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**TO:** Senate – Judicial Proceedings Committee

**FROM:** Real Property Section of the MSBA

**RE:** SB 723 – Real Property - Deeds - Recordation Requirements

**Hearing Date:** March 5, 2026

**POSITION:** Unfavorable

**DATE:** March 3, 2026

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The Real Property Section of the MSBA seeks an unfavorable report from the Committee on SB 723 – Real Property - Deeds - Recordation Requirements because its passage would cause more problems than it solves at this point.

The proposed bill seeks to require a deed presented for recording effecting a change in ownership of residential property to contain the name of the title insurer and the policy number if the purchaser or other party has obtained title insurance. There are many problems with the proposal.

First, the bill does not define who this “other party” might be. There are only two kinds of title insurance policies that get issued in a real property transaction. Purchasers can purchase an owner’s policy and lenders who make loans secured by real property may obtain a loan policy. If the purchaser does not obtain title insurance, whose policy information is supposed to be placed on the deed vesting title in the purchaser?

Second, the proposed requirement is in the wrong place in the code. It should not be a recording requirement. How would the clerk know if title insurance was purchased by the grantee on the deed? Many instruments are submitted electronically or by third party recorders employed by title companies or attorneys. There simply is no way for the clerk or finance office employee to determine whether the deed submitted for recording complied with the statute. We already have enough rejected deeds and recording

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delays in the State. Adding another recording requirement for which the clerk has no way to know if compliance was met seems to place the clerks in an untenable position. Are the clerks going to have to ask for “proof” that no owner’s policy was issued? If the Committee thinks it’s a good idea to require a deed to identify the insurer of the title to the purchaser’s property, it should be placed in the producer section of the insurance code or the title insurance section of the insurance code, and such information should not be required for recording.

Third, including the policy number on a publicly available document is a bad idea. Aside from privacy issues and the potential to use that information to perpetuate fraud, what if the insured owner does not want that information made publicly available? We can easily see how the criminal element who is working overtime to impersonate real people in order to “sell” their property out from under them by fabricating a policy using the publicly available number to convince others that they are someone they are not. It is hard enough to combat this type of fraud already. We don’t need to make it harder. In addition, many policies get issued after the deed is on record so the recording information can be inserted in the policy. Thus, the policy number may not be known at the time of recording.

Fourth, what if the information is wrong? How does that help anyone? Most people use a form deed that is stored in a computer where the names, dates, estates, and property descriptions get changed for each transaction. Many title producers issue policies from several title insurance underwriters. Often the identity of the title insurer is wrong because someone forgot to modify the form. As a result, any information on the deed cannot form the basis of “proof of insurance.” And because owners insurance is optional, some purchasers decline to purchase it at the table after the deed has already been prepared. All underwriters have “reissue” rates that apply when the seller has a policy. But all the rate filings generally require proof in the form of the policy before the rate applies. We can easily see how the proposed requirement will turn into arguments that it is such proof, even when it is not true. Is the purpose of the bill to allow some who fail to keep their policy or those who don’t purchase a policy to use the deed as “proof of Insurance”?

Finally, to the extent that the insured owner is unable to locate a copy of their policy, the settlement company who would have issued the policy is already identified in the recorded documents (i.e. either the deed or intake sheet or both). Thus, the insured can simply reach out to the company that issued it.

We understand that title insurance, unlike other insurance, is a one-time purchase and that the insured may misplace the policy or the policy may accidentally get destroyed as years go by. We are willing to work with the bill Sponsor to alleviate the concerns in these areas.

For these reasons the MSBA Real Property Section respectfully requests that you return an unfavorable report for Senate Bill 723. Thank you for your consideration. Please contact Bill O’Connell at [bill.oconnell@fnf.com](mailto:bill.oconnell@fnf.com) or 410-992-2324 if you have any questions or need further assistance.