

BILL ANALYSIS

C.S.H.B. 3768
By: Paxton
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

When a person, through a warrantee deed, transfers a residence homestead into a qualified trust, the individual may lose residential insurance coverage.

C.S.H.B. 3768 transfers an individual's title insurance coverage to the trust when the real property is also transferred into a trust to ensure the individual retains their insurance.

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

C.S.H.B. 3768 amends the Insurance Code to establish that the transfer by warranty deed of real property into an inter vivos trust does not affect title insurance coverage of the property if the trust settlor is a beneficiary of the trust during the settlor's lifetime. The bill provides that, on the effective date of a transfer, the insurance coverage on the title of the real property transferred applies to the trustee of the trust into which the settlor transferred the property. The bill provides that the insurance company has the defenses to the coverage that the company had under the policy against the original named.

C.S.H.B. 3768 makes its provisions applicable to an insurance policy or contract that is delivered, issued for delivery, or renewed on or after January 1, 2010.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3768 correctly amends the Insurance Code to protect the title insurance of the settlor upon transfer of the home into the inter vivos trust instead of the Property Code. The original version of the bill placed the language in the Property Code.