



ARIZONA STATE SENATE
Fifty-Sixth Legislature, Second Regular Session

FACT SHEET FOR H.B. 2738

DIFI; title companies; recorded documents

Purpose

Assigns responsibility for recording documents related to the transaction of property to title insurance agents. Prohibits title insurers from entering into any agreement that shifts liability for its errors or omissions to the insured.

Background

The Director of the Department of Insurance and Financial Institutions (DIFI) oversees and administers licensure for title insurance agents. A title insurance agent license applicant must apply on a form prescribed by the Director of DIFI and submit all applicable fees. Title insurance agents' licenses must be renewed quadrennially.

Every title insurer must file with the Director of DIFI all forms of title policies and other contracts of title insurance before issuance of any policy or contract. A title insurance rating organization may make filings on behalf of all of its members or subscribers. A title insurer may not issue any policy or contract until 30 days after the policy or contract has been filed with the Director of DIFI. A policy or contract is approved 30 days after filing unless the director has issued, within the 30-day period, an order affirmatively approving or disapproving the form. The Director of DIFI may extend the period for up to 15 additional days to complete the review of the filing by giving notice within the 30-day period to the title insurer.

Forms of title policies and other contracts of insurance must specifically exclude: 1) reinsurance contracts or agreements; 2) all specific defects in title that may be ascertained from an examination of the risk and excepted in reports, binders or policies, together with any affirmative assurance of the title insurer with respect to the defects whether given by endorsement or otherwise; and 3) further exceptions from coverage by reason of limitations on the examination of the risk imposed by an applicant for insurance or through failure of an applicant for insurance to provide the date requisite to a judgment of insurability.

Title insurance insures, guarantees or indemnifies owners of real property or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, defects in or the unmarketability of the title to such property, guaranteeing, warranting or otherwise insuring the correctness of searches relating to the title to real property, or doing any business in substance equivalent to any of the foregoing (A.R.S. §§ [20-1562](#); [20-1580](#) and [20-1591](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Assigns title insurance agents the responsibility to record documents related to the transaction of property.
2. Prohibits a title insurer or its agents from entering into any agreement with an applicant for insurance, or with an owner or occupant of real property for which insurance has been or may be issued, that shifts liability for its errors or omissions to the insured.
3. Voids any contract or provision in a contract that shifts liability for errors or omissions to the insured as a matter of public policy.
4. Makes technical changes.
5. Becomes effective on the general effective date.

House Action

RA	2/14/24	DP	5-0-0-1
3 rd Read	2/29/24		37-22-0-0-1

Prepared by Senate Research
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MG/AB/cs