

- SUBJECT:** Certain title insurance policy liability and reinsurance requirements
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 9 ayes — Frullo, Muñoz, G. Bonnen, Guerra, Meyer, Paul, Sheets, Vo, Workman
0 nays
- WITNESSES:** For — Margaret Redman, First American/American Land Title Association (*Registered, but did not testify*: Heidi Junge, Stewart Title Guaranty Co., Texas Land Title Association; Randy Lee, Stewart Title Guaranty Co.; Allen Place, Texas Land Title Association; Randy Cain, The Wind Coalition)
Against — None
On — (*Registered, but did not testify*: Marianne Baker and Kevin Brady, Texas Department of Insurance)
- BACKGROUND:** Insurance Code, sec. 2551.301 prohibits a title insurance company from issuing a title insurance policy on any real property located in Texas involving a potential policy liability of more than 50 percent of the company's capital stock and surplus as stated in the most recent annual statement of the company. A title insurance company can exceed this limit if the excess liability is reinsured in due course in an authorized title insurance company.
Under sec. 255.305 a title insurance company can acquire reinsurance on an individual policy or facultative basis from a title insurance company not authorized to engage in the business of title insurance in Texas if the title insurance company from which the reinsurance is acquired meets certain criteria. These criteria include that the title insurance company acquiring reinsurance gives written notice to the department at least 30 days before acquiring the reinsurance and the insurance commissioner does not prohibit the title insurance company from obtaining reinsurance

on the ground that the transaction may result in a hazardous financial condition.

Under Insurance Code, sec. 2551.305(e) a title insurance company may obtain reinsurance from an assuming insurer with a financial strength rating of B+ or better from the A.M. Best Company that meets the requirements of Insurance Code, ch. 493 related to credit for reinsurance, if the insurance company has provided the Texas Department of Insurance with an affidavit that:

- contains facts that demonstrate the title insurance company was unable after diligent effort to procure sufficient reinsurance from another title company; and
- states the terms of the reinsurance treaty or other reinsurance agreement that the title insurance company will obtain.

The term “real property” usually refers to any property that is attached directly to land, as well as the land itself.

The state’s commercial real estate market is growing, and some have called for the removal of certain barriers to efficiency in the provision of title insurance and reinsurance to allow this growth to continue.

DIGEST:

CSHB 1357 would allow a title insurance company to issue a title insurance policy on any real property located in Texas involving a maximum potential policy liability of 50 percent of the sum of the title insurance company’s surplus as regards policyholders and the company’s statutory premium reserves as stated in the company’s most recent annual statement. A title insurance company could exceed the 50 percent limit for potential policy liability if the excess liability was reinsured in due course in accordance with the bill’s provisions.

Under the bill, a title insurance company could reinsure any of its policies and contracts issued on real property in Texas or those policies and contracts issued under Insurance Code, ch. 2751, related to title insurance for personal property interests, if the reinsuring title company was

authorized to engage in business in Texas or if the title insurance company:

- had a combined capital and surplus of at least \$20 million as stated in the company's most recent annual statement preceding the acceptance of reinsurance; and
- was domiciled in another state and authorized to engage in the business of title insurance in one or more states.

The bill would remove other requirements for when a title insurance company could acquire reinsurance on an individual policy or facultative basis from a title insurance company that was not authorized to engage in the business of title insurance in Texas, including certain requirements regarding notice, applications, and hearings.

Under the bill, a title insurance company could obtain reinsurance from an assuming insurer with a financial strength rating of B+ or better from the A.M. Best Company for reinsurance that met the requirements of Insurance Code, ch. 493 related to credit for reinsurance if the title insurance company had provided TDI with notice, rather than an affidavit. The notice would have to:

- contain representations that the title insurance company was unable after diligent effort to procure sufficient reinsurance from another title insurance company; and
- summarize the terms of the reinsurance treaty or other reinsurance agreement that the title insurance company would obtain.

The bill would take effect September 1, 2015, and would apply only to a title insurance policy or reinsurance contract entered into by a title insurance company on or after that date.