

HB 103 -- TITLE DOCUMENTS

SPONSOR: Berry

This bill specifies that if a title insurer, title agent, or title agency who has caused a search of title to be made makes a determination that based upon the title search and other available information a document constitutes a materially false or fraudulent document, the title insurer, title agent, or title agency must record a notice of false or fraudulent document. The notice must be in writing and sworn under oath by an authorized representative of the title insurer, title agent, or title agency; identify the book and page of the document alleged to be materially false or fraudulent; state sufficient facts to support the title insurer, title agent, or title agency's determination that the document is materially false or fraudulent; and be accompanied by the proper recording fee.

The recording of a notice of a false or fraudulent document must be received as prima facie evidence in all courts of the truth of the invalidity of the false or fraudulent document, however this provision must not be construed to result in the invalidity of a document which is shown to be authorized by contract, lease, or statute or imposed by a state or federal court of competent jurisdiction.

Upon the filing of a notice of a false or fraudulent document, any individual adversely affected by the false or fraudulent document described therein must be held harmless from and against the claims of any third party who relies upon the false or fraudulent document to the party's detriment. No title insurer, title agent, or title agency is liable for the recording of a notice of a false or fraudulent document recorded as a result of a search of title as described in these provisions.

If an individual files a false or fraudulent document with the recorder, the individual whose interest is adversely affected by the false or fraudulent document may file an action against the individual who recorded the document seeking appropriate equitable relief for damages including, but not limited to, an order declaring the document ineffective and awarding reasonable attorney's fees.