

1-1 By: Eiland (Senate Sponsor - Janek) H.B. No. 3271
1-2 (In the Senate - Received from the House May 9, 2007;
1-3 May 10, 2007, read first time and referred to Committee on Business
1-4 and Commerce; May 22, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 22, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3271 By: Janek

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the biennial hearing concerning title insurance and
1-11 related information.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Sections 2703.153 and 2703.203, Insurance Code,
1-14 are amended to read as follows:

1-15 Sec. 2703.153. COLLECTION OF DATA FOR FIXING PREMIUM RATES;
1-16 ANNUAL STATISTICAL REPORT. (a) Each title insurance company and
1-17 title insurance agent engaged in the business of title insurance in
1-18 this state shall annually submit to the department, as required by
1-19 the department to collect data to use to fix premium rates, a
1-20 statistical report containing [all] information relating to:

- 1-21 (1) loss experience;
- 1-22 (2) expense of operation; and
- 1-23 (3) other material matters.

1-24 (b) The information must be submitted in the form prescribed
1-25 by the department.

1-26 (c) If the form adopted under Subsection (b) is amended to
1-27 require a title insurance company or title insurance agent to
1-28 include new or different information in the statistical report,
1-29 that information may not be considered by the commissioner in
1-30 fixing premium rates until the expiration of a period stated in the
1-31 commissioner's rules. The period must be sufficiently long to
1-32 ensure that the information collected is statistically meaningful.

1-33 (d) A title insurance company or a title insurance agent
1-34 aggrieved by a requirement concerning the submission of information
1-35 imposed under this section or otherwise imposed in connection with
1-36 a biennial hearing under Subchapter E may bring a suit in a district
1-37 court in Travis County alleging that the request for information:

- 1-38 (1) is abusive;
- 1-39 (2) is unduly burdensome;
- 1-40 (3) is made for the purposes of harassment;
- 1-41 (4) is otherwise improper or improperly requests

1-42 privileged information; or
1-43 (5) is not a request for information material to
1-44 fixing and promulgating premium rates or another matter that may be
1-45 the subject of the biennial hearing and is not a request reasonably
1-46 designed to lead to the discovery of that information.

1-47 (e) On filing of a suit under Subsection (d), the
1-48 requirement that the title insurance company or title insurance
1-49 agent bringing the suit comply with the request for the information
1-50 is abated as to that title insurance company or title insurance
1-51 agent. The district court may enter an order requiring the title
1-52 insurance company or title insurance agent to comply with the
1-53 request for information subject to the limitations, if any, imposed
1-54 by the court.

1-55 (f) Another title insurance company or title insurance
1-56 agent subject to the requirements described by Subsection (d) may
1-57 intervene, as permitted by the court, in a suit brought under that
1-58 subsection.

1-59 (g) A district court shall act on a suit brought under
1-60 Subsection (d) not later than the 60th day after the date the suit
1-61 is filed.

1-62 Sec. 2703.203. BIENNIAL HEARING. The commissioner shall
1-63 hold a biennial public hearing not earlier than July 1 of each

2-1 even-numbered year to consider adoption of premium rates and other
2-2 matters relating to regulating the business of title insurance that
2-3 an association, title insurance company, title insurance agent, or
2-4 member of the public admitted as a party under Section 2703.204
2-5 requests to be considered or that the commissioner determines
2-6 necessary to consider.

2-7 SECTION 2. Section 2703.204, Insurance Code, is amended to
2-8 read as follows:

2-9 Sec. 2703.204. ADMISSION AS PARTY TO BIENNIAL HEARING. (a)
2-10 Subject to this section, an [An] individual or association or
2-11 other entity recommending adoption of a premium rate or another
2-12 matter relating to regulating the business of title insurance shall
2-13 be admitted as a party to the biennial hearing.

2-14 (b) An individual or association seeking to be made a party
2-15 with respect to a portion of the biennial hearing that relates to
2-16 adoption of a premium rate or a rule must provide to the
2-17 commissioner a detailed summary of the individual's or
2-18 association's interest in the business of title insurance.

2-19 (c) For an individual, the summary required by Subsection
2-20 (b) must include a statement of the number of real estate
2-21 transactions in which the individual has been involved and with
2-22 respect to which the individual has requested and paid for title
2-23 insurance. For an association, the summary must include a statement
2-24 of the number of members of the association.

2-25 (d) An association is presumed to have a substantial
2-26 interest in the business of title insurance if the association has
2-27 at least 250 members.

2-28 (e) A party to the biennial hearing may file an action in a
2-29 district court in Travis County to remove any other party to a
2-30 portion of the biennial hearing that relates to adoption of a
2-31 premium rate or a rule on the grounds that the other party does not
2-32 have a substantial interest in the business of title insurance.

2-33 SECTION 3. Section 2703.205(d), Insurance Code, is
2-34 amended to read as follows:

2-35 (d) At the direction of the commissioner or at the written
2-36 request of an association or other entity recommending adoption of
2-37 a premium rate and [a person] seeking admission as a party to the
2-38 ratemaking phase of the hearing, the State Office of Administrative
2-39 Hearings shall conduct the ratemaking phase of the hearing in
2-40 accordance with Chapter 40. A request under this subsection must be
2-41 made at the time the association or entity [a person] seeks to be
2-42 admitted as a party to the hearing but may not be made later than the
2-43 10th day after the date notice of the hearing is provided under
2-44 Section 2703.207.

2-45 SECTION 4. This Act applies only to the premium rate
2-46 applicable to a title insurance policy that is delivered, issued
2-47 for delivery, or renewed on or after January 1, 2009. A premium rate
2-48 applicable to a policy that is delivered, issued for delivery, or
2-49 renewed before January 1, 2009, is governed by the law as it existed
2-50 immediately before the effective date of this Act, and that law is
2-51 continued in effect for this purpose.

2-52 SECTION 5. This Act takes effect September 1, 2007.

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