

By the Committee on Banking and Insurance; and Senators Wise, Geller, King and Campbell

597-1838-05

1 A bill to be entitled

2 An act relating to title insurance; amending s.

3 624.608, F.S.; redefining the term "title

4 insurance" to include insurance for security

5 interests in personal property; amending s.

6 627.7711, F.S.; redefining the term "related

7 title services" to include the examination of

8 searches of certain records; redefining the

9 term "primary title services" to include search

10 and examination of certain records; amending s.

11 627.7845, F.S.; prohibiting a title insurer

12 from issuing a title insurance commitment,

13 endorsement, or policy until there has been an

14 examination of certain records; requiring the

15 title insurer to preserve and retain evidence

16 of certain records; providing that certain

17 policy forms may continue to be sold by

18 property and casualty insurers until the Office

19 of Insurance Regulation approves a title

20 insurance form; providing an effective date.

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

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24 Section 1. Section 624.608, Florida Statutes, is

25 amended to read:

26 624.608 "Title insurance" defined.--"Title insurance"

27 is:

28 (1) Insurance of owners of real property or others

29 having an interest in real property or contractual interest

30 derived therefrom, or liens or encumbrances on real property,

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1 against loss by encumbrance, or defective titles, or
2 invalidity, or adverse claim to title; or

3 (2) Insurance of owners and secured parties of the
4 existence, attachment, perfection and priority of security
5 interests in personal property under Article 9 of the Uniform
6 Commercial Code.

7 Section 2. Paragraphs (a) and (b) of subsection (1) of
8 section 627.7711, Florida Statutes, are amended to read:

9 627.7711 Definitions.--As used in this part, the term:

10 (1)(a) "Related title services" means services
11 performed by a title insurer or title insurance agent or
12 agency, in the agent's or agency's capacity as such,
13 including, but not limited to, preparing or obtaining a title
14 search, examining title, examining searches of the records of
15 a Uniform Commercial Code filing office and such other
16 information as may be necessary, preparing documents necessary
17 to close the transaction, conducting the closing, or handling
18 the disbursing of funds related to the closing in a real
19 estate closing transaction in which a title insurance
20 commitment or policy is to be issued. The premium, together
21 with the charge for related title services, constitutes the
22 regular title insurance premium.

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

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

3 627.7845 Determination of insurability required;
4 preservation of evidence of title search and examination.--

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

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

1 Section 4. On July 1, 2005, any policy form for
2 insurance that qualifies as title insurance under section
3 624.608(2), Florida Statutes, and for which a substantially
4 similar policy form has been previously approved by the Office
5 of Insurance Regulation as property and casualty insurance,
6 may continue to be sold by that property and casualty insurer
7 until the Office of Insurance Regulation approves the title
8 insurance form provided for in section 624.608(2), Florida
9 Statutes, and the commission approves a corresponding rule for
10 rates for the form, after which point the property and
11 casualty insurance form may no longer be sold.

12 Section 5. This act shall take effect July 1, 2005.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 Senate Bill 638

17 The committee substitute defines "title insurance" in s.
18 627.608, F.S., to include insurance of owners and secured
19 parties of the existence, attachment, perfection and priority
20 of security interests in personal property under Article 9 of
21 the Uniform Commercial Code. The definition specifies that
22 personal property title insurance can only be issued for
23 specified purposes under Article 9 of the UCC. The committee
24 substitute authorizes the issuance of personal property title
25 insurance policies for UCC transactions under Article 9 of the
26 Revised UCC.

27 The committee substitute requires that once the bill is
28 effective (July 1, 2005), any policy form for insurance that
29 qualifies as title insurance under s. 624.608(2), F.S.--which
30 includes Article 9 UCC personal property title insurance
31 within the definition of "title insurance"--that has been
previously approved by the Office of Insurance Regulation
(OIR) as property and casualty insurance may continue to be
sold by that insurer until the OIR approves the title
insurance form provided for in s. 624.608(2), F.S., and the
Financial Services Commission approves a corresponding rule
for rates for the form. Once both requirements occur, the
property and casualty insurance form may no longer be sold.