
ENGROSSED SENATE BILL 5045

State of Washington

59th Legislature

2005 Regular Session

By Senators Doumit and Morton

Read first time 01/12/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to allowing title insurance companies to provide a
2 guarantee covering its agents; and amending RCW 48.29.155.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.29.155 and 2003 c 202 s 1 are each amended to read
5 as follows:

6 (1) At the time of filing an application for a title insurance
7 agent license, or any renewal or reinstatement of a title insurance
8 agent license, the applicant shall provide satisfactory evidence to the
9 commissioner of having obtained the following as evidence of financial
10 responsibility:

11 (a) A fidelity bond or fidelity insurance providing coverage in the
12 aggregate amount of two hundred thousand dollars with a deductible no
13 greater than ten thousand dollars covering the applicant and each
14 corporate officer, partner, escrow officer, and employee of the
15 applicant conducting the business of an escrow agent as defined in RCW
16 18.44.011 and exempt from licensing under RCW 18.44.021(6), or a
17 guarantee from a licensed title insurance company as authorized by
18 subsection (5) of this section; and

1 (b) A surety bond in the amount of ten thousand dollars executed by
2 the applicant as obligor and by a surety company authorized, or
3 eligible under chapter 48.15 RCW, to do a surety business in this state
4 as surety, or some other security approved by the commissioner, unless
5 the fidelity bond or fidelity insurance obtained by the licensee to
6 satisfy the requirement in (a) of this subsection does not have a
7 deductible. The bond shall run to the state of Washington as obligee,
8 and shall run to the benefit of the state and any person or persons who
9 suffer loss by reason of the applicant's or its employee's violation of
10 this chapter. The bond shall be conditioned that the obligor as
11 licensee will faithfully conform to and abide by this chapter and all
12 rules adopted under this chapter, and shall reimburse all persons who
13 suffer loss by reason of a violation of this chapter or rules adopted
14 under this chapter. The bond shall be continuous and may be canceled
15 by the surety upon the surety giving written notice to the commissioner
16 of its intent to cancel the bond. The cancellation shall be effective
17 thirty days after the notice is received by the commissioner. Whether
18 or not the bond is renewed, continued, reinstated, reissued, or
19 otherwise extended, replaced, or modified, including increases or
20 decreases in the penal sum, it shall be considered one continuous
21 obligation, and the surety upon the bond shall not be liable in an
22 aggregate amount exceeding the penal sum set forth on the face of the
23 bond. In no event shall the penal sum, or any portion thereof, at two
24 or more points in time be added together in determining the surety's
25 liability. The bond is not liable for any penalties imposed on the
26 licensee, including but not limited to any increased damages or
27 attorneys' fees, or both, awarded under RCW 19.86.090.

28 (2) For the purposes of this section, a "fidelity bond" means a
29 primary commercial blanket bond or its equivalent satisfactory to the
30 commissioner and written by an insurer authorized, or eligible under
31 chapter 48.15 RCW, to transact this line of business in the state of
32 Washington. The bond shall provide fidelity coverage for any
33 fraudulent or dishonest acts committed by any one or more of the
34 employees, officers, or owners as defined in the bond, acting alone or
35 in collusion with others. The bond shall be for the sole benefit of
36 the title insurance agent and under no circumstances whatsoever shall
37 the bonding company be liable under the bond to any other party. The
38 bond shall name the title insurance agent as obligee and shall protect

1 the obligee against the loss of money or other real or personal
2 property belonging to the obligee, or in which the obligee has a
3 pecuniary interest, or for which the obligee is legally liable or held
4 by the obligee in any capacity, whether the obligee is legally liable
5 therefor or not. The bond may be canceled by the insurer upon delivery
6 of thirty days' written notice to the commissioner and to the title
7 insurance agent.

8 (3) For the purposes of this section, "fidelity insurance" means
9 employee dishonesty insurance or its equivalent satisfactory to the
10 commissioner and written by an insurer authorized, or eligible under
11 chapter 48.15 RCW, to transact this line of business in the state of
12 Washington. The insurance shall provide coverage for any fraudulent or
13 dishonest acts committed by any one or more of the employees, officers,
14 or owners as defined in the policy of insurance, acting alone or in
15 collusion with others. The insurance shall be for the sole benefit of
16 the title insurance agent and under no circumstances whatsoever shall
17 the insurance company be liable under the insurance to any other party.
18 The insurance shall name the title insurance agent as the named insured
19 and shall protect the named insured against the loss of money or other
20 real or personal property belonging to the named insured, or in which
21 the named insured has a pecuniary interest, or for which the named
22 insured is legally liable or held by the named insured in any capacity,
23 whether the named insured is legally liable therefor or not. The
24 insurance coverage may be canceled by the insurer upon delivery of
25 thirty days' written notice to the commissioner and to the title
26 insurance agent.

27 (4) The fidelity bond or fidelity insurance, and the surety bond or
28 other form of security approved by the commissioner, shall be kept in
29 full force and effect as a condition precedent to the title insurance
30 agent's authority to transact business in this state, and the title
31 insurance agent shall supply the commissioner with satisfactory
32 evidence thereof upon request.

33 (5) A title insurance company authorized to do business in
34 Washington under RCW 48.05.030 may provide a guarantee in a form
35 satisfactory to the commissioner accepting financial responsibility, up
36 to the aggregate amount of two hundred thousand dollars, for any
37 fraudulent or dishonest acts committed by any one or more of the
38 employees, officers, or owners of a title insurance agent that is

1 appointed as the title insurance company's agent. A title insurance
2 company providing a guarantee as permitted under this subsection may
3 only do so on behalf of its properly appointed title insurance agents.
4 If the title insurance agent is an agent for two or more title
5 insurance companies, any liability under the guarantee shall be borne
6 by the title insurance company for those escrows for which a title
7 insurance commitment or policy was issued on behalf of that title
8 insurance company. If no commitment or policy was issued regarding the
9 escrow for which moneys were lost, including but not limited to
10 collection escrows, each title insurance company, for which the agent
11 was appointed at the time of the fraudulent or dishonest act, shares in
12 the liability. The liability will be shared proportionally, as
13 follows: The premium the agent remitted to the title insurance company
14 in the year prior to the fraudulent or dishonest act will be compared
15 to the total premium the agent remitted to all title insurance
16 companies, for whom the title insurance agent was appointed, during the
17 same period.

18 (6) All title insurance agents licensed on or before the effective
19 date of this act shall comply with this section within thirty days
20 following the effective date.

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