

HOUSE BILL REPORT

ESB 5629

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to creating and establishing the rights and duties for title insurance rating and advisory organizations.

Brief Description: Creating and establishing the rights and duties for title insurance rating and advisory organizations.

Sponsors: Senators Angel and Hobbs.

Brief History:

Committee Activity:

Business & Financial Services: 3/15/17 [DP].

Brief Summary of Engrossed Bill

- Authorizes and establishes a framework for title insurers to become members of and subscribe to the services of title insurance rating organizations for the purpose of making title insurance form and rate filings with the Office of the Insurance Commissioner (OIC).
- Provides the OIC with authority and direction to license, examine, and regulate title insurance rating organizations.
- Authorizes the sharing of aggregate information and experience data between title insurance rating organizations, title insurers, and the OIC's designated statistical reporting agent, subject to restrictions.
- Establishes that title insurance rates filed by a rating organization become effective only if approved by the OIC after the OIC reviews specified materials and determines the filing complies with title insurance statutes.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 11 members: Representatives Kirby, Chair; Reeves, Vice Chair; Vick, Ranking Minority Member; J. Walsh, Assistant Ranking Minority Member; Barkis, Bergquist, Blake, Jenkin, McCabe, Santos and Stanford.

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.

Staff: Peter Clodfelter (786-7127).

Background:

Title insurance offers protection against the risk that title to the specified property may be encumbered. Before issuing a policy, title insurers conduct a title search in order to determine possible encumbrances. The Office of the Insurance Commissioner (OIC) issues certificates of authority to qualified title insurers and regulates the title insurance industry.

Title Insurance Form and Rate Filings.

Title insurers must file title insurance forms and rates with the OIC. Title insurance forms may not be ambiguous or misleading, among other requirements. Premium rates for the insuring or guaranteeing of titles may not be excessive, inadequate, or unfairly discriminatory. Insurers' rate filings must include sufficient information to allow the OIC to determine whether the filed rates meet the standard.

A title insurance rate filing must state a proposed effective date, which must be no earlier than 30 days after the date on which the filing is received by the OIC. By giving notice to the title insurer, the OIC may extend the waiting period for up to an additional 15 days. If the OIC does not disapprove the filing during the waiting period, the filing takes effect on its proposed effective date. If, within the waiting period or any extension of the waiting period, the OIC finds that a filing does not meet the statutory standard, the OIC must disapprove the filing and must give notice of the disapproval to the insurer. A rate filing and all supporting information accompanying it is open to public inspection only after the filing becomes effective.

Insurance Rating Organizations and Advisory Organizations.

For certain types of insurance (except for specific types of insurance including title insurance, life insurance, and disability insurance), an insurer may subscribe to the services of a rating organization to fulfill the insurer's obligation to file insurance forms and rates with the OIC. A rating organization is an entity that consists of member insurers, and its purpose is the making or adoption of insurance forms or rates for its members and subscribers. A subscriber is an insurer that employs the services of a rating organization for the purpose of making filings, whether or not the insurer is a member of a rating organization. An insurer that is a member of a rating organization participates, or is entitled to participate, in the management of the rating organization. Rating organizations are required to furnish their services without discrimination between their members and subscribers. Insurers are not required to be a member of, or a subscriber to, a rating organization.

The OIC licenses qualified rating organizations. The application for a license as a rating organization must include: (1) a copy of the applicant's constitution, articles of agreement or association, or other organizing documents, and its bylaws and rules; (2) lists of its members and subscribers; (3) the name and address of a resident of Washington upon whom notices or orders of the OIC or process affecting the rating organization may be served; and (4) a statement of its qualifications as a rating organization. The license for a rating organization costs \$25 and remains effective for three years. The OIC may, after a hearing and subject to judicial review, suspend or revoke a rating organization's license if the OIC finds that the

rating organization no longer meets the qualifications, or the rating organization fails to comply with an order.

Advisory organizations are not required to be licensed, but must provide the OIC with the same information as an applicant for a license as a rating organization. An advisory organization is an entity that is a group of insurers that assists insurers that make their own filings, or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but does not itself make filings.

