

HOUSE BILL REPORT

EHB 1157

As Passed House:
February 28, 2005

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: By Representatives Roach and Kirby.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/25/05, 1/27/05 [DPA].

Floor Activity:

Passed House: 2/28/05, 95-0.

Brief Summary of Engrossed Bill

- Allows title insurance companies to provide a guarantee accepting financial responsibility for up to \$200,000 for fraudulent or dishonest acts committed by its title agents. This is an alternative to existing financial requirements.
- Any guarantee must approved by the Office of the Insurance Commissioner.
- Allows a title agent to meet the requirement for a fidelity bond, surety bond, or fidelity insurance by purchasing the bond or insurance through the surplus lines.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended. Signed by 10 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Newhouse, Santos, Schual-Berke, Serben, Simpson, Tom and Williams.

Staff: Jon Hedegard (786-7127).

Background:

Title insurance offers protection against the risk that the title to the specified property may be encumbered. Prior to issuing a policy, title companies conduct a title search in order to

determine possible encumbrances. Title insurers and their agents are licensed and regulated by the Office of the Insurance Commissioner (OIC).

Current Financial Regulation of Title Insurers

In order to be authorized to conduct business in Washington, a title insurance company must obtain a certificate of authority from the OIC. The certificate will not be issued unless the title insurer makes a guaranty fund deposit with the OIC. The amount required to be deposited is on the size of the largest county in which the insurer is authorized to transact business. The amount ranges from \$10,000 for a county with a population under 15,000 up to \$200,000 for a county with a population over 500,000.

Current Financial Regulation of Title Agents

In order for a title insurance agent to obtain, renew, or reinstate a license, the agent must demonstrate financial responsibility to the OIC by showing evidence of: (1) a fidelity bond or fidelity insurance providing coverage of \$200,000 with a deductible of no more than \$10,000; and (2) a surety bond of \$10,000. The surety bond is not required if the bond or insurance in (1) does not have a deductible.

Summary of Engrossed Bill:

Additional methods for title agents to satisfy their financial responsibility requirements is created. A title agent does not need to provide a fidelity bond or fidelity insurance if an authorized title insurance company in Washington provides a guarantee accepting financial responsibility up to \$200,000 for fraudulent acts committed by the title agent or the agent's employees. The guarantee is subject to the approval of the OIC. A title company may only accept financial responsibility for its properly appointed title insurance agents.

A title agent may meet the requirement for a fidelity bond, surety bond, or fidelity insurance by purchasing the bond or insurance through the surplus lines.

If a title agent works for two or more title companies and a fraudulent act occurs, the title company that issued the commitment or policy is financially responsible for the loss. If no commitment or policy has been issued, any liability will be shared proportionally among each title company for which the agent was appointed. The proportionality formula is based on the amount of the premium remitted by the agent to the title companies in the previous year. Title agents must comply with this act within 30 days after the effective date of the act.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill is a fix to previous legislation. Two or three years ago, there was a default when a title insurer misappropriated funds. The Legislature passed a bill in 2003. The bill in 2003 included "applicants" among those who needed to have a bond or insurance. This was a problem because there was little to no market. Some title companies could assist their agents but there still are problems, particularly in rural areas. We believe this bill fixes the problem and meets the intent of the 2003 bill.

We support the bill but we have a friendly amendment. The bill requires title agents to purchase from authorized insurers. This excludes surplus lines insurers. We would like to allow the agents to shop the surplus lines market if they can't find products in the authorized market.

Testimony Against: None.

Persons Testifying: (In support) Representative Roach, prime sponsor; and Stu Halsan, Washington Land Title Association.

(In support with concerns) Tom Parker, Surplus Lines Brokers.

Persons Signed In To Testify But Not Testifying: None.