

# SENATE BILL REPORT

## EHB 1450

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As of March 15, 2017

**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:** Representatives Nealey, Kirby and Vick.

**Brief History:** Passed House: 3/06/17, 98-0.

**Committee Activity:** Financial Institutions & Insurance: 3/14/17.

### Brief Summary of Bill

- Authorizes title insurers to become members of rating and advisory organizations for the purpose of making title insurance form and rate filings with the Office of the Insurance Commissioner.

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## SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Staff:** Jeff Olsen (786-7428)

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

Title insurers must file title insurance forms and rates with the OIC. 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 casualty or surety 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 adoption of insurance

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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.*

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. Rating organizations are required to furnish their services without discrimination as between their members and subscribers. The OIC licenses qualified rating organizations.

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 or rating organizations but does not make filings.

The OIC must designate a statistical reporting agent to assist in gathering information on title insurance policy issuance. The costs and expenses of the statistical reporting agent must be borne by all the authorized title insurers and title insurance agents licensed to conduct title insurance in Washington. 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 must file the information for each title insurer and title insurance agent with the OIC.

**Summary of Bill:** Title insurers may use the services of rating organizations and advisory organizations to adopt title insurance forms and rates. The OIC may accept form and rate filings on a title insurer's behalf made by a rating organization licensed by the OIC. The OIC has authority to license, examine, and review decisions of title insurance rating organizations. 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. The OIC is granted rulemaking authority to establish the rating organization license fee, license requirements, and periodic updates to title insurance rates and rating plans.

The OIC must review all materials contained in a filing including materials submitted by the rating organization before determining that the filing complies with the requirements regulating title insurers. Filings and supporting information are open to public inspection only after a filing becomes effective.

The OIC may suspend or revoke a rating organization license for causes including not meeting license requirements and failure to comply with an order. In addition, the OIC may review the reasonableness of any rating organization rule in its application to subscribers.

Each rating organization shall permit any title insurance company to subscribe to its rating services. Rating organizations may exchange aggregated information and experience data with title insurers, other rating organizations in Washington, and the statistical reporting agent designated by the OIC. 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.

Advisory organizations are established to assist insurers or rating organizations in rate making by collecting and furnishing loss and expense statistics, but may not make filings. Advisory organizations must provide information regarding its regulations and membership to the OIC.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: Legislation passed in 2009 that addressed inducements in the title insurance industry also required that the OIC approve actuarially justified rates for title insurance. After delays, the implementation of the new rates was not based on true facts and created a mess with the title industry in Washington. Oregon uses a rating bureau for title insurance and it works very well. This legislation is based on the Oregon model and will streamline the rate setting process and bring stability back to the market. Improvements were made to the original bill based on feedback from the OIC. Title insurance rates in Washington have not made sense for years, and the recent changes have made it worse. Title insurance includes both a work component, approximately 80 percent of the cost, and a risk component. The rating organization will work with the OIC to make sensible rates, and title insurances companies can compete on service.

**Persons Testifying:** PRO: Representative Terry Nealey, Prime Sponsor; Stu HALSAN, Washingt n Land Title; Dwight Bickel, Fidelity National Title.

**Persons Signed In To Testify But Not Testifying:** No one.