

By: Laubenberg

H.B. No. 3532

A BILL TO BE ENTITLED

AN ACT

relating to title insurance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Art. 9.02. Definitions

(a) "Title Insurance" means insuring, guaranteeing or indemnifying owners of real property or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, or defects in the title to said property, and the invalidity or impairment of liens thereon, or doing any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of this Act. Title insurance does not include mortgage insurance, mortgage pool guaranty insurance or lender's errors and omission insurance.

(e) "~~Board~~ Department" means the [State Board of Insurance] Texas Department of Insurance of the State of Texas.

(1) "Person" includes individuals, corporations, ~~[associations],~~ limited liability companies, partnerships and trusts.

(n) "Closing the Transaction" means the investigation made on behalf of ~~[a title insurance company, title insurance agent, or direct operation]~~ a consumer or purchaser of a title insurance policy before the actual issuance of the title policy to determine proper execution, acknowledgement, and delivery of all conveyances, mortgage papers, and other title instruments which may

1 be necessary to the consumation of the transaction and includes the
2 determination that all delinquent taxes are paid, all current
3 taxes, based on the latest available information, have been
4 properly prorated between the purchaser and seller in the case of an
5 owner policy, the consideration has been passed, all proceeds have
6 been properly disbursed, a final search of the title has been made,
7 and all necessary papers have been filed for record.

8 (r) "Producer" means a real estate broker or agent, lender,
9 mortgage company, mortgage broker, loan officer, builder,
10 developer, attorney, real estate firm or an affiliate of a
11 producer.

12 SECTION 2. [~~Art. 9.09A. Prohibiting Unmarketability of~~
13 ~~Title Insurance~~

14 ~~An insurance company may not insure against loss or damage by reason~~
15 ~~of unmarketability of title. The commissioner may not promulgate~~
16 ~~rules or forms providing for that coverage.]~~

17 SECTION 3. Art. 9.07C. Area and Boundary Coverage

18 (c) A title insurance company may not discriminate in
19 providing area and boundary coverage in connection with residential
20 real property solely because:

21 (1) the real property is platted or unpolluted; or

22 (2) a municipality did not accept a subdivision plat
23 in relation to the real property before September 1, 1975.

24 (3) the proposed insured or insured is not a lender

25 SECTION 4. Art. 9.30. Rebates and Discounts

26 (b) This Article may not be construed as prohibiting:

27 (7) Notwithstanding any provision of this Article

1 9.30, no person doing the business of title insurance shall,
2 directly or indirectly, pay, give, provide, allow or permit
3 anything of value to a real estate broker, real estate agent,
4 builder, developer, attorney, lender, mortgage broker, loan
5 officer, mortgage company, bank, savings association, credit
6 union, architect, appraiser, real estate firm, real estate
7 investment trust, or any other Producer.

8 (f) No person shall mark-up, add to, up charge, or
9 overcharge for any service or product provided by a third party to a
10 consumer or proposed insured or insured in a real estate
11 transaction. Any person marking-up, adding to, up charging or
12 overcharging for any service or product in a real estate
13 transaction, and in addition to any other penalty or damages, after
14 notice and opportunity for a hearing, is subject to a monetary
15 forfeiture not less than five times the value of the mark-up,
16 addition-to, up charge or overcharge.

17 (g) Any action pursuant to this Article may brought in a
18 state court or other court of competent jurisdiction without regard
19 to the amount of damages.

20 SECTION 5. Art. 9.39B Interest form Escrow and Trust
21 Accounts of a Title Insurance Company, Direct Operation or Title
22 Insurance Agent

23 All interest from escrow and trust fund accounts held by a
24 title insurance company, direct operation or title insurance agent,
25 unless directed otherwise by the owner of the funds, shall be paid
26 to the Texas Department of Housing and Community Affairs for the
27 purpose of assisting individuals or families of low, very low or

1 extremely low incomes who are not assisted by private enterprise or
2 other governmental programs to obtain affordable housing.

3 SECTION 6. This Act takes effect September 1, 2003.