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**Business & Financial Services Committee**

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**HB 2010**

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

**Sponsors:** Representatives Kirby and Bailey.

**Brief Summary of Bill**

- Requires the Insurance Commissioner to consider all of the information that is included in a rate filing for title insurance.
- Removes language regarding the public inspection of title insurance rate filings.
- Delays certain implementation dates from January 1, 2010, to January 1, 2011.

**Hearing Date:** 3/15/11

**Staff:** Jon Hedegard (786-7127).

**Background:**

Title insurance offers protection against the risk that the title to the specified property may be encumbered. Before issuing a policy, title insurers conduct a title search in order to determine possible encumbrances. Title insurers (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 the OIC.

In 2008 an omnibus bill regarding real estate settlement services was passed that made numerous changes related to title insurance. The bill required the Insurance Commissioner (Commissioner) to set a date by which insurers must file title insurance rates under new standards. This date could not be prior to January 1, 2010. On July 20, 2010, the Commissioner adopted rules regarding title insurance rate filings.

New Rate Standards.

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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.*

Every insurer must file title insurance rates with the Commissioner. Every filing must include sufficient information to permit the Commissioner 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. The Commissioner may disapprove a filing. The Commissioner must notify the insurer if the filing has been disapproved and inform the insurer where the filing fails to meet the statutory requirements. The Commissioner must hold a hearing within 30 days if:

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

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 Commissioner may issue an order that confirms, modifies, or rescinds any previous action.

#### Office of the Insurance Commissioner Rules.

Only title rates filed under the new rate standards may be used after January 1, 2012. Insurers must file rates by September 1, 2011, to ensure that the rates will be reviewed and can be effective by January 1, 2012.

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:

- 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 required under this section by April 1 of each year, the insurer must notify the Commissioner 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 consider all of the information that is included in a rate filing.

Language regarding the title insurance rate filing exception from the exemption from public inspection is removed.

The earliest possible dates for the implementation of OIC rules regarding rates are delayed from January 1, 2010, to January 1, 2011.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.