

By: Eltife

S.B. No. 572

A BILL TO BE ENTITLED

AN ACT

relating to certain title insurance policy liability and reinsurance requirements.

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

SECTION 1. Section 2551.301, Insurance Code, is amended to read as follows:

Sec. 2551.301. MAXIMUM POLICY LIABILITY. (a) Except as provided by Subsection (b), a title insurance company may ~~not~~ issue a title insurance policy on any real property located in this state involving a potential policy liability of not more than 50 percent of the sum of the company's ~~[capital stock and]~~ surplus as regards policyholders and the company's statutory premium reserves as stated in the most recent annual statement of the company.

(b) A title insurance company may exceed the limit described by Subsection (a) if the excess liability is reinsured in due course in accordance with Section 2551.302, 2551.305, or 2551.3055 ~~[an authorized title insurance company]~~.

SECTION 2. 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

1 authorized to engage in business in this state under this title; or

2 (2) the title insurance company acquires reinsurance  
3 in accordance with Section 2551.305 or 2551.3055.

4 SECTION 3. Subchapter G, Chapter 2551, Insurance Code, is  
5 amended by amending Section 2551.305 and adding Section 2551.3055  
6 to read as follows:

7 Sec. 2551.305. ~~[CERTAIN]~~ REINSURANCE FROM NON-ADMITTED  
8 TITLE INSURER ~~[ALLOWED]~~. ~~[(a)]~~ Notwithstanding any other  
9 provision of this subchapter, a title insurance company may acquire  
10 reinsurance on an individual policy or facultative basis from a  
11 title insurance company not authorized to engage in the business of  
12 title insurance in this state if ~~[+]~~

13 ~~[(1)]~~ the title insurance company from which the  
14 reinsurance is acquired:

15 (1) ~~[(A)]~~ has a combined capital and surplus of at  
16 least \$20 million as stated in the company's most recent annual  
17 statement preceding the acceptance of reinsurance; and

18 (2) ~~[(B)]~~ is domiciled in another state and is  
19 authorized to engage in the business of title insurance in one or  
20 more states ~~[, and~~

21 ~~[(2) the title insurance company acquiring~~  
22 ~~reinsurance gives written notice to the department at least 30 days~~  
23 ~~before acquiring the reinsurance, and the commissioner does not,~~  
24 ~~before the expiration of the 30-day period and on the ground that~~  
25 ~~the transaction may result in a hazardous financial condition,~~  
26 ~~prohibit the title insurance company from obtaining reinsurance~~  
27 ~~under this section.~~

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

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

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

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

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

1           ~~[(1) the company has exhausted the opportunity to~~  
2 ~~acquire reinsurance under Subsection (c); and~~

3           ~~[(2) the additional potential liability of the company~~  
4 ~~is incurred only if the loss suffered by the insured under the~~  
5 ~~policy exceeds the amount of insurance and reinsurance accepted by~~  
6 ~~the company and its reinsuring title insurance companies under the~~  
7 ~~other provisions of this subchapter].~~

8           Sec. 2551.3055. REINSURANCE FROM INSURER OTHER THAN TITLE  
9 INSURER. ~~[(e)]~~ Notwithstanding any other provision of this  
10 subchapter, a title insurance company may obtain reinsurance by a  
11 reinsurance treaty or other reinsurance agreement from an assuming  
12 insurer with a financial strength rating of B+ or better from the A.  
13 M. Best Company, which reinsurance ~~[that]~~ meets the requirements of  
14 Subchapter C, Chapter 493, if the title insurance company has  
15 provided the department with notice ~~[an affidavit]~~ that:

16           (1) contains representations ~~[facts]~~ that  
17 ~~[demonstrate]~~ the title insurance company was unable after diligent  
18 effort to procure sufficient reinsurance from another title  
19 insurance company; and

20           (2) summarizes ~~[states]~~ the terms of the reinsurance  
21 treaty or other reinsurance agreement that the title insurance  
22 company will obtain.

23           SECTION 4. Section 2703.001(c), Insurance Code, is amended  
24 to read as follows:

25           (c) With respect to real property located in this state, a  
26 corporation may not issue any kind of title insurance coverage, any  
27 kind of guarantee, or reinsurance of a risk assumed under a title

insurance policy, except as provided by Section 2551.305 or 2551.3055 [~~2551.305(a)~~], unless the corporation is authorized to engage in the business of title insurance under this title and otherwise complies with this title. In engaging in the business of title insurance with respect to real property located in this state, the corporation shall comply with this title and rules described by Subsection (b), including when:

(1) issuing any kind of title insurance policy or an underwriting contract;

(2) reinsuring any portion of a risk assumed under a title insurance policy; and

(3) deleting a title insurance policy exclusion.

SECTION 5. (a) Section 2551.301, Insurance Code, as amended by this Act, applies only to a title insurance policy issued on or after the effective date of this Act. A title insurance policy issued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) Sections 2551.302 and 2551.305, Insurance Code, as amended by this Act, and Section 2551.3055, Insurance Code, as added by this Act, apply only to a reinsurance contract entered into by a title insurance company on or after the effective date of this Act. A reinsurance contract entered into by a title insurance company before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2015.