



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: RA DP 5-0-0-1

HB 2738: DIFI; title companies; recorded documents

Sponsor: Representative Hendrix, LD 14

House Engrossed

Overview

Prescribes the responsibility of the title insurance agent and the title insurer as it relates to recorded documents.

History

The Arizona Department of Insurance and Financial Institutions (DIFI) licenses and regulates the title insurance industry as part of its duties. [DIFI](#) stipulates that a business enterprise must be formed as a corporation or limited liability company and must be licensed in Arizona to solicit business, collect premiums or countersign policies on a title insurer's behalf. Additionally, a title insurance agent is a stock corporation or limited liability company authorized by a title insurer to solicit insurance and collect premiums for insurance that covers owners of real property or others with interest in the real property against loss or damage suffered by liens, encumbrances, defects or unmarketability of the title to the property ([A.R.S. § 20-1562](#)).

Provisions

1. States that a *title insurance agent* is solely responsible for all recorded documents related to a property transaction. (Sec. 1)
2. Prohibits a *title insurer* from entering into any agreement with an insurance applicant, owner or occupant of real property for which insurance has already been or may be issued in the future, to do any of the following as it relates to the real property:
 - a) make any warranties about the existence or validity of recorded documents;
 - b) warrant the accuracy of any abstract of title;
 - c) confirm that any *preliminary report, commitment or binder* is an accurate or complete list of recorded documents affecting the real property;
 - d) insure, guarantee or indemnify the title insurer against loss or damage as outlined;
 - e) guarantee the correctness of searches relating to the real property title. (Sec. 2)
3. Stipulates that a *title insurer* who violates the provisions of this bill is liable for reasonable attorney's fees in any court action or arbitration proceeding. (Sec. 2)
4. Specifies that an agreement obtained in violation of these provisions is deemed to be against public policy and is void and unenforceable. (Sec. 2)
5. Makes technical changes. (Sec. 1, 2)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note