

1-1 By: Carona S.B. No. 322
1-2 (In the Senate - Filed January 7, 2011; February 2, 2011,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 March 7, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 7, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 322 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the requirements for reinsurance contracts covering
1-11 title insurance policies issued in this state.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 2551.302, Insurance Code, is amended to
1-14 read as follows:

1-15 Sec. 2551.302. REQUIREMENTS FOR REINSURING POLICIES. A
1-16 title insurance company may reinsure any of its policies and
1-17 contracts issued on real property located in this state or on
1-18 policies and contracts issued in this state under Chapter 2751, if:

1-19 (1) the reinsuring title insurance company is
1-20 authorized to engage in business in this state under this title; or
1-21 ~~and~~

1-22 (2) the title insurance company acquires reinsurance
1-23 in accordance with Section 2551.305 ~~[the department first approves~~
1-24 ~~the form of the reinsurance contract].~~

1-25 SECTION 2. Section 2551.305, Insurance Code, is amended to
1-26 read as follows:

1-27 Sec. 2551.305. CERTAIN REINSURANCE ALLOWED.

1-28 (a) Notwithstanding any other provision of this subchapter, a
1-29 title insurance company may acquire reinsurance on an individual
1-30 policy or facultative basis from a title insurance company not
1-31 authorized to engage in the business of title insurance in this
1-32 state if:

1-33 (1) the title insurance company from which the
1-34 reinsurance is acquired:

1-35 (A) has a combined capital and surplus of at
1-36 least \$20 million as stated in the company's most recent annual
1-37 statement preceding the acceptance of reinsurance; and

1-38 (B) is domiciled in another state and is
1-39 authorized to engage in the business of title insurance in one or
1-40 more states; and

1-41 (2) the title insurance company acquiring reinsurance
1-42 gives written notice to the department at least 30 days before
1-43 acquiring the reinsurance, and the commissioner does not, before
1-44 the expiration of the 30-day period and on the ground that the
1-45 transaction may result in a hazardous financial condition, prohibit
1-46 the title insurance company from obtaining reinsurance under this
1-47 section.

1-48 (b) The notice required under Subsection (a)(2) must
1-49 provide sufficient information to enable the commissioner to
1-50 evaluate the proposed transaction, including a summary of the
1-51 significant terms of the reinsurance, the financial impact of the
1-52 transaction on the title insurance company acquiring reinsurance,
1-53 and the specific identity and state of domicile of each title
1-54 insurance company from which reinsurance is acquired.

1-55 (c) Notwithstanding any other provision of this subchapter,
1-56 the department may, on application and hearing, permit a title
1-57 insurance company to acquire reinsurance that does not comply with
1-58 Subsection (a) on an individual policy or facultative basis from a
1-59 title insurance company domiciled in another state and not
1-60 authorized to engage in the business of title insurance in this
1-61 state, if:

1-62 (1) the company has exhausted the opportunity to
1-63 acquire reinsurance from all other authorized title insurance

2-1 companies; and
2-2 (2) the title insurance company from which the
2-3 reinsurance is acquired has a combined capital and surplus of at
2-4 least \$2 [~~\$1.4~~] million as stated in its annual statement preceding
2-5 the acceptance of reinsurance.

2-6 (d) [~~(b)~~] Notwithstanding any other provision of this
2-7 subchapter, the department may, on application and hearing, permit
2-8 a title insurance company, including an authorized reinsuring title
2-9 insurance company, to retain an additional potential liability of
2-10 not more than 40 percent of the company's capital stock and surplus
2-11 as stated in the most recent annual statement of the company, if:

2-12 (1) the company has exhausted the opportunity to
2-13 acquire reinsurance under Subsection (c) [~~(a)~~]; and

2-14 (2) the additional potential liability of the company
2-15 is incurred only if the loss suffered by the insured under the
2-16 policy exceeds the amount of insurance and reinsurance accepted by
2-17 the company and its reinsuring title insurance companies under the
2-18 other provisions of this subchapter.

2-19 SECTION 3. Section 2551.303, Insurance Code, is repealed.

2-20 SECTION 4. The change in law made by this Act applies only
2-21 to a reinsurance contract entered into by a title insurance company
2-22 on or after the effective date of this Act. A reinsurance contract
2-23 entered into by a title insurance company before the effective date
2-24 of this Act is governed by the law in effect immediately before the
2-25 effective date of this Act, and the former law is continued in
2-26 effect for that purpose.

2-27 SECTION 5. This Act takes effect September 1, 2011.

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