

By: Carona
(Smithee)

S.B. No. 735

A BILL TO BE ENTITLED

AN ACT

relating to prohibition of certain extra hazardous coverages by title insurance companies.

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

SECTION 1. Subchapter A, Chapter 2502, Insurance Code, is amended by adding Section 2502.006 to read as follows:

Sec. 2502.006. CERTAIN EXTRA HAZARDOUS COVERAGES PROHIBITED. (a) A title insurance company may not insure against loss or damage sustained by reason of any claim that under federal bankruptcy, state insolvency, or similar creditor's rights laws the transaction vesting title in the insured as shown in the policy or creating the lien of the insured mortgage is:

(1) a preference or preferential transfer under 11 U.S.C. Section 547;

(2) a fraudulent transfer under 11 U.S.C. Section 548;

(3) a transfer that is fraudulent as to present and future creditors under Section 24.005, Business & Commerce Code, or a similar law of another state; or

(4) a transfer that is fraudulent as to present creditors under Section 24.006, Business & Commerce Code, or a similar law of another state.

(b) The commissioner may by rule designate coverages that violate this section. It is not a defense against a claim that a title insurance company has violated this section that the

1 commissioner has not adopted a rule under this subsection.

2 (c) Title insurance issued in or on a form prescribed by the
3 commissioner shall be considered to comply with this section.

4 (d) Nothing in this section prohibits title insurance with
5 respect to liens, encumbrances, or other defects to title to land
6 that:

7 (1) appear in the public records before the date on
8 which the contract of title insurance is made;

9 (2) occur or result from transactions before the
10 transaction vesting title in the insured or creating the lien of the
11 insured mortgage; or

12 (3) result from failure to timely perfect or record
13 any instrument before the date on which the contract of title
14 insurance is made.

15 (e) A title insurance company may not engage in the business
16 of title insurance in this state if the title insurance company
17 provides insurance of the type prohibited by Subsection (a)
18 anywhere in the United States, except to the extent that the laws of
19 another state require the title insurance company to provide that
20 type of insurance.

21 SECTION 2. Section 2502.006, Insurance Code, as added by
22 this Act, applies only to an insurance policy that is delivered,
23 issued for delivery, or renewed on or after January 1, 2012. A
24 policy delivered, issued for delivery, or renewed before January 1,
25 2012, is governed by the law as it existed immediately before the
26 effective date of this Act, and that law is continued in effect for
27 that purpose.

1 SECTION 3. This Act takes effect September 1, 2011.