice Waldsteicher, and members of the Judicial Proceedings Committee:

Senate Bill 962 was requested by the Carroll County Clerk of Court. As amended it will create a task force to study the growing problem of property fraud that we've seen throughout the country and increasingly in the State of Maryland. Unfortunately, there are many bad actors out there who have found loopholes in the system and have been able to commit deed theft.

Deed theft occurs when the title to a home is taken without the homeowner's knowledge or approval. The most common means is through forgery, when a signature on a deed, which is then filed with a county clerk or registrar. Homeowners also can be duped into signing a deed over to a scammer.

The original bill as drafted required a seller to provide a title report to a buyer but after feedback from the industry, it was felt that more thought needed to be put into this legislation and it was agreed that we would instead form a workgroup to address this issue.

I respectfully request a favorable report on Senate Bill 962.

Testimony SB0962 Poyer 03 01 2024.pdf

Uploaded by: Scott Poyer

Position: FWA

SB0962 Real Property - Contracts of Sale - Title Report Requirement
Judicial Proceedings – March 7, 2024
Sponsor: Senator Justin Ready
Position: Favorable with Amendments

Testimony of Scott Poyer, Clerk of the Circuit Court, Anne Arundel County

Thank you, Chair Smith, Vice Chair Waldstreicher, and members of the committee, for this opportunity to testify on Senate Bill 962. For the record, my name is Scott Poyer, Clerk of the Circuit Court for Anne Arundel County. I am also testifying on behalf of the Circuit Court Clerks' Association, representing the 24 elected Clerks throughout the State of Maryland.

The Clerks of the Circuit Court have reviewed the bill and met with the sponsor to recommend amendments for consideration. The Clerks believe it is important to do more to prevent property fraud, which is becoming a growing problem in Maryland and nationally. To this end we have recommended amendments to form a property fraud prevention task force to coordinate efforts among the many parties involved in this issue.

With the recommended amendments the clerks ask for a favorable report on SB 962. Thank you for the opportunity to comment, and I am available if you have any questions.

SB 962_realtors_fwa.pdf

Uploaded by: William Castelli

Position: FWA



House Bill 1196 – Real Property – Contracts of Sale – Title Report Requirement

Position: Favorable with Amendments

The Maryland REALTORS® support SB 962 with the sponsor amendments which will create a Task Force to Study Property Fraud Prevention.

In 2022, the FBI estimated that title fraud resulted in the loss of nearly \$400 million dollars. Title fraud can take different forms. Sometimes scammers forge a deed and then transfer their fraudulent ownership in the home to an unsuspecting buyer or they will take a home equity loan out on the property. Other times, scammers will steal an owner's identity, find a vacant home or land, and then transfer the property to an unknowing buyer.

Unfortunately, Maryland homebuyers and property owners have been victims of these scammers. Just in the last few months, there has been an unimproved parcel of land sold in Carroll County and a \$900,000 home sold on the Eastern Shore by people who did not own the land and walked away with the proceeds of sale from the unsuspecting purchasers.

As amended, SB 962 will survey best practices, laws and efforts across the country to combat this crime and make a report to the Governor and General Assembly. These crimes can be hard to identify and will take the participation of the real estate industry, the Clerks of the Court, and law enforcement agencies to address it. The REALTORS® encourage a favorable report.

**For more information contact lisa.may@mdrealtor.org or
christa.mcgee@mdrealtor.org**

SB0962_MMBBA_McKay_UNF.pdf

Uploaded by: DENNIS RASMUSSEN

Position: UNF



Testimony offered on behalf of:
MARYLAND MORTGAGE BANKERS & BROKERS ASSOCIATION, INC.

IN OPPOSITION TO:

SB0962 – Real Property – Contracts of Sale – Title Report Requirement

Judicial Proceedings Committee

Hearing – 03/07/2024 at 1:00PM

The Maryland Mortgage Bankers and Brokers Association, Inc. (“MMBBA”) OPPOSES SENATE BILL 0962.

SB0962 would allow buyers to back out of purchase transactions up to five (5) days **AFTER CLOSING** on residential real estate transactions. This would be an unmitigated disaster for residential mortgage lending and would turn Maryland into a pariah State among mortgage lenders.

Unwinding a purchase transaction is a logistical nightmare. Five days after closing, the buyer has moved into the home and the seller has not only received the proceeds from the sale but may have already used those proceeds in another real estate purchase.

Imagine a situation where a buyer invokes this clause. The seller would undoubtedly seek legal counsel, and the transaction would be in a state of limbo until resolved. The buyer would not feel obligated to make mortgage payments, and the mortgage lender, after a time, would begin foreclosure proceedings, adding further to the problems.

This is just one surface-level example of a very real and very serious problem that this legislation would cause.

