BILL ANALYSIS

C.S.H.B. 885
By: Seaman
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Each licensed title insurance company doing business in the United States is regulated in their 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 to establish a statutory premium reserve 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 amount 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 twenty-five 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.

Prior to 1997, the unearned premium reserve was based on a percentage of the premium paid to the title insurance company, and was released or drawn down by the title insurance company on an equal percentage (or 5% a year) over 20 years. In 1997, the code 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.

Just as important, the 1997 revision did not require the Commissioner to regularly 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. This bill will solve the problem of determining on a regular basis whether a Texas domiciled title insurance company is under or over-reserved and allow the Commissioner to more easily and quickly adjust the SPR of Texas domiciled and regulated title underwriters. So that the companies may be reserved at the correct level, it gives the Commissioner 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

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 1 - Amends Sec. 2551.253 of the Insurance Code by setting the amount of Statutory Premium Reserve required of a domestic title insurer beginning in 2005 at 18.5 cents per $1,000 of net retained liability or as established by order of the Commissioner.

Section 2 - Amends Sec. 2551.258 of the Insurance Code by allowing the Commissioner to change by order the amount of Statutory Premium Reserves for any or all domestic title insurers.

Section 3 - Effective date

EFFECTIVE DATE

This Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Section 1 - The original bill sets the amount of the statutory premium reserve for domestic title insurance companies at 18.5 cents per $1,000 of net retained liability beginning in 2005.

The substitute keeps the same provision, and adds the ability of the Commissioner by order to establish a different amount for any or all companies.

Section 2 - The original bill requires title insurance companies to deliver on or before July 1 of each even-numbered year an actuarial report as to the adequacy of statutory premium reserves and requires the commissioner to evaluate the report.

The substitute deletes the biennial reporting and evaluation requirement, and allows the commissioner by order to change the amount of statutory premium reserves at any time.

Section 3 - No change.