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**Business & Financial Services Committee**

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**HB 1450**

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

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

**Brief Summary of Bill**

- Authorizes and establishes a framework for title insurers to become members of and subscribe to the services of rating organizations and advisory organizations, for the purpose of making title insurance form and rate filings with the Office of the Insurance Commissioner (OIC).
- Provides that title insurance rate filings made by a rating organization on behalf of the title insurers that are its members or subscribers become effective only after the OIC issues a written decision approving the filings.
- Gives the OIC authority and direction to examine title insurance rating organizations and to issue a written decision directing a title insurance rating organization to take specific action.
- Modifies the confidentiality of filed and approved title insurance rate filings to allow for public inspection only of aggregate information that cannot be used to identify an individual insurer.

**Hearing Date:** 1/31/17

**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

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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. 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. 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. The notice must specify how the OIC finds the filing fails to meet the statutory standard, and does not become effective as proposed. 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 most types of insurance (except for certain types of insurance including title insurance, life insurance, and disability insurance), an insurer may subscribe to the services of a rating organization to fulfil 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 as 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 which 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 and has 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 must designate a statistical reporting agent to assist the OIC in gathering information on title insurance policy issuance, business income, expenses, and in making compilations. 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 the business of 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 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 filings by a title insurer, form and rate filings on a title insurer's behalf made by a rating organization licensed by the OIC. Filings made by a rating organization on title insurers' behalves must meet the same legal standards applicable to title insurance form and rate filings generally.

##### 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. Generally, the OIC has the same power and authority with respect to licensing, examining, 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 rating organization on behalf of its members or subscribers become effective only if approved by the OIC in a written decision. The OIC may not approve a rate filing made by a rating organization unless the OIC reviews the substance of the filing and issues a written decision approving the filing and summarizing how the filing comports with law. The written decision must include a summary of any public hearings, market investigations, studies, or other information collected during the review. 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. It is established that to protect title insurance companies' trade secrets and confidential information and to prevent unfair competition, the only information that may be open to public inspection related to a title insurance rate filing is aggregated information from a title insurance rating organization that cannot be used to identify an individual title insurance company.

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.