

BILL ANALYSIS

Senate Research Center
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S.B. 1457
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law does not allow the necessary parties to call a rate hearing and can be improved and streamlined. S.B. 1457 removes the requirement for a biennial rate hearing, instead allowing interested parties including title industry members and the Office of Insurance Council to request a hearing when they deem necessary. The bill also provides that a hearing must take place if no hearing is called within a five-year period. The bill additionally sets forth a timetable for a hearing and subsequent rate adoption.

S.B. 1457 allows regulated members of the title industry to have notice when an enforcement action has commenced against them. It further allows the defendant to request and receive a hearing and prevents the practice of withholding licenses and license renewals in order to force a settlement by the regulated party on a pending enforcement action.

S.B. 1457 provides that items added to the required statistical report be promulgated through a hearing process. The bill also clarifies the ability and parameters for members of the title insurance to engage in educational and promotional activities.

S.B. 1475 streamlines the Texas Department of Insurance's (TDI's) notice requirements in order to save TDI resources and alters the standing requirements for participants in a rate hearing.

Overall the purpose of this bill is to streamline the ratemaking process for title rates within TDI. The bill will increase efficiencies while at the same time ensuring adequate due process protections for the regulated entities.

As proposed, S.B. 1457 amends current law relating to administrative procedures for title insurance hearings, licensing, and enforcement.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2502.055, Insurance Code, by amending Subsection (a)(l), as follows:

[sic] (1) engaging in promotional, rather than legal promotional, and education activities that are not conditioned on the referral of title insurance business;

SECTION 2. Amends Section 2651.007, Insurance Code, by adding Subsections (d) and (e), as follows:

(d) Prohibits the Texas Department of Insurance (TDI) from delaying or denying a license renewal application due to a pending enforcement action against the applicant.

(e) Provides that if TDI does not provide the applicant with a ground for denying the application under Section 2651.30 [sic] before the 61st day after the date TDI receives the completed application, the application is considered approved.

SECTION 3. Amends Subchapter G, Chapter 2651, Insurance Code, by adding Sections 2651.303 and 2651.304, as follows:

Sec. 2651.303 NOTICE OF DISCIPLINARY ACTION. Requires TDI to notify a license holder or applicant for a license of a disciplinary action against the license holder or applicant not later than the 20th day after the date the action is initiated. Provides that if TDI does not pursue the action on or before the 60th day after the date TDI receives a response from the license holder or applicant, the action is considered dismissed.

Sec. 2651.304. DENIAL OF LICENSE APPLICATION ON DISCIPLINARY GROUNDS. (a) Prohibits TDI from delaying or denying a license approval due to a pending enforcement action against the applicant.

(b) Provides that if TDI does not provide the applicant with a ground for denying the application under Section 2651.301 (Grounds for License Denial or Disciplinary Action) before the 61st day after the date TDI receives the completed application, the application is considered approved.

SECTION 4. Amends Subchapter E, Chapter 2652, Insurance Code, by adding Sections 2652.203 and 2652.204, as follows:

Sec. 2652.203. NOTICE OF DISCIPLINARY ACTION. Requires TDI to notify a license holder or applicant for a license of a disciplinary action against the license holder or applicant not later than the 20th day after the date the action is initiated. Provides that if TDI does not pursue the action on or before the 60th date after the date TDI receives a response from the license holder or applicant, the action is considered dismissed.

Sec. 2652.204. DENIAL OF LICENSE APPLICATION ON DISCIPLINARY GROUNDS. (a) Prohibits TDI from delaying or denying a license approval due to a pending enforcement action against the applicant.

(b) Provides that if TDI does not provide the applicant with a ground for denying the application under Section 2652.201 (Grounds for License Denial or Disciplinary Action) before the 61st day after the date TDI receives the completed application, the application is considered approved.

SECTION 5. Amends Section 2703.153, Insurance Code, by adding Subsection (h), as follows:

(h) Requires TDI to promulgate the contents of the statistical report in a hearing conducted by the commissioner of insurance (commissioner) as a rulemaking hearing under Subchapter B (Rulemaking), Chapter 2001 (Administrative Procedure), Government Code. Requires the commissioner to implement any new amendments to the statistical report no earlier than the second anniversary of the adoption of the amendment. Prohibits a change to the statistical report from being retroactive.

SECTION 6. Amends Section 2703.202, Insurance Code, by amending Subsection (b) and adding Subsections (g)-(m), as follows:

(b) Requires the commissioner, at the written request of a title insurance company, an association composed of at least 50 percent of the title insurance agents and title insurance companies licensed or authorized by TDI, an association composed of at least 20 percent of title insurance agents licensed or authorized by TDI or the office of public insurance counsel, to order a public hearing to consider changing a premium rate.

(g) Requires the commissioner to issue a notice of call for items for consideration that is not later than the 31st day after the date the request was sent to the commissioner. Prohibits the commissioner from requiring responses to the notice of call for items for consideration before the 61st day after the issue of the notice of call for items for consideration.

(h) Requires the commissioner to issue a notice of public hearing requested under this section that is no earlier than the 91st day after the date the notice of call for items for consideration.

(i) Requires the commissioner to conclude a public hearing under this section no later than the 121st day after issuing a notice of public hearing under this section.

(j) Requires the commissioner to issue a ruling not later than the 60th day after the date of a public hearing held under this section.

(k) Prohibits a party's presentation of relevant, admissible oral testimony from being limited.

(l) Requires that each matter in each phase of the hearing be considered by the commissioner and decisions on the matters be made in an open meeting.

(m) Authorizes a party listed in Section [sic] (b) of this section, if the commissioner fails to meet the requirements in Sections [sic] (g), (i) or (j) of this section, to petition the district court to adopt a rate. Authorizes a district court to appoint a magistrate to adopt a rate under this section.

SECTION 7. Amends Section 2703.203, Insurance Code, as follows:

Sec. 2703.203. New heading: HEARING. Requires the commissioner, after July 1 of the fifth year following the last hearing held under Section 2703.202 (Hearing Required for Change in Premium Rate), to hold a public hearing, rather than a biennial public hearing, 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 8. Amends Section 2703.204, Insurance Code, by amending Subsection (a), as follows:

Sec. 2703.204. New heading: ADMISSION AS PARTY TO HEARING. (a) Requires a trade association representing 20 percent of the members of the industry or groups represented, and association under Chapter 2401 [sic], Insurance Code, TDI staff, or any entity under Section 2703.202(b), Insurance Code, to be admitted as a party to a hearing, rather than the biennial hearing, under Section 2703.202, Insurance Code.

SECTION 9. Repealer: Section 2703.205 (Phases of Biennial Hearing), Insurance Code.

SECTION 10. Amends Section 2703.207, Insurance Code, as follows:

Sec. 2703.207. NOTICE OF CERTAIN HEARINGS. Requires that notice of the hearing and of each item to be considered at the hearing, not later than the 60th day before the date of a hearing under Section 2703.202, 2703.203, or 2703.206 (Commissioner Authority to Hold Hearings as Necessary), be:

(1) sent directly to all the parties to the last hearing conducted under Sections 2703.202, 2703.203, or 2703.206 if the hearing was conducted as a contested case hearing, rather than sent directly to all title insurance companies and title insurance agents; and

(2) published in the Texas Register and on TDI's website, rather than provided to the public in a manner that gives fair notice concerning the hearing.

SECTION 11. Effective date: upon passage or September 1, 2011.