

Senate Engrossed House Bill

~~DIFI; title companies; recorded documents~~
(now: title insurers; instruments; enforceability)

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2738

AN ACT

AMENDING SECTION 20-1591, ARIZONA REVISED STATUTES; RELATING TO TITLE INSURERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1591, Arizona Revised Statutes, is amended to
3 read:

4 20-1591. Forms of policies and other contracts of title
5 insurance; approval or disapproval

6 A. Every title insurer shall file with the director all forms of
7 title policies and other contracts of title insurance before issuance of
8 any policy or contract. A title insurance rating organization may make
9 filings on behalf of all of its members or subscribers. A title insurer
10 shall not issue any policy or contract until thirty days after the policy
11 or contract has been filed with the director. A policy or contract is
12 approved thirty days after filing unless the director has issued, within
13 the ~~thirty-day~~ THIRTY-DAY period, an order affirmatively approving or
14 disapproving the form. On written notice given within the ~~thirty-day~~
15 THIRTY-DAY period to the person making the filing, the director may extend
16 the period for up to fifteen additional days to enable the director to
17 complete the review of the filing.

18 B. Forms of title policies and other contracts of insurance, as
19 used in this section, shall specifically exclude:

20 1. Reinsurance contracts or agreements. ~~;~~

21 2. All specific defects in title that may be ascertained from an
22 examination of the risk and excepted in reports, binders or policies,
23 together with any affirmative assurance of the title insurer with respect
24 to the defects whether given by endorsement or otherwise. ~~;~~ ~~and~~

25 3. Further exceptions from coverage by reason of limitations on the
26 examination of the risk imposed by an applicant for insurance or through
27 failure of an applicant for insurance to provide the date requisite to a
28 judgment of insurability.

29 C. AN AGREEMENT BY A PERSON OTHER THAN THE INSURED TO INDEMNIFY OR
30 HOLD HARMLESS A TITLE INSURER FROM RISKS THAT ARISE FROM AN INSTRUMENT
31 THAT IS OR BECOMES PROPERLY RECORDED AND INDEXED IN THE OFFICE OF THE
32 COUNTY RECORDER IS ONLY ENFORCEABLE IF THE AGREEMENT IS IN WRITING AND ANY
33 OF THE FOLLOWING APPLIES:

34 1. THE INSTRUMENT WAS NOT OF RECORD AT THE TIME THE AGREEMENT WAS
35 EXECUTED.

36 2. THE INSTRUMENT IS SPECIFICALLY DESCRIBED IN THE AGREEMENT.

37 3. THE INSTRUMENT IS SHOWN AS AN EXCEPTION FROM COVERAGE IN THE
38 TITLE INSURANCE POLICY.

39 4. THE INSTRUMENT IS OR SECURES A MONETARY OBLIGATION OF THE PERSON
40 AND REMAINS AN OUTSTANDING AND ENFORCEABLE DEBT. AN IMPROVEMENT DISTRICT
41 ASSESSMENT IS NOT A MONETARY OBLIGATION OF THE PERSON.

42 5. THE AGREEMENT INDEMNIFIES FOR OR HOLDS HARMLESS AGAINST LIENS
43 THAT ARISE FROM WORK OR LABOR DONE OR PROFESSIONAL SERVICES, MATERIALS,
44 MACHINERY, FIXTURES OR TOOLS FURNISHED ON THE INSURED PROPERTY.

1 D. SUBSECTION C OF THIS SECTION DOES NOT AFFECT THE ENFORCEABILITY
2 OF TITLE WARRANTIES PROVIDED BY A PERSON IN A DEED OR MORTGAGE.

3 E. AN AGREEMENT PURSUANT TO SUBSECTION C OF THIS SECTION MUST BE
4 SEPARATE FROM AND NOT INCLUDED IN THE TITLE INSURANCE POLICY.

5 Sec. 2. Legislative intent

6 The legislature intends that the amendments to section 20-1591,
7 Arizona Revised Statutes, as amended by this act, are clarifying changes
8 only and do not constitute substantive changes to existing law.