



SPONSOR: Rep. B. Short & Sen. DeLuca  
Reps. Carson, Kovach, Mitchell, D.E. Williams; Sen.  
Katz

HOUSE OF REPRESENTATIVES  
145th GENERAL ASSEMBLY

HOUSE BILL NO. 371

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO FREEDOM OF CONTRACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 25 of the Delaware Code, section 2119 by adding the following new subsection:

2 "(e) For purposes of this section, a mortgage or other instrument given for the purpose of creating a lien on real  
3 property shall mean a consumer purpose mortgage or other consumer purpose instrument given for the purpose of creating  
4 a lien. For purposes of this section, "consumer purpose mortgage" and "consumer purpose instrument given for the purpose  
5 of creating a lien" shall mean mortgages or other instruments given for the purpose of creating a lien encumbering one-to-  
6 four family residential properties, and shall not include mortgages or other instruments given for the purpose of creating a  
7 lien encumbering other multi-unit residential properties, such as apartment buildings, or encumbering office, commercial or  
8 industrial properties.”.

9 Section 2. This Act shall be effective as of the date of its enactment

SYNOPSIS

Delaware law currently does not allow the parties in commercial loan situations to agree to require insurance policies be given to lenders as evidence of insurance on the collateral, thus inhibiting the freedom of contract. The purpose of this change is to allow parties to have such an arrangement be an enforceable contract. This change does not affect residential owners, who were the intended beneficiaries of the law.