

## **BILL ANALYSIS**

C.S.H.B. 2491  
By: Pickett  
Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There are concerns regarding the requirement that an escrow officer obtain a license for each title agent for which the individual works when this requirement is not imposed on other types of licenses issued by the Texas Department of Insurance. C.S.H.B. 2491 seeks to address this situation.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2491 amends the Insurance Code to prohibit an individual who holds a license issued by the Texas Department of Insurance (TDI) and is covered by a surety bond or deposit from acting as an escrow officer unless the individual is appointed as an escrow officer by a title insurance agent or direct operation. The bill prohibits a title insurance agent or direct operation from employing such an individual as an escrow officer unless the individual is appointed as an escrow officer by the title insurance agent or direct operation and the appointment is filed with TDI as provided by law. The bill clarifies that a title insurance agent or direct operation is required to obtain, at its own expense, a bond for its appointed escrow officers. The bill clarifies that a title insurance agent or direct operation is prohibited from permitting an individual to act as an escrow officer in Texas before the agent or direct operation has complied with the bill's provisions governing the appointment of escrow officers. The bill specifies that TDI is required to maintain a record of escrow officers who are employed and appointed by any title insurance agent or direct operation in Texas and removes the specification that such record be of the escrow officer's name and address. The bill requires TDI to make available to the public from such records or other TDI records each escrow officer's name, license number, continuing education compliance status, and appointment history.

C.S.H.B. 2491 authorizes an escrow officer to be employed and appointed by more than one title insurance agent or direct operation. The bill requires a title insurance agent or direct operation to appoint an escrow officer and file the escrow officer's appointment with TDI on the electronic or nonelectronic form provided by TDI before the escrow officer may act in that capacity for the title insurance agent or direct operation. The bill requires the appointment form to be accompanied by a nonrefundable appointment fee; to certify that the escrow officer is a bona fide employee of the title insurance agent or direct operation making the appointment and that the title insurance agent or direct operation has an office in Texas; to be signed and sworn to by the

title insurance agent or direct operation and by the escrow officer; and to acknowledge that the escrow officer is covered by a required surety bond or deposit.

C.S.H.B. 2491 establishes that the appointment of the escrow officer expires on the revocation, termination, or nonrenewal of the escrow officer's license or termination of the escrow officer's employment with the title insurance agent or direct operation that made the appointment. The bill authorizes the escrow officer, unless otherwise notified by TDI, to act as an escrow officer for the appointing title insurance agent or direct operation after the second business day after the date the appointment is submitted to TDI electronically or after the eighth business day after the date the appointment is submitted to TDI on a nonelectronic form.

C.S.H.B. 2491 specifies that an individual, rather than the title insurance agent or direct operation, is required to file an application for an escrow officer's license with TDI and additionally requires the title insurance agent or direct operation to file an appointment of the escrow officer before an initial license is issued to an individual to act as an escrow officer in Texas for a title insurance agent or direct operation. The bill includes appointment fees among the fees collected under statutory provisions governing escrow officers for title insurance professionals.

C.S.H.B. 2491 subjects the term and expiration of an escrow officer license to requirements under statutory provisions generally applicable to the expiration and renewal of licenses for insurance professionals. The bill authorizes an individual to renew an unexpired escrow officer license by submitting to TDI on a form provided by TDI a completed application, signed and sworn by the individual, stating that the applicant is an individual who is a bona fide resident of Texas or a state adjacent to Texas and by paying to TDI a renewal fee in an amount set by TDI. The bill removes a provision providing for the automatic termination of license without notice for each escrow officer employed by a title insurance agent or direct operation that surrenders its license or has its license revoked by TDI. The bill repeals a provision of the Texas Title Insurance Act establishing that an escrow officer automatically forfeits the escrow officer's license if the escrow officer is not employed as an escrow officer.

C.S.H.B. 2491 requires continuing education programs for escrow officers to be certified under statutory provisions relating to continuing education programs generally applicable to insurance professionals. The bill authorizes TDI to enter into an agreement with an independent contractor to certify and register the continuing education programs and program providers.

C.S.H.B. 2491 clarifies that a title insurance agent or direct operation is required to certify to TDI the name and address of each individual employed and appointed by the title insurance agent or direct operation to serve as an escrow officer in Texas. The bill repeals a Texas Title Insurance Act provision requiring a title insurance agent or direct operation to apply for renewal and to pay a nonrefundable license renewal fee for each escrow officer listed by the title insurance agent or direct operation.

C.S.H.B. 2491 removes an outdated reference to the deputy commissioner of TDI's title division under Texas Title Insurance Act provisions related to notice of disciplinary or enforcement action and automatic dismissal. The bill requires TDI, on the date an enforcement action against an escrow officer becomes final, to provide information about the action, including a copy of the applicable order of the commissioner of insurance or TDI warning, to each title insurance agent or direct operation for which the escrow officer holds appointment.

C.S.H.B. 2491 applies only to the issuance or renewal of an escrow officer license on or after January 1, 2016.

