

CHAMBER ACTION

1 The Justice Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

16
17 Be It Enacted by the Legislature of the State of Florida:

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

21 624.608 "Title insurance" defined.--"Title insurance" is:
22 (1) Insurance of owners of real property or others having
23 an interest in real property or contractual interest derived

HB 75 CS

2005
CS

24 | therefrom, or liens or encumbrances on real property, against
 25 | loss by encumbrance, or defective titles, or invalidity, or
 26 | adverse claim to title; or

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

31 |
 32 | Title insurance shall not be construed to include policies that
 33 | insure for prospective loan defaults due to nonpayment of the
 34 | loan, including, but not limited to, credit insurance forms
 35 | similar to those defined in the NAIC Consumer Credit Insurance
 36 | Model Act or the Credit Personal Property Insurance Model Act.

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

39 | 627.7711 Definitions.--As used in this part, the term:

40 | (1)(a) "Related title services" means services performed
 41 | by a title insurer or title insurance agent or agency, in the
 42 | agent's or agency's capacity as such, including, but not limited
 43 | to, preparing or obtaining a title search, examining title,
 44 | examining searches of the records of a Uniform Commercial Code
 45 | filing office and such other information as may be necessary,
 46 | preparing documents necessary to close the transaction,
 47 | conducting the closing, or handling the disbursing of funds
 48 | related to the closing in a real estate closing transaction in
 49 | which a title insurance commitment or policy is to be issued.
 50 | The premium, together with the charge for related title
 51 | services, constitutes the regular title insurance premium.

HB 75 CS

2005
CS

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

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

63 627.7845 Determination of insurability required;
 64 preservation of evidence of title search and examination.--

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

75 (2) The title insurer shall cause the evidence of the
 76 reasonable search and examination of the title or the records of
 77 a Uniform Commercial Code filing office to be preserved and
 78 retained in its files or in the files of its title insurance
 79 agent or agency for a period of not less than 7 years after the

HB 75 CS

2005
CS

80 title insurance commitment, title insurance policy, or guarantee
81 of title was issued. The title insurer or agent or agency must
82 produce the evidence required to be maintained by this
83 subsection at its offices upon the demand of the office. Instead
84 of retaining the original evidence, the title insurer or the
85 title insurance agent or agency may, in the regular course of
86 business, establish a system under which all or part of the
87 evidence is recorded, copied, or reproduced by any photographic,
88 photostatic, microfilm, microcard, miniature photographic, or
89 other process which accurately reproduces or forms a durable
90 medium for reproducing the original.

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

95 Section 5. This act shall take effect upon becoming a law,
96 except that sections 2 and 3 of this act shall take effect on
97 the date the Office of Insurance Regulation approves the title
98 insurance form and corresponding rate for insurance required
99 under section 4 of this act.