



## **H.B. 512**

125th General Assembly  
(As Introduced)

**Rep. Schneider**

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### **BILL SUMMARY**

- Requires a title insurance agent issuing a lender's title insurance policy in conjunction with a residential mortgage loan, when no owner's title insurance has been requested, to provide written notice to the mortgagor explaining the protections provided by each type of title insurance.
- Requires title insurance agents to maintain errors and omissions insurance for the benefit of the title insurance company.
- Requires title insurance companies to issue closing or settlement protection to lenders, borrowers, and sellers of real property.

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### **CONTENT AND OPERATION**

#### **Title insurance and residential mortgage loans**

(R.C. 1349.24)

Title insurance policies issued to lenders by title insurance agents in conjunction with residential mortgage loans do not protect the mortgagor (buyer) against defects or failure of title to the real property. The bill requires a title insurance agent issuing a lender title insurance policy in conjunction with a residential mortgage loan simultaneously with the mortgagor's purchase of all or part of the real property securing the loan, to provide a written notice to the mortgagor, if no owner title insurance has been requested, at the time the commitment is prepared. The notice given to the mortgagor must:

(1) Be on a form prescribed or approved by the Superintendent of Insurance that explains that lender title insurance issued in conjunction with a residential mortgage loan protects the residential mortgage lender but does not

provide title insurance protection to the mortgagor as the owner of the property being purchased;

(2) Explain the possible exposures that exist for the mortgagor that can be insured against through the owner's purchase of a title insurance policy;

(3) State that the mortgagor may obtain an owner title insurance policy protecting the mortgagor as the owner of the property, either at a specified cost or at an approximate cost if the proposed coverages or amount of insurance is not known at that time.

The title insurance agent is required to maintain a copy of the notice, signed by the mortgagor, in the relevant underwriting file for a minimum of five years after the effective date of the lender's title insurance policy.

As used in this section, a "residential mortgage loan" means an obligation to pay a sum of money evidenced by a note and secured by a lien upon real property located within Ohio containing two or fewer residential units or on which two or fewer residential units are to be constructed. A "residential mortgage loan" includes such obligations on a residential condominium or cooperative unit.

A "residential mortgage lender" means any person, including, but not limited to, banks, savings and loan associations, and savings banks, that lends money or extends or grants credit and obtains a residential mortgage to assure payment of the debt.

### **Closing and settlement protection**

(sec. 3953.32)

The bill requires title insurance companies to issue closing or settlement protection to the lender, borrower, and seller of real property, and to any applicant for title insurance if the title insurance company issues a preliminary report, binder, or title insurance policy, except that a title insurance company is not required to issue closing or settlement if the lender, borrower, seller, or applicant has signed a written document in which the lender, borrower, seller, or applicant declines closing or settlement protection. The bill declares that a title insurance company's issuance of closing or settlement protection pursuant to this section is part of the business of title insurance for purposes of the Title Insurance Law, Chapter 3953. of the Revised Code. Title insurance companies are prohibited from offering or issuing any coverage purporting to indemnify against a person's improper acts or omissions in connection with escrow, settlement, or closing services, except as provided by the bill.

The closing or settlement protection issued pursuant to the bill must indemnify, both individually and collectively, any lender, borrower, seller, or applicant that has not declined the protection, against the loss of settlement funds resulting from any of specified acts taken by the title insurance company's named title insurance agent or anyone acting on the agent's behalf. The following acts are specified in the bill:

(1) Theft, misappropriation, fraud, or any other failure to properly disburse settlement, closing, or escrow funds;

(2) Failure to comply with any applicable written closing instructions, when the instructions have been agreed to by the title insurance agent.

The bill permits the Superintendent of Insurance to adopt rules in accordance with the Administrative Procedure Act, Chapter 119. of the Revised Code, as the Superintendent considers necessary to carry out the purposes of this section, including, but not limited to, rules that detail the specific language that must be included in the written document that must be signed to decline closing or settlement protection.

### **Errors and omissions insurance**

(sec. 3953.23)

The bill obligates the Superintendent of Insurance to require every title insurance agent and any subcontractor performing a title search, directly or indirectly, to maintain an errors and omissions policy for the benefit of the title insurance company in amounts exceeding the minimum limits established by the Superintendent. The errors and omissions policy must include coverage for the agent's delegation of any agent function.

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## **HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	05-26-04	p. 1995

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