

HOUSE BILL REPORT

SHB 2457

As Passed House:

February 12, 2004

Title: An act relating to allowing title insurance companies to provide a guarantee covering its agents.

Brief Description: Allowing title insurance companies to provide a guarantee covering its agents.

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Hatfield and Buck).

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/30/04, 2/4/04 [DPS].

Floor Activity:

Passed House: 2/12/04, 96-0.

Brief Summary of Substitute Bill

- Authorizes title insurance companies to provide a guarantee, approved by the Insurance Commissioner, in lieu of a fidelity bond or fidelity insurance, accepting financial responsibility for up to \$200,000 for fraudulent or dishonest acts committed by its employees.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Schual-Berke, Chair; Simpson, G., Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Roach, Santos and Simpson, D.

Staff: Carrie Tellefson (786-7127).

Background:

Home buyers purchase title insurance to guard against the risk that title to their property may be encumbered. Prior to issuing a title policy, title companies conduct a title search in order to determine existing encumbrances, if any. The abstract of title lists all recorded conveyances, instruments, or documents that serve as notice with respect to the chain of title to the real property.

The Insurance Commissioner (Commissioner) is responsible for the licencing and regulation of insurance companies doing business in this state. The authority of the Commissioner includes the oversight of title insurance companies and title insurance agents.

Title agents must receive a license from the Commissioner. As part of the licensing process, they must show evidence of financial responsibility in the following manner:

- by posting a fidelity bond or fidelity insurance of \$200,000 with a deductible of no more than \$10,000; and,
- by posting a surety bond of \$10,000, unless the fidelity bond does not have a deductible.

A title insurer must receive a certificate of authority from the Commissioner. In order to receive a certificate of authority, a title insurer must deposit with the Commissioner a guaranty fund. The amount required to be deposited is based on the size of the county in which the insurer is authorized to transact business, ranging from \$10,000 for a county population of less than 15,000 to \$200,000 for a county population above 500,000.

Summary of Substitute Bill:

A title insurance company with a certificate of authority in Washington may provide a guarantee, subject to approval by the Commissioner, accepting financial responsibility up to \$200,000 for fraudulent acts committed by its employees.

In an application for a new or renewal title insurance agent license, this guarantee may be provided in lieu of a fidelity bond or fidelity insurance.

Title insurance agents must be duly appointed by title companies to act as their agent. When a title agent works for two or more title companies and a fraudulent act occurs, the title company that issued the commitment or policy will bear the responsibility for the loss. When no policy has been issued, liability will be shared proportionally among each title company for which the agent was appointed. Title agents must comply with this act within thirty days after the effective date of the act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support) The bonding for title agents was impossible to obtain. The Office of the Insurance Commissioner (OIC) couldn't license agents because they could not obtain a bond. This bill is helpful. It's a good alternative and the industry has worked with the OIC on this to correctly frame the language. They would like to see it move along.

Last year, the Financial Institutions & Insurance Committee passed out SB 5310, which had language regarding fidelity insurance and fidelity bonds. There aren't any fidelity bonds available in the market today. They are concerned that small title agents don't have any funding options. It's important to pass this bill to ensure title agents are still in business, especially in small counties.

The amendment clarifies that the guaranty is an extension of the agency agreement with the title company and explains what happens if an agent works for more than one title company. This bill will allow coverage that doesn't exist now.

Testimony Against: None.

Persons Testifying: (In support) Representative Hatfield, prime sponsor; Bill Daley, Office of the Insurance Commissioner; and Bill Runhaar and Stu Halsan, Washington Land Title Association.

Persons Signed In To Testify But Not Testifying: None.