



# ARIZONA HOUSE OF REPRESENTATIVES

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House: FICO DP 7-0-1-0 | 3rd Read 21-5-4-0

House: RA DPA/SE 7-0-0-0

## **SB 1042: cremation**

**NOW: title companies; recorded documents; DIFI**

**Sponsor: Senator Shope, LD 16**

**House Engrossed**

### **Overview**

Prescribes requirements relating to the enforceability of title insurance agreements.

### **History**

The Arizona Department of Insurance and Financial Institutions (DIFI) licenses and regulates the title insurance industry as part of its duties. [DIFI](#) stipulates that a business enterprise must be formed as a corporation or limited liability company and must be licensed in Arizona to solicit business, collect premiums or countersign policies on a title insurer's behalf. Additionally, a title insurance agent is a stock corporation or limited liability company authorized by a title insurer to solicit insurance and collect premiums for insurance that covers owners of real property or others with interest in the real property against loss or damage suffered by liens, encumbrances, defects or unmarketability of the title to the property ([A.R.S. § 20-1562](#)).

### **Provisions**

1. Stipulates that an agreement to indemnify or hold harmless from risks that arise from an instrument that is properly recorded by the county recorder may only be enforced if:
  - a) the instrument had not been recorded at the time the agreement was executed;
  - b) the agreement specifically describes the instrument;
  - c) the title insurance policy specifically exempts the instrument; and
  - d) the instrument secures a monetary obligation, not including an improvement district assessment, and remains an outstanding and enforceable debt. (Sec. 1)
2. States that the enforceability of title warranties that are provided by a person in a deed or mortgage is not affected by the provisions. (Sec. 1)
3. Requires an indemnify or hold-harmless agreement to be separate and not included in the title insurance policy. (Sec. 1)
4. Specifies that the agreement must be in writing to be enforceable. (Sec. 1)
5. Adds a legislative intent clause. (Sec. 2)
6. Makes technical changes. (Sec. 1)

Prop 105 (45 votes)     Prop 108 (40 votes)     Emergency (40 votes)     Fiscal Note