C.S.H.B. 2491 repeals the following provisions of the Insurance Code:

- Section 2652.057(b)

- Section 2652.152

## **EFFECTIVE DATE**

September 1, 2015.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2491 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Sections 2652.001, 2652.002, and 2652.006, Insurance Code, are amended to read as follows:

Sec. 2652.001. LICENSE AND BOND OR DEPOSIT REQUIRED. An individual may not act as an escrow officer unless the individual:

- (1) holds a license issued by the department; ~~and~~
- (2) is covered by ~~maintains~~ a surety bond or deposit required under Subchapter C; and
- (3) is appointed under Section 2652.1511 as an escrow officer by a title insurance agent or direct operation.

Sec. 2652.002. EMPLOYMENT OF ESCROW OFFICER. (a) A title insurance agent or direct operation may not employ an individual as an escrow officer unless the individual:

- (1) holds a license issued by the department;
  - (2) is covered by ~~and maintains~~ a surety bond or deposit as required under Subchapter C; and
  - (3) is appointed under Section 2652.1511 as an escrow officer by the title insurance agent or direct operation ~~[by this chapter]~~.
- (b) A title insurance agent or direct operation may not permit an individual to act as an escrow officer in this state before the agent or direct operation has complied with Sections 2652.151 and 2652.1511 ~~[2652.152]~~ with respect to the individual.

Sec. 2652.006. RECORD OF ESCROW OFFICERS. The department shall maintain a record of ~~the name and address of~~ each escrow officer licensed by the department in a manner that ensures that the escrow officers employed and appointed under

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 2652.001, 2652.002, and 2652.006, Insurance Code, are amended to read as follows:

Sec. 2652.001. LICENSE AND BOND OR DEPOSIT REQUIRED. An individual may not act as an escrow officer unless the individual:

- (1) holds a license issued by the department; ~~and~~
- (2) is covered by ~~maintains~~ a surety bond or deposit required under Subchapter C; and
- (3) is appointed under Section 2652.1511 as an escrow officer by a title insurance agent or direct operation.

Sec. 2652.002. EMPLOYMENT OF ESCROW OFFICER. (a) A title insurance agent or direct operation may not employ an individual as an escrow officer unless the individual:

- (1) holds a license issued by the department;
  - (2) is covered by ~~and maintains~~ a surety bond or deposit as required under Subchapter C; and
  - (3) is appointed under Section 2652.1511 as an escrow officer by the title insurance agent or direct operation ~~[by this chapter]~~.
- (b) A title insurance agent or direct operation may not permit an individual to act as an escrow officer in this state before the agent or direct operation has complied with Sections 2652.151 and 2652.1511 ~~[2652.152]~~ with respect to the individual.

Sec. 2652.006. RECORD OF ESCROW OFFICERS; PUBLIC INFORMATION. (a) The department shall maintain a record of ~~the name and address of~~ each escrow officer licensed by the department in a manner that ensures that the escrow officers

Section 2652.1511 by any title insurance agent or direct operation in this state may be conveniently determined.

employed and appointed under Section 2652.1511 by any title insurance agent or direct operation in this state may be conveniently determined.

(b) The department shall make available to the public from the records maintained under Subsection (a) or from other records of the department each escrow officer's name, license number, continuing education compliance status, and appointment history.

SECTION 2. Section 2652.051(a), Insurance Code, is amended to read as follows:

(a) Before an initial license is issued to an individual to act as an escrow officer in this state for a title insurance agent or direct operation, the title insurance agent or direct operation must file an application for an escrow officer's license and appointment under Section 2652.1511 with the department on forms provided by the department.

SECTION 2. Section 2652.051(a), Insurance Code, is amended to read as follows:

(a) Before an initial license is issued to an individual to act as an escrow officer in this state for a title insurance agent or direct operation, the individual [title insurance agent or direct operation] must file an application for an escrow officer's license with the department on forms provided by the department and the title insurance agent or direct operation must file an appointment of the escrow officer under Section 2652.1511.

SECTION 3. Section 2652.052(b), Insurance Code, is amended to read as follows:

(b) License fees, appointment fees, and renewal fees collected under this chapter [Section 2652.152], shall be deposited to the credit of the Texas Department of Insurance operating account to be used by the department to enforce this chapter and any other law of this state that regulates escrow officers for title insurance agents or direct operations.

SECTION 3. Section 2652.052(b), Insurance Code, is amended to read as follows:

(b) License [~~fees,~~] and renewal fees collected under this chapter and appointment fees collected under Section 2652.1511 [Section 2652.152,] shall be deposited to the credit of the Texas Department of Insurance operating account to be used by the department to enforce this chapter and any other law of this state that regulates escrow officers for title insurance agents or direct operations.

SECTION 4. Sections 2652.055 and 2652.056, Insurance Code, are amended.

SECTION 4. Same as introduced version.

No equivalent provision.

SECTION 5. Section 2652.058, Insurance Code, is amended by adding Subsection (g) to read as follows:

(g) Continuing education programs to satisfy the requirements of this section must be certified under Subchapter C, Chapter 4004. The department may enter into an agreement with an independent contractor as

authorized by Section 4004.104 to certify and register the programs and providers of those programs.

