By:  Smithee (Senate Sponsor - Creighton) H.B. No. 2240

(In the Senate - Received from the House April 19, 2021; May 4, 2021, read first time and referred to Committee on Business & Commerce; May 21, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; May 21, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton            X

Johnson              X

Menéndez                      X

Paxton               X

Schwertner           X

Whitmire             X

COMMITTEE SUBSTITUTE FOR H.B. No. 2240 By:  Hancock

A BILL TO BE ENTITLED

AN ACT

relating to the disbursement of funds from a trust fund account by a title insurance company, title insurance agent, or escrow officer.

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

SECTION 1.  Section 2651.202, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  For the purpose of this section, "good funds" includes United States dollars received and deposited in an account through an Automated Clearing House (ACH) transaction if the ACH transaction is irrevocable and final and cannot be canceled or reversed by the consumer once the funds have been directly transferred from the consumer's bank account. The ACH transaction must be a bank-to-bank transfer of funds or a deposit of funds from a consumer's account at a depository institution and must not be treated as a consumer payment with respect to chargeback and pullback consumer payment protections. The transferred funds must:

(1)  be directly linked to and directly backed by funds in the consumer's account at the depository institution;

(2)  be directly transferred from the consumer's bank account and directly deposited into the settlement service provider's escrow account by ACH transfer in accordance with the standards of any applicable governing body or standards organization with oversight over ACH transactions;

(3)  at all points during the transfer process, utilize a unique identification and tracking system that designates the funds for their authorized purpose;

(4)  not be subject to third-party access or commingling of funds at any point during the transfer process; and

(5)  not utilize an intermediary account other than by a financial institution acting as ACH originator and operator as part of the ACH network.

SECTION 2.  Section 2652.004, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  For the purpose of this section, "good funds" includes United States dollars received and deposited in an account through an Automated Clearing House (ACH) transaction if the ACH transaction is irrevocable and final and cannot be canceled or reversed by the consumer once the funds have been directly transferred from the consumer's bank account. The ACH transaction must be a bank-to-bank transfer of funds or a deposit of funds from a consumer's account at a depository institution and must not be treated as a consumer payment with respect to chargeback and pullback consumer payment protections. The transferred funds must:

(1)  be directly linked to and directly backed by funds in the consumer's account at the depository institution;

(2)  be directly transferred from the consumer's bank account and directly deposited into the settlement service provider's escrow account by ACH transfer in accordance with the standards of any applicable governing body or standards organization with oversight over ACH transactions;

(3)  at all points during the transfer process, utilize a unique identification and tracking system that designates the funds for their authorized purpose;

(4)  not be subject to third-party access or commingling of funds at any point during the transfer process; and

(5)  not utilize an intermediary account other than by a financial institution acting as ACH originator and operator as part of the ACH network.

SECTION 3.  This Act takes effect September 1, 2021.

\* \* \* \* \*