

BILL ANALYSIS

Senate Research Center
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H.B. 3228
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are concerns that consumers have no way to effectively participate in the title insurance rate-setting process and that only title insurance companies, agents, associations, and government regulators have input in the rate-setting hearings. H.B. 3228 seeks to address these concerns by authorizing an interested person to request a public hearing to consider changing a title insurance premium rate and by providing for related requirements, including the admission of an interested person as a party to periodic hearings considering a change or adoption of such rates.

H.B. 3228 amends current law relating to certain hearings concerning title insurance rates and other matters relating to regulating the business of title insurance.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2703.202, Insurance Code, by adding Subsections (b-1), (b-2), (d-1), and (d-2) and amending Subsections (d), (g), (h), (k), and (l), as follows:

(b-1) Authorizes an interested person by a written request to the commissioner of insurance (commissioner) to request a public hearing to consider changing a premium rate, including fixing a new premium rate. Provides that, for the purposes of this subsection, "interested person" means:

- (1) a resident of this state;
- (2) a business entity doing business in this state;
- (3) a political subdivision located in this state; or
- (4) a public or private organization, other than a state agency, that is located in this state.

(b-2) Requires the commissioner, not later than the 60th day after the date of submission of a request under Subsection (b-1), to:

- (1) deny the request in writing, stating the reasons for the denial; or
- (2) initiate a hearing under Subsection (a).

(d) Authorizes a person or entity described by Subsection (b) or an interested person described by, and subject to, Subsection (b-1), notwithstanding Subsection (c) (relating to a requirement that certain public hearings be conducted by the commissioner as a rulemaking hearing), to petition the commissioner in writing that a public hearing held under Subsection (a) or under Section 2703.206 (Commissioner Authority to Hold Hearings as Necessary) be conducted by the commissioner as a contested case hearing

under Subchapters C through H and Subchapter Z, Chapter 2001 (Administrative Procedure), Government Code. Requires the petition to state the ground for the petitioner's request. Deletes existing text relating to requests for hearings by certain entities. Makes a nonsubstantive change.

(d-1) Requires the commissioner, not later than the 30th day after the date the commissioner receives a petition under Subsection (d), to hold a public hearing on the petition to determine whether the petition is made in good faith and whether the grounds stated in the petition otherwise justify conducting the proceeding as a contested case hearing.

(d-2) Requires the commissioner, not later than the 60th day after the date a petition under Subsection (d) is submitted, to deny the petition in writing, stating the reasons for the denial, or to grant the petition to initiate a hearing under Subsections (a) (relating to prohibiting a premium rate previously fixed by the commissioner from being changed until after the commissioner holds a public hearing) and (h) as a contested hearing.

(g) Requires the commissioner, if a hearing held under Subsection (a) is not conducted as a contested case hearing, to render a decision and issue a final order not later than the 120th day after the date the commissioner receives a written request under Subsection (b) or (b-1), rather than under Subsection (b).

(h) Provides that if a hearing held under Subsection (a) is conducted as a contested case hearing:

(1) not later than the 30th day after the date the commissioner rules on a petition for a public hearing under Subsection (d-2), rather than not later than the 30th day after the date the commissioner receives a request for a public hearing under Subsection (b), the commissioner is required to issue a notice of call for items to be considered at the hearing;

(2) makes no changes to this subdivision;

(3) the commissioner is required to issue a notice of the public hearing, rather than to issue a notice of public hearing requested under Subsection (d), not later than the 30th day after the date responses to the notice of call are required under Subdivision (2); and

(4)–(6) makes no changes to these subdivisions.

(k) and (l) Makes conforming changes to these subsections.

SECTION 2. Amends Section 2703.203, Insurance Code, as follows:

Sec. 2703.203. PERIODIC HEARING. Requires the commissioner to hold a public hearing not earlier than July 1 after the fifth anniversary of the closing of a hearing held under this chapter (Policy Forms and Premium Rates) to consider adoption of premium rates and other matters relating to regulating the business of title insurance that an interested person, association, title insurance company, title insurance agent, or entity under Section 2703.204, rather than an association, title insurance company, title insurance agent, or member of the public admitted as a party under Section 2703.204, requests to be considered or that the commissioner determines necessary to consider.

SECTION 3. Amends Section 2703.204, Insurance Code, as follows:

Sec. 2703.204. New heading: ADMISSION AS PARTY TO HEARING. (a) Creates Subdivisions (1)–(4) from existing text. Requires the following persons, associations, and entities, subject to this section, to be admitted as parties to a contested case hearing under Section 2703.202, the periodic hearing under Section 2703.203, or a hearing under Section 2703.206:

(1)–(2) makes nonsubstantive changes to these subdivisions;

(3) an interested person described by Section 2703.202(b-1); or

(4) Texas Department of Insurance staff. Deletes existing text relating to certain individuals being admitted as a party to the periodic hearing under Section 2703.203.

(b) Authorizes a party to any portion of the periodic hearing relating to ratemaking to request that the commissioner remove any other party to that portion of the hearing on the grounds that the other party does not have a substantial interest in the subject matter of the hearing, rather than substantial interest in title insurance.

SECTION 4. Effective date: September 1, 2019.