SECTION 5. Section 2652.101(a), Insurance Code, is amended.

SECTION 6. Same as introduced version.

SECTION 6. Section 2652.151(a), Insurance Code, is amended.

SECTION 7. Same as introduced version.

SECTION 7. Subchapter D, Chapter 2652, Insurance Code, is amended by adding Section 2652.1511 to read as follows:

SECTION 8. Subchapter D, Chapter 2652, Insurance Code, is amended by adding Section 2652.1511 to read as follows:

Sec. 2652.1511. APPOINTMENT OF ESCROW OFFICER. (a) An escrow officer may be employed and appointed by more than one title insurance agent or direct operation.

Sec. 2652.1511. APPOINTMENT OF ESCROW OFFICER. (a) An escrow officer may be employed and appointed by more than one title insurance agent or direct operation.

(b) Before an escrow officer may act in that capacity for a title insurance agent or direct operation, the title insurance agent or direct operation must appoint the escrow officer and file the escrow officer's appointment with the department on a form provided by the department.

(b) Before an escrow officer may act in that capacity for a title insurance agent or direct operation, the title insurance agent or direct operation must appoint the escrow officer and file the escrow officer's appointment with the department on the electronic or nonelectronic form provided by the department.

(c) The appointment form must:

(c) The appointment form must:

(1) be accompanied by a nonrefundable appointment fee;

(1) be accompanied by a nonrefundable appointment fee;

(2) certify that the escrow officer is a bona fide employee of a title insurance agent or direct operation with an office in this state;

(2) certify that:

(A) the escrow officer is a bona fide employee of the title insurance agent or direct operation making the appointment; and

(3) be signed and sworn to by the title insurance agent or direct operation and by the escrow officer; and

(B) the title insurance agent or direct operation has an office in this state;

(4) demonstrate that the escrow officer is covered by a surety bond or deposit required under Subchapter C.

(3) be signed and sworn to by the title insurance agent or direct operation and by the escrow officer; and

(d) The appointment of the escrow officer expires on the revocation, termination, or nonrenewal of the escrow officer's license or termination of the escrow officer's employment with the title insurance agent or direct operation that made the appointment.

(4) acknowledge that the escrow officer is covered by a surety bond or deposit required under Subchapter C.

(d) The appointment of the escrow officer expires on the revocation, termination, or nonrenewal of the escrow officer's license or termination of the escrow officer's employment with the title insurance agent or direct operation that made the appointment.

(e) Unless otherwise notified by the department, the escrow officer may act as an escrow officer for the appointing title insurance agent or direct operation after:

- (1) the second business day after the date the appointment is submitted to the department electronically; or
- (2) the eighth business day after the date the appointment is submitted to the department on a nonelectronic form.

SECTION 8. Section 2652.153, Insurance Code, is amended.

SECTION 9. Same as introduced version.

SECTION 9. Sections 2652.203(a) and (d), Insurance Code, are amended to read as follows:

SECTION 10. Section 2652.203, Insurance Code, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

- (a) The department shall notify a license holder of a disciplinary action or enforcement action against the license holder not later than the 30th business day after the date the department assigns a file number to the action, except that this subsection does not apply to a file or action:
- (1) that is the subject of a pending criminal investigation or prosecution; or
  - (2) about which the ~~[deputy commissioner of the title division of the]~~ department makes a good faith determination that there is a credible suspicion that there are ongoing or continuing acts of fraud by a person who is the subject of the action.
- (d) The department may provide information about an enforcement action, including a copy of a notice issued under this section, to each title insurance agent or direct operation with which an escrow officer has, or proposes to obtain, an appointment under Section 2652.1511 [employment].

- (a) The department shall notify a license holder of a disciplinary action or enforcement action against the license holder not later than the 30th business day after the date the department assigns a file number to the action, except that this subsection does not apply to a file or action:
- (1) that is the subject of a pending criminal investigation or prosecution; or
  - (2) about which the ~~[deputy commissioner of the title division of the]~~ department makes a good faith determination that there is a credible suspicion that there are ongoing or continuing acts of fraud by a person who is the subject of the action.
- (d) The department may provide information about an enforcement action, including a copy of a notice issued under this section, to each title insurance agent or direct operation with which an escrow officer has, or proposes to obtain, an appointment under Section 2652.1511 [employment].
- (e) Except as prohibited by Chapter 552, Government Code, or any other law, on the date an enforcement action against an escrow officer becomes final, the department shall provide information about the action, including a copy of a commissioner's order or department warning issued under this section, to each title insurance agent or direct operation for which the escrow officer holds appointment under Section 2652.1511.

SECTION 10. Sections 2652.057(b) and 2652.152, Insurance Code, are repealed.

SECTION 11. Same as introduced version.

SECTION 11. The changes in law made by this Act apply only to the issuance or renewal of the license of an escrow officer on or after January 1, 2016. The issuance or renewal of a license before January 1, 2016, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 12. This Act takes effect September 1, 2015.

SECTION 12. Same as introduced version.

SECTION 13. Same as introduced version.