

BILL ANALYSIS

Senate Research Center
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H.B. 885
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Each licensed title insurance company doing business in the United States is regulated in its respective home state or domicile as to the maintenance of sufficient statutory premium reserves (SPR) on all business underwritten nationally.

In the event of the insolvency of a title insurance company, Texas title insurers have been required by state law to establish a statutory premium reserve (prior to 1997, also known as unearned premium reserves) to pay claims, or to secure reinsurance to pay claims and related expenses on title insurance policies. Title insurers must segregate high quality investments in the amounts of the reserve. The title insurance company cannot use segregated assets to pay any expenses or dividends.

It is important that the Texas statute be appropriate and reasonable for all Texas domiciled underwriters. However, since the 1997 revision of the SPR statute, when the reserving formula was changed and initially set at 25 cents per thousand dollars of written policy liability, the Texas domestic title insurance companies, regulated by the Texas Department of Insurance, have become over-reserved according to the most recent actuarial analysis. The trend toward over-reserving means that at some point a company must begin to restrict and reserve its current assets, such as cash. This is not desirable in that working capital may eventually become adversely affected.

In 1997, Article 9.16 was revised to increase the initial amount set aside for reserves, and to provide for a more accurate release formula for those reserves over a 20-year period. To more accurately reserve in future years, the 1997 change provided that reserves in 1998 and subsequent years would be based on net retained liability (amount of insurance under policies), which is intended to be a more accurate reflection of amounts that may be expended for claims and expenses. The 1997 revision did not, however, require the commissioner of insurance to regular and periodically review whether companies are specifically under- or over-reserved according to an actuarial analysis and to adjust that amount accordingly. Any needed change would always take the burdensome path of a legislative amendment.

H.B. 885 solves the problem of determining on a regular basis whether a Texas domiciled title insurance company is under- or over-reserved, and allows the commissioner of insurance to more easily and quickly adjust the SPR or Texas domiciled and regulated title underwriters. H.B. 885 gives the commissioner of insurance the flexibility to adjust the SPR from an initial amount set at 18.5 cents per thousand of net retained liability by issuing an order rather than having to go to the legislature each time a change is required.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2551.253, Insurance Code, as effective April 1, 2005, as follows:

Sec. 2551.253. AMOUNTS ADDED TO RESERVE FOR CALENDAR YEARS AFTER 1997; REDUCTIONS. (a) Makes a conforming change.

(b) Requires a domestic title insurer, out of total charges for title insurance policies written or assumed on or after January 1, 2005, to add to and set aside in the statutory premium reserve an amount equal to the total of 18.5 cents per \$1,000 of net retained liability for the most recent calendar year, as described in the insurer's annual statement.

(c) Created from text of existing Subsection (b).

SECTION 2. Amends Section 2551.258, Insurance Code, as effective April 1, 2005, as follows:

Sec. 2551.258. REEVALUATION OF CERTAIN RESERVE REQUIREMENTS. (a) Creates subsection from existing text. Authorizes the commissioner of insurance to reevaluate the adequacy of the statutory premium reserves required under Section 2551.253 and, based on actuarial review, change by order the amount of the statutory premium reserve required of any domestic title insurer or all domestic title insurers. Deletes existing text authorizing the commissioner to make recommendations for legislative changes.

(b) Provides that any change in the amount of a statutory premium reserve under Subsection (a)(2) is considered a statutory premium reserve and is not considered a supplemental reserve.

SECTION 3. Effective date: September 1, 2005.