

By: Schaefer

H.B. No. 2384

A BILL TO BE ENTITLED

AN ACT

relating to premium rates for title insurance.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1. Section 2703.003, Insurance Code, is amended to read as follows:

Sec. 2703.003. PAYMENT OF PREMIUMS

(a) The premium for a title insurance policy or for another form prescribed or approved by the commissioner shall be paid in the due and ordinary course of business;

(b) The commission shall not regulate the division of premium between the title insurance company, as defined in Sec. 2501.003(14) and its title insurance agent, or any title insurance agent as defined in Sec. 2501.003.

ARTICLE 2. FILE AND USE RATES

SECTION 1.01. The heading to Subchapter D, Chapter 2703, Insurance Code, is amended to read as follows:

SUBCHAPTER D. ~~[FIXING AND PROMULGATING]~~ TITLE INSURANCE PREMIUM RATES

SECTION 1.02. Section 2703.151, Insurance Code, is amended to read as follows:

(a) Except as provided by Subsection (b), ~~[the commissioner shall fix and promulgate the premium rates to be charged by a title insurance company or by a title insurance agent for title insurance~~

1 ~~policies or for other forms prescribed or approved by the~~
2 ~~commissioner.] premium rates for title insurance are governed by~~
3 ~~Subchapters A-D, Chapter 2251.~~

4 (b) ~~[The commissioner may not fix or promulgate]~~ A title
5 insurance company is not required to file the premium rates for
6 reinsurance between title insurance companies. Title insurance
7 companies may establish the premium rates in amounts to which the
8 companies agree.

9 (c) Except for a premium charged for reinsurance, a premium
10 may not be charged for a title insurance policy or for another
11 prescribed or approved form at a rate different than the rate ~~[fixed~~
12 ~~and promulgated by]~~ filed with the commissioner under Chapter 2251.

13 SECTION 1.03. The heading to Section 2703.153, Insurance
14 Code, is amended to read as follows:

15 Sec. 2703.153. DATA COLLECTION ~~[OF DATA FOR FIXING PREMIUM~~
16 ~~RATES]~~; ANNUAL STATISTICAL REPORT

17 SECTION 1.04. Section 2703.153(a), Insurance Code, is
18 amended to read as follows:

19 (a) Each title insurance company and title insurance agent
20 engaged in the business of title insurance in this state shall
21 annually submit to the department, as required by the department
22 ~~[to collect data to use to [fix] premium rates]~~, a statistical
23 report containing information relating to:

- 24 (1) loss experience;
- 25 (2) expense of operation; and
- 26 (3) other material matters.

27 SECTION 1.05. Sections 2251.002 and 2251.003, Insurance

1 Code, are amended to read as follows:

2 Sec. 2251.002. DEFINITIONS. In this chapter:

3 (9) "Title insurance" has the meaning assigned by
4 Section 2501.003.

5 Sec. 2251.003. APPLICABILITY OF CERTAIN SUBCHAPTERS. (a)
6 This subchapter and Subchapters B, C, D, and E apply to:

7 (3) a title insurance company, as defined by Section
8 2501.003(14).

9 (b) This subchapter and Subchapters B, C, D, and E apply to
10 all lines of the following kinds of insurance written under an
11 insurance policy or contract issued by an insurer authorized to
12 engage in the business of insurance in this state:

13 (15) multi-peril insurance; ~~and~~

14 (16) identity theft insurance issued under Chapter
15 706; ~~and~~ and

16 (17) title insurance.

17 SECTION 1.06. Section 2251.052, Insurance Code, is amended
18 to read as follows:

19 Sec. 2251.052. RATE STANDARDS.

20 (f) In setting rates for title insurance, an insurer shall
21 also consider all relevant income and expenses of title insurance
22 agents attributable to engaging in the business of title insurance
23 in this state.

