
SUBSTITUTE HOUSE BILL 2457

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Hatfield and Buck)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to allowing title insurance companies to provide a
2 guarantee covering its agents; and amending RCW 48.29.155.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.29.155 and 2003 c 202 s 1 are each amended to read
5 as follows:

6 (1) At the time of filing an application for a title insurance
7 agent license, or any renewal or reinstatement of a title insurance
8 agent license, the applicant shall provide satisfactory evidence to the
9 commissioner of having obtained the following as evidence of financial
10 responsibility:

11 (a) A fidelity bond or fidelity insurance providing coverage in the
12 aggregate amount of two hundred thousand dollars with a deductible no
13 greater than ten thousand dollars covering the applicant and each
14 corporate officer, partner, escrow officer, and employee of the
15 applicant conducting the business of an escrow agent as defined in RCW
16 18.44.011 and exempt from licensing under RCW 18.44.021(6), or a
17 guarantee from a licensed title insurance company as authorized by
18 subsection (5) of this section; and

1 (b) A surety bond in the amount of ten thousand dollars executed by
2 the applicant as obligor and by a surety company authorized to do a
3 surety business in this state as surety, or some other security
4 approved by the commissioner, unless the fidelity bond or fidelity
5 insurance obtained by the licensee to satisfy the requirement in (a) of
6 this subsection does not have a deductible. The bond shall run to the
7 state of Washington as obligee, and shall run to the benefit of the
8 state and any person or persons who suffer loss by reason of the
9 applicant's or its employee's violation of this chapter. The bond
10 shall be conditioned that the obligor as licensee will faithfully
11 conform to and abide by this chapter and all rules adopted under this
12 chapter, and shall reimburse all persons who suffer loss by reason of
13 a violation of this chapter or rules adopted under this chapter. The
14 bond shall be continuous and may be canceled by the surety upon the
15 surety giving written notice to the commissioner of its intent to
16 cancel the bond. The cancellation shall be effective thirty days after
17 the notice is received by the commissioner. Whether or not the bond is
18 renewed, continued, reinstated, reissued, or otherwise extended,
19 replaced, or modified, including increases or decreases in the penal
20 sum, it shall be considered one continuous obligation, and the surety
21 upon the bond shall not be liable in an aggregate amount exceeding the
22 penal sum set forth on the face of the bond. In no event shall the
23 penal sum, or any portion thereof, at two or more points in time be
24 added together in determining the surety's liability. The bond is not
25 liable for any penalties imposed on the licensee, including but not
26 limited to any increased damages or attorneys' fees, or both, awarded
27 under RCW 19.86.090.

28 (2) For the purposes of this section, a "fidelity bond" means a
29 primary commercial blanket bond or its equivalent satisfactory to the
30 commissioner and written by an insurer authorized to transact this line
31 of business in the state of Washington. The bond shall provide
32 fidelity coverage for any fraudulent or dishonest acts committed by any
33 one or more of the employees, officers, or owners as defined in the
34 bond, acting alone or in collusion with others. The bond shall be for
35 the sole benefit of the title insurance agent and under no
36 circumstances whatsoever shall the bonding company be liable under the
37 bond to any other party. The bond shall name the title insurance agent
38 as obligee and shall protect the obligee against the loss of money or

1 other real or personal property belonging to the obligee, or in which
2 the obligee has a pecuniary interest, or for which the obligee is
3 legally liable or held by the obligee in any capacity, whether the
4 obligee is legally liable therefor or not. The bond may be canceled by
5 the insurer upon delivery of thirty days' written notice to the
6 commissioner and to the title insurance agent.

7 (3) For the purposes of this section, "fidelity insurance" means
8 employee dishonesty insurance or its equivalent satisfactory to the
9 commissioner and written by an insurer authorized to transact this line
10 of business in the state of Washington. The insurance shall provide
11 coverage for any fraudulent or dishonest acts committed by any one or
12 more of the employees, officers, or owners as defined in the policy of
13 insurance, acting alone or in collusion with others. The insurance
14 shall be for the sole benefit of the title insurance agent and under no
15 circumstances whatsoever shall the insurance company be liable under
16 the insurance to any other party. The insurance shall name the title
17 insurance agent as the named insured and shall protect the named
18 insured against the loss of money or other real or personal property
19 belonging to the named insured, or in which the named insured has a
20 pecuniary interest, or for which the named insured is legally liable or
21 held by the named insured in any capacity, whether the named insured is
22 legally liable therefor or not. The insurance coverage may be canceled
23 by the insurer upon delivery of thirty days' written notice to the
24 commissioner and to the title insurance agent.

25 (4) The fidelity bond or fidelity insurance, and the surety bond or
26 other form of security approved by the commissioner, shall be kept in
27 full force and effect as a condition precedent to the title insurance
28 agent's authority to transact business in this state, and the title
29 insurance agent shall supply the commissioner with satisfactory
30 evidence thereof upon request.

31 (5) A title insurance company authorized to do business in
32 Washington under RCW 48.05.030 may provide a guarantee in a form
33 satisfactory to the commissioner accepting financial responsibility, up
34 to the aggregate amount of two hundred thousand dollars, for any
35 fraudulent or dishonest acts committed by any one or more of the
36 employees, officers, or owners of a title insurance agent that is
37 appointed as the title insurance company's agent. A title insurance
38 company providing a guarantee as permitted under this subsection may

1 only do so on behalf of its properly appointed title insurance agents.
2 If the title insurance agent is an agent for two or more title
3 insurance companies, any liability under the guarantee shall be borne
4 by the title insurance company for those escrows for which a title
5 insurance commitment or policy was issued on behalf of that title
6 insurance company. If no commitment or policy was issued regarding the
7 escrow for which moneys were lost, including but not limited to
8 collection escrows, each title insurance company, for which the agent
9 was appointed at the time of the fraudulent or dishonest act, shares in
10 the liability. The liability will be shared proportionally, as
11 follows: The premium the agent remitted to the title insurance company
12 in the year prior to the fraudulent or dishonest act will be compared
13 to the total premium the agent remitted to all title insurance
14 companies, for whom the title insurance agent was appointed, during the
15 same period.

16 (6) All title insurance agents licensed on or before the effective
17 date of this act shall comply with this section within thirty days
18 following the effective date.

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