

BILL ANALYSIS

Senate Research Center

C.S.H.B. 3768
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Jurisprudence
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When a person, through a warranty deed, transfers a residence homestead into a qualified living trust, the individual may lose title insurance coverage.

C.S.H.B. 3768 amends current law relating to title insurance coverage of property transferred into an inter vivos trust.

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 Subchapter B, Chapter 2703, Insurance Code, by adding Section 2703.055, as follows:

Sec. 2703.055. TRANSFER OF PROPERTY INTO INTER VIVOS TRUST; EFFECT OF TITLE INSURANCE COVERAGE. (a) Provides that the transfer by deed of real property into an inter vivos trust does not affect title insurance coverage of the property if the trust settlor is a beneficiary of the trust.

(b) Provides that on the effective date of a transfer under Subsection (a), the insurance coverage on the title of the real property transferred applies to the trustee of the trust into which the settlor transferred the property.

(c) Provides that the insurance company has the defenses to the coverage described in Subsection (b) that the company had under the policy against the original named.

SECTION 2. Amends Section 2703.101, Insurance Code, by adding Subsection (g), as follows:

(g) Authorizes the commissioner of insurance, for an owner's title insurance policy on residential real property that is issued to an individual, to adopt terms that provide for continuation of coverage subject to the rights and defenses against the original named insurer for:

(1) a person who inherits the original named insured's title on the original named insured's death;

(2) the original named insured's spouse who receives title in a dissolution of marriage with the original named insured;

(3) the trustee or successor of a trust established by the original named insured for real estate planning to whom the original named insured transfers title after the date of policy; or

(4) the beneficiaries of a trust described by Subdivision (3) on the death of the original named insured.

SECTION 3. Makes application of this Act prospective to January 1, 2010.

SECTION 4. Effective date: September 1, 2009.