24 SECTION 1.07. The heading to Section 2751.051, Insurance
25 Code, is amended to read as follows:

26 Sec. 2751.051. [~~FIXING AND PROMULGATING~~] PREMIUM RATES AND
27 FORMS.

1 SECTION 1.08. Section 2751.051, Insurance Code, is amended
2 to read as follows:

3 (a) Premium rates for personal property title insurance are
4 governed by Subchapters A-D, Chapter 2251; and

5 (b) The commissioner shall, in the manner prescribed by this
6 subchapter, ~~+~~

7 ~~(1) fix and promulgate the premium rates to be charged~~
8 ~~by a title insurance company or by a title insurance agent for~~
9 ~~personal property title insurance policies under this chapter; and~~

10 ~~(2)]~~ prescribe the policies and forms to be used for
11 title insurance ~~[in connection with those policies]~~.

12 (c) ~~(b)~~ A premium may not be charged for a personal
13 property title insurance policy or for another prescribed or
14 approved form at a rate different than the rate ~~[fixed and~~
15 ~~promulgated by]~~ filed with the commissioner under Chapter 2251.

16 ARTICLE 3. CONFORMING AMENDMENTS

17 SECTION 2.01. Section 2501.003(8), Insurance Code, is
18 amended to read as follows:

19 (8) "Premium" means the premium rates charged for a
20 title insurance policy or other form prescribed or approved by the
21 Commissioner ~~[promulgated by the commissioner under Subchapters D~~
22 ~~and E, Chapter 2703,]~~ and includes a charge for:

23 (A) title examination and closing the
24 transaction, regardless of whether the examination or closing is
25 performed by an attorney; and

26 (B) issuing the policy or form.

27 SECTION 2.02. Section 2551.204(d), Insurance Code, is

1 amended to read as follows:

2 (d) The amount, handling, and distribution of any reserves
3 required under Subsection (c)(2) are subject to the control and
4 discretion of the department and are reviewable in judicial
5 proceedings governed by rules applicable to review of rates under
6 Section 2703.202, as it existed before its repeal effective
7 September 1, 2014 [~~Subchapters D and E, Chapter 2703~~].

8 SECTION 2.03. Section 2551.351(a), Insurance Code, is
9 amended to read as follows:

10 a) A foreign or domestic corporation forfeits any right to
11 engage in business in this state if the corporation:

12 (1) issues any form of title insurance policy, or any
13 other adopted or approved form, on real property in this state other
14 than a form prescribed by the department;

15 (2) charges any premium rate on an owner, mortgagee,
16 or other title insurance policy, or on any other adopted or approved
17 form, on real property in this state other than a premium rate filed
18 under Chapter 2251 [~~prescribed by the commissioner~~]; or

19 (3) otherwise engages in the business of title
20 insurance in relation to real property in this state on a form [~~or~~
21 ~~for a premium rate~~] not prescribed by the department or
22 commissioner or for a premium rate not filed under Chapter 2251.

23 SECTION 2.04. Section 2602.210(a), Insurance Code, is
24 amended to read as follows:

25 (a) A title insurance company is entitled to recover in its
26 rates for the succeeding calendar year amounts paid in assessments
27 not to exceed one percent of the company's net direct written

1 premiums. A title insurance company may include those amounts,
2 less any refund, as an expense of operation in a rate filing under
3 Chapter 2251. [~~In promulgating or establishing rates the~~
4 ~~commissioner shall consider assessments and refunds of assessments~~
5 ~~and shall adjust the rates to allow for recovery under this~~
6 ~~subsection.~~]

7 SECTION 2.05. The heading to Subchapter E, Chapter 2703,
8 Insurance Code, is amended to read as follows:

9 SUBCHAPTER E. PROCEDURES REGARDING [~~PREMIUM RATES,~~]
10 FORMS [~~7~~] AND OTHER RELATED MATTERS

11 SECTION 2.06. Sections 2703.203, 2703.206 and 2703.207,
12 Insurance Code, are amended to read as follows:

13 Sec. 2703.203. PERIODIC HEARING. The commissioner shall
14 hold a public hearing not earlier than July 1 after the fifth
15 anniversary of the closing of a hearing held under this chapter to
16 consider [~~adoption of premium rates and other~~] matters relating to
17 regulating the business of title insurance that an association,
18 title insurance company, title insurance agent, or member of the
19 public admitted as a party under Section 2703.204 requests to be
20 considered or that the commissioner determines necessary to
21 consider.

