

SENATE AMENDMENTS

2nd Printing

By: Eiland

H.B. No. 3271

A BILL TO BE ENTITLED

AN ACT

relating to the biennial hearing concerning title insurance and related information.

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

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

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

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

(b) The information must be submitted in the form adopted by rule by the commissioner in accordance with Subchapter B, Chapter 2001, Government Code ~~[prescribed by the department]~~.

(c) If the rules adopted under Subsection (b) are amended to require a title insurance company or title insurance agent to include new or different information in the statistical report, that information may not be considered by the commissioner in fixing premium rates until the expiration of a period stated in the rules. The period must be sufficiently long to ensure that the

1 information collected is statistically meaningful and may not
2 expire earlier than the second anniversary of the date the
3 amendment to the rules becomes effective.

4 (d) A title insurance company or a title insurance agent
5 aggrieved by a requirement concerning the submission of information
6 imposed under this section or otherwise imposed in connection with
7 a biennial hearing under Subchapter E may bring a suit in a district
8 court in Travis County alleging that the request for information:

9 (1) is abusive;

10 (2) is unduly burdensome;

11 (3) is made for the purposes of harassment;

12 (4) is otherwise improper or improperly requests
13 privileged information; or

14 (5) is not a request for information material to
15 fixing and promulgating premium rates or another matter that may be
16 the subject of the biennial hearing and is not a request reasonably
17 designed to lead to the discovery of that information.

18 (e) On filing of a suit under Subsection (d), the
19 requirement that the title insurance company or title insurance
20 agent bringing the suit comply with the request for the information
21 is abated as to that title insurance company or title insurance
22 agent. The district court may enter an order requiring the title
23 insurance company or title insurance agent to comply with the
24 request for information subject to the limitations, if any, imposed
25 by the court.

26 (f) Another title insurance company or title insurance
27 agent subject to the requirements described by Subsection (d) may

1 intervene, as permitted by the court, in a suit brought under that
2 subsection.

3 (g) A district court shall act on a suit brought under
4 Subsection (d) not later than the 60th day after the date the suit
5 is filed.

6 Sec. 2703.203. BIENNIAL HEARING. The commissioner shall
7 hold a biennial public hearing not earlier than July 1 of each
8 even-numbered year to consider adoption of premium rates and other
9 matters relating to regulating the business of title insurance that
10 an association, title insurance company, title insurance agent, or
11 member of the public admitted as a party under Section 2703.204
12 requests to be considered or that the commissioner determines
13 necessary to consider.

14 SECTION 2. Section 2703.204, Insurance Code, is amended to
15 read as follows:

16 Sec. 2703.204. ADMISSION AS PARTY TO BIENNIAL HEARING. (a)
17 Subject to this section, an [~~An~~] individual or association or
18 other entity recommending adoption of a premium rate or another
19 matter relating to regulating the business of title insurance shall
20 be admitted as a party to the biennial hearing.

21 (b) An individual or association seeking to be made a party
22 with respect to a portion of the biennial hearing that relates to
23 adoption of a premium rate or a rule must provide to the
24 commissioner a detailed summary of the individual's or
25 association's interest in the business of title insurance.

26 (c) For an individual, the summary required by Subsection
27 (b) must include a statement of the number of real estate

1 transactions in which the individual has been involved and with
2 respect to which the individual has requested and paid for title
3 insurance. For an association, the summary must include a statement
4 of the number of members of the association.

5 (d) An association is presumed to have a substantial
6 interest in the business of title insurance if the association has
7 at least 250 members.

8 (e) A party to the biennial hearing may file an action in a
9 district court in Travis County to remove any other party to a
10 portion of the biennial hearing that relates to adoption of a
11 premium rate or a rule on the grounds that the other party does not
12 have a substantial interest in the business of title insurance.

13 SECTION 3. Section 2703.205(d), Insurance Code, is
14 amended to read as follows:

15 (d) At the direction of the commissioner or at the written
16 request of an association or other entity recommending adoption of
17 a premium rate and [~~a person~~] seeking admission as a party to the
18 ratemaking phase of the hearing, the State Office of Administrative
19 Hearings shall conduct the ratemaking phase of the hearing in
20 accordance with Chapter 40. A request under this subsection must be
21 made at the time the association or entity [~~a person~~] seeks to be
22 admitted as a party to the hearing but may not be made later than the
23 10th day after the date notice of the hearing is provided under
24 Section 2703.207.

25 SECTION 4. This Act applies only to the premium rate
26 applicable to a title insurance policy that is delivered, issued
27 for delivery, or renewed on or after January 1, 2009. A premium rate

1 applicable to a policy that is delivered, issued for delivery, or
2 renewed before January 1, 2009, is governed by the law as it existed
3 immediately before the effective date of this Act, and that law is
4 continued in effect for this purpose.

5 SECTION 5. This Act takes effect September 1, 2007.

ADOPTED

MAY 23 2007

Leta Spaw
Secretary of the Senate

Eiland/
By: *Kyle Gank*

H.B. No. 3271

Substitute the following for H.B. No. 3271:

By: *Kyle Gank*

C.S.H.B. No. 3271

A BILL TO BE ENTITLED

AN ACT

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

(b) The information must be submitted in the form prescribed by the department.

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

~~Handwritten signature~~

1 (d) A title insurance company or ~~a~~ title insurance agent
2 aggrieved by a requirement concerning the submission of information
3 imposed under this section or otherwise imposed in connection with
4 a biennial hearing under Subchapter E may bring a suit in a district
5 court in Travis County alleging that the request for information:

6 (1) is abusive;

7 (2) is unduly burdensome;

8 (3) is made for the purposes of harassment;

9 (4) is otherwise improper or improperly requests
10 privileged information; or

11 (5) is not a request for information material to
12 fixing and promulgating premium rates or another matter that may be
13 the subject of the biennial hearing and is not a request reasonably
14 designed to lead to the discovery of that information.

