

## **BILL ANALYSIS**

S.B. 572  
By: Eltife  
Insurance  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note that modern large commercial real estate transactions often require title insurance that exceeds the capacity of many insurance companies' financial ability to insure an interest alone, which causes those companies to use reinsurance. Many companies have traditionally reinsured with each other and, as a way to properly spread risk, have taken primary risk, obtained reinsurance from another title insurance company, and then additionally taken another round of risk as a reinsurer. Interested parties contend that many projects are now greatly exceeding the capacity of the entire title insurance industry and that there is a movement away from this practice and toward a more active market in reinsurance with non-title reinsurers.

There are concerns regarding the limit on the amount of single-risk that a title insurance company in Texas can retain, whether just primary or primary and reinsurance, as a percentage of a company's capital and surplus. Different states require different percentages but the parties contend that certain other states have no limit as to the amount of single-risk a company can retain and that the companies in those states have limits that are self-imposed. The parties further note that the National Association of Insurance Commissioners (NAIC) has adopted model legislation to address this issue that they say will help remove cumbersome barriers to efficiency in the fast-paced commercial real estate environment. S.B. 572 seeks to modify statutory single-risk premium limits in accordance with the NAIC model legislation.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 572 amends the Insurance Code to change the maximum title insurance policy liability from 50 percent of the title insurance company's capital stock and surplus as stated in the company's most recent annual statement to a maximum policy liability that is 50 percent of the sum of the title insurance company's surplus as regards policyholders and the company's statutory premium reserves as stated in the company's most recent annual statement.

S.B. 572 removes as conditions for the authorization for a title insurance company to acquire reinsurance on an individual policy or facultative basis from a title insurance company that is not authorized to engage in the business of title insurance in Texas the condition that a title insurance company give written notice to the Texas Department of Insurance (TDI) within a certain period and the condition that a company not be prohibited by the commissioner of insurance from

obtaining reinsurance, before the expiration of that period, on the ground that the transaction may result in a hazardous financial condition.

S.B. 572 removes TDI's authorization, on application and hearing and subject to certain conditions, to permit a title insurance company to acquire reinsurance 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 Texas that is not compliant with the applicable requirements for such reinsurance. The bill removes TDI's authorization, on application and hearing and subject to certain conditions, to permit a title insurance company to retain an additional potential liability of not more than 40 percent of the company's capital stock and surplus.

S.B. 572 revises certain requirements applicable to a title insurance company's authorization to obtain reinsurance from an insurer that is not another title insurance company to make that authorization contingent on providing TDI notice, instead of an affidavit, that contains representations that the title insurance company was unable after diligent effort to procure sufficient reinsurance from another title insurance company, instead of containing facts that demonstrate that inability, and that summarizes the terms of the reinsurance treaty or other agreement, instead of stating those terms.

**EFFECTIVE DATE**

September 1, 2015.