

By: Carona

S.B. No. 322

A BILL TO BE ENTITLED

AN ACT

relating to the requirements for reinsurance contracts covering title insurance policies issued in this state.

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

SECTION 1. Section 2551.302, Insurance Code, is amended to read as follows:

Sec. 2551.302. REQUIREMENTS FOR REINSURING POLICIES. A title insurance company may reinsure any of its policies and contracts issued on real property located in this state or on policies and contracts issued in this state under Chapter 2751, if:

(1) the reinsuring title insurance company is authorized to engage in business in this state under this title; or ~~and~~

(2) the title insurance company acquires reinsurance in accordance with Section 2551.305 ~~[the department first approves the form of the reinsurance contract]~~.

SECTION 2. Section 2551.305, Insurance Code, is amended to read as follows:

Sec. 2551.305. CERTAIN REINSURANCE ALLOWED.

(a) Notwithstanding any other provision of this subchapter, a title insurance company may acquire reinsurance on an individual policy or facultative basis from a title insurance company not authorized to engage in the business of title insurance in this state if:

1 (1) the title insurance company from which the
2 reinsurance is acquired:

3 (A) has a combined capital and surplus of at
4 least \$20 million as stated in the company's most recent annual
5 statement preceding the acceptance of reinsurance; and

6 (B) is domiciled in another state and is
7 authorized to engage in the business of title insurance in one or
8 more states; and

9 (2) the title insurance company acquiring reinsurance
10 gives written notice to the department at least 30 days before
11 acquiring the reinsurance, and the commissioner does not, before
12 the expiration of the 30-day period and on the ground that the
13 transaction may result in a hazardous financial condition, prohibit
14 the title insurance company from obtaining reinsurance under this
15 section.

16 (b) The notice required under Subsection (a)(2) must
17 provide sufficient information to enable the commissioner to
18 evaluate the proposed transaction, including a summary of the
19 significant terms of the reinsurance, the financial impact of the
20 transaction on the title insurance company acquiring reinsurance,
21 and the specific identity and state of domicile of each title
22 insurance company from which reinsurance is acquired.

23 (c) Notwithstanding any other provision of this subchapter,
24 the department may, on application and hearing, permit a title
25 insurance company to acquire reinsurance that does not comply with
26 Subsection (a) on an individual policy or facultative basis from a
27 title insurance company domiciled in another state and not

1 authorized to engage in the business of title insurance in this
2 state, if:

3 (1) the company has exhausted the opportunity to
4 acquire reinsurance from all other authorized title insurance
5 companies; and

6 (2) the title insurance company from which the
7 reinsurance is acquired has a combined capital and surplus of at
8 least \$2 [~~\$1.4~~] million as stated in its annual statement preceding
9 the acceptance of reinsurance.

10 (d) [~~(b)~~] Notwithstanding any other provision of this
11 subchapter, the department may, on application and hearing, permit
12 a title insurance company, including an authorized reinsuring title
13 insurance company, to retain an additional potential liability of
14 not more than 40 percent of the company's capital stock and surplus
15 as stated in the most recent annual statement of the company, if:

16 (1) the company has exhausted the opportunity to
17 acquire reinsurance under Subsection (c) [~~(a)~~]; and

18 (2) the additional potential liability of the company
19 is incurred only if the loss suffered by the insured under the
20 policy exceeds the amount of insurance and reinsurance accepted by
21 the company and its reinsuring title insurance companies under the
22 other provisions of this subchapter.

23 SECTION 3. Section 2551.303, Insurance Code, is repealed.

24 SECTION 4. The change in law made by this Act applies only
25 to a reinsurance contract entered into by a title insurance company
26 on or after the effective date of this Act. A reinsurance contract
27 entered into by a title insurance company before the effective date

1 of this Act is governed by the law in effect immediately before the
2 effective date of this Act, and the former law is continued in
3 effect for that purpose.

4 SECTION 5. This Act takes effect September 1, 2011.