15 (e) On filing of a suit under Subsection (d), the
16 requirement that the title insurance company or title insurance
17 agent bringing the suit comply with the request for the information
18 is abated as to that title insurance company or title insurance
19 agent. The district court may enter an order requiring the title
20 insurance company or title insurance agent to comply with the
21 request for information subject to the limitations, if any, imposed
22 by the court.

23 (f) Another title insurance company or title insurance
24 agent subject to the requirements described by Subsection (d) may
25 intervene, as permitted by the court, in a suit brought under that
26 subsection.

27 (g) A district court shall act on a suit brought under

1 Subsection (d) not later than the 60th day after the date the suit
2 is filed.

3 Sec. 2703.203. BIENNIAL HEARING. The commissioner shall
4 hold a biennial public hearing not earlier than July 1 of each
5 even-numbered year to consider adoption of premium rates and other
6 matters relating to regulating the business of title insurance that
7 an association, title insurance company, title insurance agent, or
8 member of the public admitted as a party under Section 2703.204
9 requests to be considered or that the commissioner determines
10 necessary to consider.

11 SECTION 2. Section 2703.204, Insurance Code, is amended to
12 read as follows:

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

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

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

1 of the number of members of the association.

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

5 (e) A party to the biennial hearing may file an action in a
6 district court in Travis County to remove any other party to a
7 portion of the biennial hearing that relates to adoption of a
8 premium rate or a rule on the grounds that the other party does not
9 have a substantial interest in the business of title insurance.

10 SECTION 3. Section 2703.205(d), Insurance Code, is
11 amended to read as follows:

12 (d) At the direction of the commissioner or at the written
13 request of an association or other entity recommending adoption of
14 a premium rate and [a person] seeking admission as a party to the
15 ratemaking phase of the hearing, the State Office of Administrative
16 Hearings shall conduct the ratemaking phase of the hearing in
17 accordance with Chapter 40. A request under this subsection must be
18 made at the time the association or entity [a person] seeks to be
19 admitted as a party to the hearing but may not be made later than the
20 10th day after the date notice of the hearing is provided under
21 Section 2703.207.

22 SECTION 4. This Act applies only to the premium rate
23 applicable to a title insurance policy that is delivered, issued
24 for delivery, or renewed on or after January 1, 2009. A premium rate
25 applicable to a policy that is delivered, issued for delivery, or
26 renewed before January 1, 2009, is governed by the law as it existed
27 immediately before the effective date of this Act, and that law is

1 continued in effect for this purpose.

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

ADOPTED

MAY 23 2007

FLOOR AMENDMENT NO. 1

Lotay Spaw
Secretary of the Senate

BY: *W. J. ...*

1 Amend C.S.H.B. No. 3271 (senate committee printing) as
2 follows:

3 (1) In SECTION 1 of the bill, in amended Section 2703.153,
4 Insurance Code, strike added Subsections (c) and (d) of that
5 section (page 1, lines 26-46) and substitute the following:

6 (c) If the department requires a title insurance company or
7 title insurance agent to include new or different information in
8 the statistical report, that information may be considered by the
9 commissioner in fixing premium rates if the information collected
10 is reasonably credible for the purposes for which the information
11 is to be used.

12 (d) A title insurance company or a title insurance agent
13 aggrieved by a department requirement concerning the submission of
14 information may bring a suit in a district court in Travis County
15 alleging that the request for information:

16 (1) is unduly burdensome; or

17 (2) is not a request for information material to
18 fixing and promulgating premium rates or another matter that may be
19 the subject of the biennial hearing and is not a request reasonably
20 designed to lead to the discovery of that information.

21 (2) In SECTION 1 of the bill, in amended Section 2703.153,
22 Insurance Code, strike added Subsections (f) and (g) of that
23 section (page 1, lines 55-61) and substitute the following:

24 (f) A title insurance company or title insurance agent must
25 bring suit under Subsection (d) not later than the 30th day after
26 the date the company or agent receives the request for information
27 from the department.

28 (g) This section may not be construed to limit the
29 department's authority to request information under Section 38.001

1 or other applicable provisions of this code.

2 (3) In SECTION 2 of the bill, in amended Section 2703.204,
3 Insurance Code, strike added Subsections (b), (c), (d), and (e) of
4 that section (page 2, lines 14-32) and substitute the following:

5 (b) A party to the ratemaking phase of the biennial hearing
6 may request that the commissioner remove any other party to the
7 ratemaking phase of the hearing on the grounds that the other party
8 does not have a substantial interest in ~~title~~ insurance. A decision
9 of the commission to deny or grant the request is final and subject
10 to appeal in accordance with Section 36.202.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 18, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3271** by Eiland (Relating to the biennial hearing concerning title insurance and related information.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: JOB, JRO, SK

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3271 by Eiland (Relating to the biennial hearing concerning title insurance and related information.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: JOB, JRO, SK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 23, 2007

TO: Honorable John T. Smithee, Chair, House Committee on Insurance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3271** by Eiland (Relating to the biennial hearing concerning title insurance and related information.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: JOB, JRO, SK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 13, 2007

TO: Honorable John T. Smithee, Chair, House Committee on Insurance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3271 by Eiland (Relating to the biennial hearing concerning title insurance and related information.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: JOB, JRO, SK

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