22 Sec. 2703.206. COMMISSIONER AUTHORITY TO HOLD HEARINGS AS
23 NECESSARY. At any time, the commissioner may order a public hearing
24 to consider [~~adoption of premium rates and other~~] matters relating
25 to regulating the business of title insurance as the commissioner
26 determines necessary or proper.

27 Sec. 2703.207. NOTICE OF CERTAIN HEARINGS. Not later than

1 the 60th day before the date of a hearing under Section [~~2703.202,~~
2 ~~2703.203, or~~] 2703.206, notice of the hearing and of each item to be
3 considered at the hearing shall be:

4 (1) sent directly to all parties to the previous
5 hearing conducted under Section [~~2703.202, 2703.203, or~~] 2703.206,
6 if the hearing was conducted as a contested case hearing; and

7 (2) published in the Texas Register and on the
8 department's Internet website.

9 SECTION 2.07. Section 2703.208(a), Insurance Code, is
10 amended to read as follows:

11 (a) An addition or amendment to the Basic Manual of Rules [~~7~~
12 ~~Rates,~~] and Forms for the Writing of Title Insurance in the State of
13 Texas may be proposed and adopted by reference by publishing notice
14 of the proposal or adoption by reference in the Texas Register.

15 SECTION 2.08. 2751.053(a), Insurance Code, is amended to
16 read as follows:

17 (a) Before the commissioner may adopt forms [~~a premium rate~~
18 ~~may be fixed and forms adopted~~] for personal property title
19 insurance under this chapter, the department must provide
20 reasonable notice and a hearing must be afforded to title insurance
21 companies, title insurance agents, and the public.

22 SECTION 2.09. Section 2751.054, Insurance Code, is amended
23 to read as follows:

24 [~~(a)~~] Not later than the 90th day after the date of a hearing
25 under Section 2751.053, the commissioner shall issue an order
26 prescribing the [~~rates and~~] forms to be used in connection with
27 personal property title insurance policies under this chapter.

1 ~~[(b) The commissioner's order promulgating rates must be~~
2 ~~based on the evidence adduced at the hearing.]~~

3 SECTION 2.10. The heading to Section 2751.055, Insurance
4 Code, is amended to read as follows:

5 Sec. 2751.055. REVISIONS TO ~~[RATES AND]~~ FORMS; HEARING.

6 SECTION 2.11. Section 2751.055(a), Insurance Code, is
7 amended to read as follows:

8 (a) A title insurance company may apply to the department in
9 the manner prescribed by the commissioner for approval of a new or
10 revised personal property title insurance form ~~[or a change in a~~
11 ~~rate associated with such a form]~~. The commissioner may approve or
12 disapprove an application after a hearing conducted in the manner
13 prescribed by Section 2751.053.

14 SECTION 2.12. The following laws are repealed:

15 Sections 2703.152, 2703.201, 2703.202, 2703.204, and
16 2751.052, Insurance Code.

17 ARTICLE 4. TRANSITION; EFFECTIVE DATE

18 SECTION 3.01. The change in law made by this Act applies
19 only to a premium rate in effect on or after January 1, 2014. A
20 premium rate that in effect before January 1, 2014, is governed by
21 the law in effect immediately before the effective date of this Act,
22 and that law is continued in effect for that purpose.

23 SECTION 3.02. This Act takes effect September 1, 2014.