For these reasons, The MMBBA urges an **UNFAVORABLE REPORT on Senate Bill 0962.**

Respectfully submitted,

Brendan McKay

Co-Chair, MMBBA Legislative Committee
bmckay@mckaymtg.com – (301) 520-5677

MLTA SB 962 Written Testimony--Oppose.pdf

Uploaded by: Mark Glazer

Position: UNF



1783 Forest Drive, Suite 305, Annapolis, MD 21401 | (443) 620-4408 ph. | (443) 458-9437 fax

To: Members of the Judicial Proceedings Committee
From: MLTA Legislative Committee
Date: March 6, 2024 [Hearing date: March 7, 2024]
Subject: **SB 962 - Real Property - Contracts of Sale - Title Report Requirement**
Position: **Opposed**

The Maryland Land Title Association (MLTA) is a professional organization working on behalf of title industry service providers and consumers, and is comprised of agents, abstractors, attorneys, and underwriters. **MLTA OPPOSES SB 962 - Real Property - Contracts of Sale - Title Report Requirement.**

The proposed bill would add require that the Seller of any real property located in the state provide the buyer with a title report and affidavit by the person making the title search. The buyer is then given until 5 days *after closing* to rescind the contract. Once a real property sale is consummated by the delivery of a deed in exchange for payment, the contract is completed, and there is no longer a contract to rescind. Additionally, such rescission would be absolutely unworkable, and would require lenders, title insurance underwriters, and all others involved in a real estate transaction to unwind the transaction after funds have been released and distributed. And if seller has already use the proceeds of the sale to purchase another property, which is almost always the case, it may not even be possible. Closing costs in the state would greatly increase as the risk of this occurring is priced into the real estate closing process.

Among the reasons permitting a buyer to rescind a real estate purchase contract are the existence of a lien, which would be any property that has a deed of trust on it, *even if such lien were to be paid at settlement and released*. In essence, this bill would make contracts to purchase real property meaningless and subject to rescission up to 5 days post sale.

Buyers are able to protect themselves from the problems this bill seems aimed at by the purchase of title insurance.

MLTA adopts and incorporates the written testimony of the Maryland State Bar Association into MLTA's opposition to this bill.

The Maryland Land Title Association asks that you return an **UNFAVORABLE recommendation** for Senate Bill 962 - Real Property - Contracts of Sale - Title Report Requirement.

SB 962 [Opposition 2024].pdf

Uploaded by: William O'Connell

Position: UNF

To: Judicial Proceedings Committee (Senate)

From: Legislative Committee of the Real Property Section

Date: March 6, 2024 [Hearing Date March 7, 2024]

Subject: **SB 962 – Real Property - Contracts of Sale - Title Report Requirement**

Position: **Unfavorable unless Amended**

The Real Property Section of the Maryland State Bar Association (MSBA) **opposes SB 962 – Real Property - Contracts of Sale - Title Report Requirement** in its present form.

We understand that there may be an effort to turn this bill into a fraud prevention task force. We support such an endeavor but would like to add a member of the Real Property Section of the MSBA as a member of Task Force to Study Property Fraud Prevention.

In its present form, this bill, if enacted, would require the seller of any real property in the state to provide the buyer with a “title report” prior to closing “that is supported by an affidavit by the person making the title search stating that a complete search of the public records covering a period of not less than 60 years has been performed in accordance with generally accepted standards of title examination.” And it would allow a buyer to rescind the contract *up to five days after the closing* if the title report discloses certain matters.

The proponents of the bill are apparently trying to prevent land fraud transactions where an imposter represents that they are the owner of the property who then sells it to an unsuspecting buyer who finds out after closing that the true owner knew nothing of the transaction and never agreed to sell.

Seller impersonation is an ever-growing problem but requiring the “seller” to produce a “title report” will not solve the problem. If the “seller” is willing to submit fake IDs and go through all the trouble of perpetrating the fraud, adding a fake title report or even a correct title report will simply confirm the “seller’s” identity and may even allow the bad actor to bolster their “*bona fides*”.

All contracts give the buyer the opportunity to obtain a title search and decline to pursue the purchase in the event the seller cannot cure a title defect timely. And in connection with residential transactions, last year’s Anthony Moorman bill (i.e., RP § 10-803) already includes “Deeds and titles” which would allow the buyer to terminate the contract prior to closing and

receive their deposit back. The problem the bill seeks to solve is why all buyers have the option to purchase title insurance.

Buyers who want protection from seller impersonation or other unauthorized sale of real property, should be encouraged to purchase title insurance. The Standard Owner's policy that all title insurers issue states:

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, [Blank Title Insurance Company], a [Blank] corporation (the "Company"), insures as of the Date of Policy and, to the extent stated in Covered Risks 9 and 10, after the Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. The Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. Covered Risk 2 *includes, but is not limited to*, insurance against loss from:
 - a. a defect in the Title caused by:
 - i. *forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;*
 - ii. *the failure of a person or Entity to have authorized a transfer or conveyance;*

In addition to not solving the problem, there are many problems with this bill. First, the phrase "public records" is not defined. Second, while the buyer would have the "title report" *prior* to closing, it would allow the buyer to rescind the contract *after* the buyer decided to complete the transaction with full knowledge of the contents of the "title report."

Third, where would a seller obtain a "title report" and affidavit? Will the seller be able to find a title searcher who is willing to provide a "title report" to a seller knowing that it will be sent to an unlimited amount of people and relied on by the eventual buyer? Are abstractors willing to accept such a liability and become *de facto* title insurers?

Fourth, in a residential transaction, it is the buyer who selects the title company who in turn orders a title search on behalf of the title insurance underwriter who will make an offer to insure based on the results of the search of the records designed to impart constructive notice as well as other matters. In a commercial transaction, typically the buyer is given time to conduct its own research on the property which includes a determination as to whether the title is marketable.

Fourth, what is the purpose of providing the buyer with a "title report"? What if the "title report" has a mistake in it? The records related to real property are complicated. That is why prudent buyers purchase title insurance.

For these reasons, the Real Property Section Counsel of the MSBA **opposes Senate Bill 962 unless amended**. Thank you for your consideration.