

House Bill 3271
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 [aH] 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 information collected is statistically meaningful and may not expire earlier than the second anniversary of the date the amendment to the rules becomes effective.

(d) A title insurance company or a title insurance agent aggrieved by a requirement concerning the submission of information imposed under this section or otherwise

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

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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 department requires a title insurance company or title insurance agent to include new or different information in the statistical report, that information may be considered by the commissioner in fixing premium rates if the information collected is reasonably credible for the purposes for which the information is to be used.

(d) A title insurance company or a title insurance agent aggrieved by a department requirement concerning the submission of information may bring a suit in a district

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imposed in connection with a biennial hearing under Subchapter E may bring a suit in a district court in Travis County alleging that the request for information:

- (1) is abusive;
 - (2) is unduly burdensome;
 - (3) is made for the purposes of harassment;
 - (4) is otherwise improper or improperly requests privileged information; or
 - (5) is not a request for information material to fixing and promulgating premium rates or another matter that may be the subject of the biennial hearing and is not a request reasonably designed to lead to the discovery of that information.
- (e) On filing of a suit under Subsection (d), the requirement that the title insurance company or title insurance agent bringing the suit comply with the request for the information is abated as to that title insurance company or title insurance agent. The district court may enter an order requiring the title insurance company or title insurance agent to comply with the request for information subject to the limitations, if any, imposed by the court.
- (f) Another title insurance company or title insurance agent subject to the requirements described by Subsection (d) may intervene, as permitted by the court, in a suit brought under that subsection.
- (g) A district court shall act on a suit brought under Subsection (d) not later than the 60th day after the date the suit is filed.

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court in Travis County alleging that the request for information:

- (1) is unduly burdensome; or
 - (2) is not a request for information material to fixing and promulgating premium rates or another matter that may be the subject of the biennial hearing and is not a request reasonably designed to lead to the discovery of that information.
- (e) On filing of a suit under Subsection (d), the requirement that the title insurance company or title insurance agent bringing the suit comply with the request for the information is abated as to that title insurance company or title insurance agent. The district court may enter an order requiring the title insurance company or title insurance agent to comply with the request for information subject to the limitations, if any, imposed by the court.
- (f) A title insurance company or title insurance agent must bring suit under Subsection (d) not later than the 30th day after the date the company or agent receives the request for information from the department.
- (g) This section may not be construed to limit the

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

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

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

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

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department's authority to request information under Section 38.001 or other applicable provisions of this code.

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

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

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

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

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

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

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

(d) At the direction of the commissioner or at the written request of an association or other entity recommending adoption of a premium rate and ~~[a person]~~ seeking

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

Same as House version.

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admission as a party to the ratemaking phase of the hearing, the State Office of Administrative Hearings shall conduct the ratemaking phase of the hearing in accordance with Chapter 40. A request under this subsection must be made at the time the association or entity ~~[a person]~~ seeks to be admitted as a party to the hearing but may not be made later than the 10th day after the date notice of the hearing is provided under Section 2703.207.

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

Same as House version.

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

Same as House version.