

SENATE BILL REPORT

SHB 2457

As Reported By Senate Committee On:
Financial Services, Insurance & Housing, February 23, 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: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Hatfield and Buck).

Brief History:

Committee Activity: Financial Services, Insurance & Housing: 2/23/04 [DP].

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Majority Report: Do pass.

Signed by Senators Benton, Chair; Winsley, Vice Chair; Berkey, Keiser, Murray, Prentice and Roach.

Staff: Jennifer Arnold (786-7543)

Background: Title insurance offers home buyers protection against the risk that title to their property may be encumbered. Title insurers and their agents are licensed and regulated by the Office of the Insurance Commissioner (OIC).

Under current law, in order for a title insurance agent to obtain, renew, or reinstate his or her license, the agent must demonstrate financial responsibility to the OIC by meeting two requirements: (1) posting a fidelity bond or fidelity insurance of \$200,000 with a deductible of no more than \$10,000; and (2) posting a surety bond of \$10,000, unless the fidelity bond does not have a deductible.

Fidelity bonds and fidelity insurance provide the agent protection against any losses resulting from the fraudulent or dishonest activities of an owner, officer, or employee. Surety bonds are to protect the public by covering losses resulting from violations of title insurance laws.

In order to be authorized to conduct business in Washington, a title insurance company must obtain a "certificate of authority" from the OIC. This certificate will not be issued unless the title insurer deposits a guaranty fund with the OIC. 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 with a population of less than 15,000 to \$200,000 for a county with a population above 500,000.

Summary of Bill: As an alternative to providing a fidelity bond or fidelity insurance, a new method for title agents to satisfy the financial responsibility requirements of licensing is

created. Under this option, a title insurance company, that is authorized to conduct business in the state, may guarantee financial responsibility of up to \$200,000 in losses due to the fraudulent or dishonest acts of its employees, officers, or owners. This guarantee is subject to approval by OIC.

Title insurance agents must be properly appointed to act as the title company's agent. If a title agent works for more than one title company and a fraudulent or dishonest act occurs, the title company that issued the commitment or policy must bear liability for the loss. If no policy has been issued, liability is shared proportionately among each title company to which the agent was appointed.

Title agents must comply with this act within 30 days after the effective date of this bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The intent of SSB 5310 from last session has been inadvertently frustrated by the use of the new word applicant. The bill enacted last session has made it almost impossible for title agents to be bonded. As a result, only one title company was able to afford to purchase a \$200,000 bond and renew their license in the past year. It is absolutely necessary to make this change and provide the coverage originally intended, as currently coverage is virtually unavailable. This bill resolves the problems with last sessions bill and provides the coverage that was initially intended. A guarantee under this option provides the same coverage as a surety bond. OIC is in support of the bill.

Testimony Against: None.

Testified: PRO: Stuart Halsan, WA Land Title Association.

Signed In/Did Not Testify: Bill Daley, Office of the Insurance Commissioner.