

1-1 By: Carona S.B. No. 735
1-2 (In the Senate - Filed February 16, 2011;
1-3 February 23, 2011, read first time and referred to Committee on
1-4 Business and Commerce; March 2, 2011, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; March 2, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to prohibition of certain extra hazardous coverages by
1-9 title insurance companies.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter A, Chapter 2502, Insurance Code, is
1-12 amended by adding Section 2502.006 to read as follows:

1-13 Sec. 2502.006. CERTAIN EXTRA HAZARDOUS COVERAGES
1-14 PROHIBITED. (a) A title insurance company may not insure against
1-15 loss or damage sustained by reason of any claim that under federal
1-16 bankruptcy, state insolvency, or similar creditor's rights laws the
1-17 transaction vesting title in the insured as shown in the policy or
1-18 creating the lien of the insured mortgage is:

1-19 (1) a preference or preferential transfer under 11
1-20 U.S.C. Section 547;

1-21 (2) a fraudulent transfer under 11 U.S.C. Section 548;

1-22 (3) a transfer that is fraudulent as to present and
1-23 future creditors under Section 24.005, Business & Commerce Code, or
1-24 a similar law of another state; or

1-25 (4) a transfer that is fraudulent as to present
1-26 creditors under Section 24.006, Business & Commerce Code, or a
1-27 similar law of another state.

1-28 (b) The commissioner may by rule designate coverages that
1-29 violate this section. It is not a defense against a claim that a
1-30 title insurance company has violated this section that the
1-31 commissioner has not adopted a rule under this subsection.

1-32 (c) Title insurance issued in or on a form prescribed by the
1-33 commissioner shall be considered to comply with this section.

1-34 (d) Nothing in this section prohibits title insurance with
1-35 respect to liens, encumbrances, or other defects to title to land
1-36 that:

1-37 (1) appear in the public records before the date on
1-38 which the contract of title insurance is made;

1-39 (2) occur or result from transactions before the
1-40 transaction vesting title in the insured or creating the lien of the
1-41 insured mortgage; or

1-42 (3) result from failure to timely perfect or record
1-43 any instrument before the date on which the contract of title
1-44 insurance is made.

1-45 (e) A title insurance company may not engage in the business
1-46 of title insurance in this state if the title insurance company
1-47 provides insurance of the type prohibited by Subsection (a)
1-48 anywhere in the United States, except to the extent that the laws of
1-49 another state require the title insurance company to provide that
1-50 type of insurance.

1-51 SECTION 2. Section 2502.006, Insurance Code, as added by
1-52 this Act, applies only to an insurance policy that is delivered,
1-53 issued for delivery, or renewed on or after January 1, 2012. A
1-54 policy delivered, issued for delivery, or renewed before January 1,
1-55 2012, is governed by the law as it existed immediately before the
1-56 effective date of this Act, and that law is continued in effect for
1-57 that purpose.

1-58 SECTION 3. This Act takes effect September 1, 2011.

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