

BILL ANALYSIS

Senate Research Center
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S.B. 687
By: Carona
Business & Commerce
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 687 amends the definition of title insurance to permit the issuance of title policies for personal property as specified in Article 9, Uniform Commercial Code (UCC) in addition to real property. Permitting the sale of UCC insurance in Texas will allow the state to capture the revenue generated by premium tax on the sales of this product.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2501.003, Insurance Code, as effective April 1, 2005, as follows:

Sec. 2501.003. New heading: GENERAL DEFINITIONS. (a) Creates subsection from existing text. Includes definitions of "filing office," "secured party," and "security interest." Redefines "title examination" and "title insurance company." Deletes existing definition of "title insurance." Renumbers subdivisions to reflect additions and deletions.

(b) Provides that, in this title, a term not defined under Subsection (a) that is used in Chapter 9, Business & Commerce Code, has the meaning assigned by that code.

SECTION 2. Amends Chapter 2501, Insurance Code, as effective April 1, 2005, by adding Section 2501.0035, as follows:

Sec. 2501.0035. DEFINITION OF TITLE INSURANCE. Defines "title insurance."

SECTION 3. Amends Section 2501.005(a), Insurance Code, as effective April 1, 2005, to include examining searches of the records of a filing office, other than an examination conducted by an attorney, in the description of engagement in the business of title insurance. Makes conforming changes.

SECTION 4. Amends Sections 2502.003(a), (b), and (d), Insurance Code, as effective April 1, 2005, as follows:

(a) Prohibits a title insurance company, except as provided by Subsection (c), from wilfully issuing a binder for title insurance or a title insurance policy showing no outstanding enforceable recorded liens on real property or personal property against which the company knows an outstanding enforceable recorded lien exists.

(b) Provides that a title insurance company knows that an outstanding enforceable recorded lien exists against property if, based on an examination of the title or a search of the records of a filing office, as appropriate, the company determines that the lien is valid and enforceable.

(d) Makes a conforming change.

SECTION 5. Amends Section 2551.001(e), Insurance Code, as effective April 1, 2005, to make a conforming change.

SECTION 6. Amends Section 2551.051, Insurance Code, as effective April 1, 2005, by amending Subsection (a) and adding subsection(d), as follows:

(a) Authorizes a private corporation to be created and licensed under this title for certain purposes, including transactions in which title insurance affecting real property is to be or is being issued.

(d) Authorizes a private corporation created and licensed under this title to also insure titles to personal property or interests in that property and indemnify a secured party, or another person holding a security interest in the personal property as provided by the uniform commercial code, against loss or damage resulting from certain liens.

SECTION 7. Amends Section 2551.301(a), Insurance Code, as effective April 1, 2005, to make a conforming change.

SECTION 8. Amends Section 2551.302, Insurance Code, as effective April 1, 2005, to make a conforming change.

SECTION 9. Amends Section 2551.304, Insurance Code, as effective April 1, 2005, to make a conforming change.

SECTION 10. Amends Section 2551.351(a), Insurance Code, as effective April 1, 2005, to make conforming changes.

SECTION 11. Amends Section 2552.002(1), Insurance Code, as effective April 1, 2005, to redefine "attorney's title insurance."

SECTION 12. Amends Section 2552.004(c), Insurance Code, as effective April 1, 2005, to make a conforming change.

SECTION 13. Amends Section 2552.154(a), Insurance Code, as effective April 1, 2005, to require a surety bond to obligate the principal and surety to pay any pecuniary loss that is incurred by certain entities, including a secured party for which an attorney's title insurance policy is issued by the title attorney and that is sustained through an act of fraud, dishonesty, theft, embezzlement, or willful misapplication by a title attorney.

SECTION 14. Amends Section 2552.157, Insurance Code, as effective April 1, 2005, as follows:

Sec. 2552.157. New heading: **AUTHORITY TO ISSUE POLICY AFFECTING REAL PROPERTY**. Makes a conforming change.

SECTION 15. Amends Section 2602.251, Insurance Code, as effective April 1, 2005, to make a conforming change.

SECTION 16. Amends Section 2602.255, Insurance Code, as effective April 1, 2005, to make a conforming change.

SECTION 17. Amends Section 2651.101(a), Insurance Code, as effective April 1, 2005, to make a conforming change.

SECTION 18. Amends the heading to Chapter 2702, Insurance Code, as effective April 1, 2005, to read as follows:

**CHAPTER 2702. CLOSING AND SETTLEMENT: TRANSACTIONS
AFFECTING REAL PROPERTY**

SECTION 19. Makes application of this Act prospective to January 1, 2006.

SECTION 20. Effective date: September 1, 2005.