

House Bill No. 75

An act relating to title insurance; amending ss. 624.608 and 627.7711, F.S.; revising the definitions of title insurance and related and primary title services; amending s. 627.7845, F.S.; revising requirements for title insurers to issue title insurance; revising requirements for title insurers to preserve and retain certain evidence of searches and examinations; requiring the Office of Insurance Regulation to approve title insurance forms and rates for certain title insurance; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 624.608, Florida Statutes, is amended to read:

624.608 “Title insurance” defined.—“Title insurance” is:

(1) Insurance of owners of real property or others having an interest in real property or contractual interest derived therefrom, or liens or encumbrances on real property, against loss by encumbrance, or defective titles, or invalidity, or adverse claim to title; or

(2) Insurance of owners and secured parties of the existence, attachment, perfection, and priority of security interests in personal property under the Uniform Commercial Code.

Section 2. Subsection (1) of section 627.7711, Florida Statutes, is amended to read:

627.7711 Definitions.—As used in this part, the term:

(1)(a) “Related title services” means services performed by a title insurer or title insurance agent or agency, in the agent’s or agency’s capacity as such, including, but not limited to, preparing or obtaining a title search, examining title, examining searches of the records of a Uniform Commercial Code filing office and such other information as may be necessary, preparing documents necessary to close the transaction, conducting the closing, or handling the disbursing of funds related to the closing in a real estate closing transaction in which a title insurance commitment or policy is to be issued. The premium, together with the charge for related title services, constitutes the regular title insurance premium.

(b) “Primary title services” means determining insurability in accordance with sound underwriting practices based upon evaluation of a reasonable search and examination of the title or the records of a Uniform Commercial Code filing office and such other information as may be necessary, determination and clearance of underwriting objections and requirements to eliminate risk, preparation and issuance of a title insurance commitment setting forth the requirements to insure, and preparation and issuance of the policy.

Section 3. Subsections (1) and (2) of section 627.7845, Florida Statutes, are amended to read:

627.7845 Determination of insurability required; preservation of evidence of title search and examination.—

(1) A title insurer may not issue a title insurance commitment, endorsement, or title insurance policy until the title insurer has caused to be conducted a reasonable search and examination of the title or the records of a Uniform Commercial Code filing office, as applicable, has examined and of such other information as may be necessary, and has caused to be made a determination of insurability of title or the existence, attachments, perfection, and priority of a Uniform Commercial Code security interest, including endorsement coverages, in accordance with sound underwriting practices.

(2) The title insurer shall cause the evidence of the reasonable search and examination of the title or the records of a Uniform Commercial Code filing office to be preserved and retained in its files or in the files of its title insurance agent or agency for a period of not less than 7 years after the title insurance commitment, title insurance policy, or guarantee of title was issued. The title insurer or agent or agency must produce the evidence required to be maintained by this subsection at its offices upon the demand of the office. Instead of retaining the original evidence, the title insurer or the title insurance agent or agency may, in the regular course of business, establish a system under which all or part of the evidence is recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for reproducing the original.

Section 4. The Office of Insurance Regulation shall approve the title insurance form and corresponding rate for the insurance described in s. 624.608(2), Florida Statutes, not later than January 1, 2006.

Section 5. This section and section 4 shall take effect upon this act becoming a law. Sections 1, 2, and 3 shall take effect upon the date the Office of Insurance Regulation approves the title insurance form and corresponding rate for the insurance provided in s. 624.608(2), Florida Statutes as amended by this act.

Approved by the Governor June 8, 2005.

Filed in Office Secretary of State June 8, 2005.