

# SENATE BILL REPORT

## HB 1035

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As of March 20, 2013

**Title:** An act relating to title insurance rate filings.

**Brief Description:** Addressing title insurance rate filings.

**Sponsors:** Representatives Kirby, Ryu and Nealey.

**Brief History:** Passed House: 3/07/13, 93-4.

**Committee Activity:** Financial Institutions, Housing & Insurance: 3/19/13.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Staff:** Edward Redmond (786-7471)

**Background:** Title insurance offers protection against the risk that the title to the specified property may be encumbered. Before issuing a policy, title insurers (insurers) conduct a title search in order to determine possible encumbrances. Insurers are licensed and regulated by the Office of the Insurance Commissioner (OIC). A title insurance agent (agent) is defined as a licensed business entity that is appointed by an authorized title insurance company to sell, solicit, or negotiate insurance on behalf of the title insurance company. Agents are licensed and regulated by OIC.

In 2008, an omnibus bill regarding real estate settlement services was passed that made numerous changes related to title insurance.

New Rate Standards. Every insurer must file title insurance rates with OIC. Every filing must include sufficient information to permit OIC to determine whether the rates are excessive, inadequate, or unfairly discriminatory. A rate is not excessive, inadequate, or unfairly discriminatory if it is an actuarially sound estimate of the expected value of all future costs associated with an individual risk transfer. OIC may disapprove a filing. OIC must notify the insurer if the filing has been disapproved and inform the insurer where the filing fails to meet the statutory requirements. OIC must hold a hearing within 30 days if:

- after the review period, OIC has reason to believe that an insurer's rates do not meet the requirements of the law;
- any person having an interest in the rates makes a written complaint to OIC setting forth specific and reasonable grounds for the complaint and requests a hearing; or
- any insurer requests a hearing after OIC's disapproval of a filing.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

In any hearing regarding title insurance rates, the burden is on the insurer to prove that the rates are not excessive, inadequate, or unfairly discriminatory. After a hearing, the Insurance Commissioner (Commissioner) may issue an order that confirms, modifies, or rescinds any previous action.

OIC Rules. The 2008 legislation required OIC to set a date by which insurers must file title insurance rates under the new rate standards. This date could not be prior to January 1, 2010. On July 20, 2010, OIC adopted rules regarding rate filings and agent report filings. On July 16, 2012, OIC adopted rules to delay the rate and insurance agent report filings required in the 2010 rules. Under the 2012 rules, only title rates filed under the new rate standards may be used after January 1, 2014. Insurers must file rates by September 1, 2013, to ensure that the rates will be reviewed and can be effective by January 1, 2014.

All rates filed must include all costs related to the title insurance transaction. An insurer must provide specific information in support of the expense component of the rates. An insurer's rate filing must include data that supports the expense component that applies to its agents.

If a title agency splits premiums between the insurer and an agent, the insurer must file premium rate schedules using supporting data and information that are consistent with that contractual premium split. Each agent must report premium, policy count, and expense data annually to each insurer for which it produces business in the state by April 1 of each year. Each report must include the following:

- specific information related to premium and policy count data;
- specific expense data related to issuing title insurance policies and commitments for all of the agent's business, excluding all expenses related to escrow and other activities not directly related to title insurance;
- an explanation that describes how expenses are allocated between the operations of the title insurance agent; and
- the estimated average cost to issue a title insurance commitment.

If an insurer does not receive a report as required under this section by April 1 of each year, the insurer must notify OIC by April 15. This notice must include the name of the agent that did not send the report on time.

Public Disclosure of Rate Information. The Insurance Code has provisions exempting certain information supporting rate filings from public inspection. Other provisions of the Insurance Code provide an exception of information for title insurance rate filings from the exemption from public inspection.

**Summary of Bill:** The Commissioner must designate one statistical reporting agent to gather information on title insurance. All insurers and agents must annually file a report with the statistical reporting agent of their policies, business income, expenses, and loss experience in this state. The report must be filed with the statistical reporting agent in a manner and form prescribed by OIC in rule.

Within 120 days of receiving information, the statistical reporting agent must review the information for completeness, accuracy, and quality. All insurers and agents must cooperate with the statistical reporting agent to verify the completeness, accuracy, and quality of the data that they submitted.

Within 30 days after completing the review of the information for quality and accuracy, the statistical reporting agent must file information regarding the insurers and the agents with OIC. OIC may adopt rules regarding the statistical reporting agent.

The costs and expenses of the statistical reporting agent, including the cost of an examination by OIC, must be borne by the insurers and agents in this state. OIC may adopt rules regarding the costs and how those costs are apportioned.

Title insurance rate information filed with OIC must be kept confidential and is not subject to public disclosure, unless the Commissioner finds, after notice and hearing with the affected parties, that it is in the public interest to disclose the information. The Commissioner may share the information with the National Association of Insurance Commissioners, regulatory and law enforcement officials of other states and nations, the federal government, and international authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the information.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: This is the companion to SB 5269, which this committee heard and passed this session. This bill corrects an inadvertent mistake created in 2008. The bill creates a statistical agent position paid for by the insurance industry that would collect data for the purposes of rate filings. The bill is more of a technical fix to allow title insurance agents to file their rates in a manner that would protect the proprietary nature of their records.

This bill is important to title agents because title insurance is comparatively complex in terms of determining the actuarial risk of setting title rates. As part of that process, it is necessary for OIC to take a look at the business costs of producing the product since that is a large component of the premium itself. It is very important to title agents that this information only be shared with one individual who has the ability to compile and assess the data for presentation to OIC so that a realistic picture can be provided for the determination of the appropriate rates to be applied.

**Persons Testifying:** PRO: Representative Kirby, prime sponsor; Carrie Tellefson, Fidelity National Title Group; Gary Kissling, WA Land Title Assn.