An insurer may subscribe to the services of only one rating organization at a time. Each rating organization must keep a record of all its work, receipts, and disbursements. A rating organization and its records are subject to examination by the OIC. There is a process for an insurer to request that the OIC review the reasonableness of a rating organization's action or decision. The OIC may order that a rating organization reconsider a decision, order that an unreasonable rule not apply to subscribers that are not members, or affirm a rating organization's action or decision. There is a similar process for a member or subscriber to appeal from a rating organization's decision in approving or rejecting any proposed change in, or addition to, the rating organizations' filings.

Cooperation among rating organizations or among rating organizations and insurers in rate making and other matters is authorized. The OIC must review the cooperative activities and practices of rating organizations and insurers. The OIC has the authority to hold a hearing and issue a written order specifying how any such activity or practice is inconsistent with law, and requiring the discontinuance of the activity or practice.

Title Insurance Statistical Reporting Agent.

The OIC designates a statistical reporting agent to assist the OIC in gathering information on title insurance policy issuance, business income, expenses, and in making compilations. Annually, title insurers must submit a report to the statistical reporting agent of their policy issuance, business income, expenses, and loss experience in Washington. The statistical reporting agent reviews the information filed for completeness, accuracy, and quality within 120 days of receipt. Within 30 days after completing its review of the information for quality and accuracy, the statistical reporting agent must file the information for each title insurer and title insurance agent, individually and in the aggregate, with the OIC, with a copy of the aggregate data provided to each title insurer and title insurance agent.

Summary of Bill:

Title Insurance Form and Rate Filings.

Title insurers are authorized to use the services of rating organizations and advisory organizations for the purposes of making or adopting title insurance forms and rates. The OIC is required to accept, instead of form and rate filings by a title insurer, form and rate filings on its behalf made by a rating organization licensed by the OIC.

Title Insurance Rating Organizations and Advisory Organizations.

The rights and duties of title insurance rating organizations and advisory organizations are established. A person may apply to the OIC for a license as a rating organization for title insurance in the same manner as an applicant for a license as a rating organization for other types of insurance. The OIC may adopt rules establishing the fee for a license as a title insurance rating organization as well as licensing requirements. Generally, the OIC has the same power and authority regarding licensing title insurance rating organizations, examining title insurance rating organizations, and reviewing decisions of title insurance rating organizations, as the OIC has over rating organizations currently licensed for other types of insurance. The OIC is responsible for examining rating organizations and their records and may adopt rules to enable the OIC to recover the costs of such examinations from the rating organization or the rating organization's members and subscribers.

Rate filings made by a title insurance rating organization on behalf of its members or subscribers become effective only if approved by the OIC. Before the OIC approves a filing by a rating organization, the OIC must: (1) review all materials contained in the filing, including, as applicable, materials submitted by the rating organization, materials provided by the statistical reporting agent, as well as materials concerning any public hearings, market investigations, studies, or other information collected during the review; and (2) determine that the filing complies with title insurance statutes. Deviations from the rating organization's filings are permitted only when filed with the OIC and a copy of a deviation filing must be sent simultaneously to the rating organization.

Rating organizations may exchange aggregated information and experience data with title insurers, rating organizations in Washington, and the statistical reporting agent designated by the OIC, and may consult with title insurers and rating organizations in Washington with respect to form and rate making and the application of rating systems. However, an agreement between a rating organization and its member or subscriber may prohibit the rating organization from disclosing any information or experience data of the member or subscriber title insurer.

Title Insurance Statistical Reporting Agent.

The statistical reporting agent designated by the OIC is authorized to exchange aggregate information and experience data with title insurers and rating organizations in Washington.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This is important legislation for the title insurance industry and homeowners. Title insurance is a unique type of insurance, and some title insurers, especially some of the smaller title insurers, are currently suffering. By authorizing title insurers to participate in,

and subscribe to, the services of a rating organization, the rate filing process will be improved. This will create a predictable process for title insurers to make filings with the OIC and will level the playing field for smaller title insurers. In Oregon, title insurers may become members of, and subscribe to, the services of a rating organization for the purposes of making rate filings, and this legislation would bring that model to Washington. Stakeholders and the OIC worked together to draft the floor amendment adopted to this bill and its companion, Engrossed House Bill 1450. Both versions of the bill are identical.

(Opposed) None.

Persons Testifying: Senator Angel, prime sponsor; and Stuart Halsan, Washington Land Title Organization.

Persons Signed In To Testify But Not Testifying: None.