

By: Taylor of Galveston

H.B. No. 2604

A BILL TO BE ENTITLED

AN ACT

relating to solvency accounts maintained by title agents for holding unencumbered assets.

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

SECTION 1. Section 2651.012(a)(2), Insurance Code, is amended to read as follows:

(2) "Unencumbered assets" means:

(A) cash or cash equivalents;

(B) liquid assets that have a readily determinable market value and that do not have any lien against them;

(C) real estate, in excess of any encumbrances;

(D) investments, such as mutual funds, certificates of deposit, and stocks and bonds;

(E) a surety bond, the form and content of which shall be prescribed by the commissioner in accordance with this code;

(F) a deposit made in accordance with Section 2651.102; ~~and~~

(G) a letter of credit that meets the requirements of Section 493.104(b)(2)(C); and

(H) a solvency account that meets the requirements of Section 2651.0121.

SECTION 2. Subchapter A, Chapter 2651, Insurance Code, is

1 amended by adding Section 2651.0121 to read as follows:

2 Sec. 2651.0121. SOLVENCY ACCOUNT. (a) An agent may
3 maintain a solvency account to accrue and hold unencumbered assets
4 as provided by this section.

5 (b) An account under this section must be:

6 (1) in a financial institution in this state that is
7 insured by an agency of the United States;

8 (2) accessible only to the department, on order of the
9 commissioner; and

10 (3) audited in the same manner provided for trust
11 funds by Section 2651.151.

12 (c) Subject to Subsection (d), an account under this section
13 may be established by an initial deposit in an amount less than the
14 amount provided by Section 2651.012(c).

15 (d) An account established by an initial deposit of an
16 amount less than the amount provided by Section 2651.012(c) must be
17 funded with a minimum deposit in the amount that is equal to \$5 for
18 each policy of title insurance issued by the agent. Deposits to the
19 account must be made at least quarterly and must be made from and
20 based on retained premiums collected during the calendar quarter
21 during which premiums were collected.

22 (e) Interest that accrues in an account the principal
23 balance of which is less than the amount provided by Section
24 2651.012(c) must be retained in the account. Interest that accrues
25 in an account the principal balance of which is greater than the
26 amount provided by Section 2651.012(c) may be paid to the agent
27 maintaining the account.

1 (f) The commissioner may issue an order to access funds held
2 in an account under this section if:

3 (1) the agent is an impaired agent, as defined by
4 Section 2602.003; or

5 (2) the commissioner determines that the agent must be
6 involuntarily liquidated as the result of license surrender or
7 revocation.

8 (g) If an agent or an agent's principal office voluntarily
9 ceases business, surrenders the agent's license, and liquidates the
10 agent's assets, the agent may apply to the department in a form
11 provided by the commissioner by rule for the release of the agent's
12 solvency account. Not later than the 60th day after the date the
13 department receives an application under this subsection, the
14 commissioner shall enter an order authorizing the financial
15 institution in which the solvency account is held to release all or
16 part of the account balance to the agent or the agent's principal
17 office.

18 (h) An account established, funded, and maintained as
19 provided by this section complies with the requirement for
20 maintenance of unencumbered assets under Section 2651.012(c),
21 regardless of whether the amount required by that section is fully
22 accrued.

23 SECTION 3. As soon as practicable after the effective date
24 of this Act, but not later than January 1, 2012, the commissioner of
25 insurance shall promulgate rules and forms governing the operation
26 of a solvency account under Section 2651.0121, Insurance Code, as
27 added by this Act.

1 SECTION 4. This Act takes effect September 1, 2011.