

BILL ANALYSIS

Senate Research Center
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H.B. 2491
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Insurance agents in Texas are licensed by the Texas Department of Insurance (TDI). Agents are responsible for maintaining their licenses. Title agencies are entities that TDI licenses as agents to sell title insurance and to oversee the closings on real estate transactions. Title agencies employ escrow officers to handle the paperwork for the closings on real estate transactions and to ensure the closings are compliant with state and federal laws.

Current Texas law requires the title agent employing the escrow officer to obtain the escrow officer's license and to be responsible for the escrow officer's compliance with the law. Some individuals have multiple escrow officer licenses, one to correspond to each title agency they work with. H.B. 2491 proposes to change the licensing process to allow the licensed escrow officer to be issued one license and be responsible for maintaining that license.

H.B. 2491 amends current law relating to licensing and appointment of title insurance escrow officers, changes the limit applicable to a fee, and authorizes a fee.

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 Sections 2652.001, 2652.002, and 2652.006, Insurance Code, as follows:

Sec. 2652.001. LICENSE AND BOND OR DEPOSIT REQUIRED. Prohibits an individual from acting as an escrow officer unless the individual:

- (1) holds a license issued by the Texas Department of Insurance (TDI);
- (2) is covered by, rather than maintains, a surety bond or deposit required under Subchapter C (Bond and Deposit Requirements); and
- (3) is appointed under Section 2652.1511 as an escrow officer by a title insurance agent or direct operation.

Sec. 2652.002. EMPLOYMENT OF ESCROW OFFICER. (a) Prohibits a title insurance agent or direct operation from employing an individual as an escrow officer unless the individual:

- (1) holds a license issued by TDI;
- (2) is covered by, rather than maintains, a surety bond or deposit as required under Subchapter C; and
- (3) is appointed under Section 2652.1511 as an escrow officer by the title insurance agent or direct operation.

Deletes existing text prohibiting a title insurance agent or direct operation from employing an individual as an escrow officer unless the individual holds a license and maintains a surety bond or deposit as required by this chapter.

(b) Prohibits a title insurance agent or direct operation from permitting an individual to act as an escrow officer in this state before the agent or direct operation has complied with Sections 2652.151 (List of Escrow Officers) and 2652.1511, rather than Sections 2656.151 and 2652.152 (Renewal), with respect to the individual.

Sec. 2652.006. New heading: RECORD OF ESCROW OFFICERS; PUBLIC INFORMATION. (a) Creates this subsection from existing text. Requires TDI to maintain a record of each escrow officer licensed by TDI in a manner that ensures that the escrow officers employed and appointed under Section 2652.1511 by any title insurance agent or direct operation in this state may be conveniently determined. Deletes existing text requiring TDI to maintain a record of the name and address of each escrow officer licensed by TDI in a manner that ensures that the escrow officers employed by any title insurance agent or direct operation in this state may be conveniently determined.

(b) Requires TDI to make available to the public from the records maintained under Subsection (a) or from other records of TDI each escrow officer's name, license number, continuing education compliance status, and appointment history.

SECTION 2. Amends Section 2652.051(a), Insurance Code, to require the individual, rather than title insurance agent or direct operation, to file an application for an escrow officer's license with TDI on forms provided by TDI before an initial license is issued to an individual to act as an escrow officer in this state for a title insurance agent or direct operation, and requires the title insurance agent or direct operation to file an appointment of the escrow officer under Section 2652.1511.

SECTION 3. Amends Section 2652.052(b), Insurance Code, as follows:

(b) Requires that license and renewal fees collected under this chapter and appointment fees collected under Section 2652.1511, rather than Section 2652.152, be deposited to the credit of TDI operating account to be used by TDI to enforce this chapter and any other law of this state that regulates escrow officers for title insurance agents or direct operations. Makes a nonsubstantive change.

SECTION 4. Amends Sections 2652.055 and 2652.056, Insurance Code, as follows:

Sec. 2652.055. LICENSE TERM. Provides that, unless a system of staggered license renewal is adopted or required under Chapter 4003 (License Expiration and Renewal), rather than under Section 4003.002 (Staggered Renewal System), a license expires on the second June 1 following the date of issuance.

Sec. 2652.056. New heading: PROCEDURE FOR LICENSE RENEWAL. Authorizes an individual to renew an unexpired escrow officer license by:

(1) submitting to TDI on a form provided by TDI a completed application, signed and sworn by the individual, stating that the applicant is an individual who is a bona fide resident of this state or a state adjacent to this state; and

(2) paying to TDI a renewal fee in an amount set by TDI.

Deletes existing text providing that the license of each escrow officer employed by a title insurance agent or direct operation that surrenders its license or has its license revoked by TDI is automatically terminated without notice.

SECTION 5. Amends Section 2652.058, Insurance Code, by adding Subsection (g), as follows:

(g) Requires that continuing education programs to satisfy the requirements of this section be certified under Subchapter C (Continuing Education Programs), Chapter 4004 (Continuing Education). Authorizes TDI to enter into an agreement with an independent contractor as authorized by Section 4004.104 (Independent Contractors) to certify and register the programs and providers of those programs.

SECTION 6. Amends Section 2652.101(a), Insurance Code, to require a title insurance agent or direct operation to obtain, at its own expense, a bond for its escrow officers appointed under Section 2652.1511 payable to TDI. Makes no further change to this subsection.

SECTION 7. Amends Section 2652.151(a), Insurance Code, to require a title insurance agent or direct operation to certify to TDI, not later than the expiration date of the title insurance agent's or direct operation's license, the name and address of each individual employed and appointed under Section 2652.1511 by the title insurance agent or direct operation to serve as an escrow officer in this state.

SECTION 8. Amends Subchapter D, Chapter 2652, Insurance Code, by adding Section 2652.1511, as follows:

Sec. 2652.1511. APPOINTMENT OF ESCROW OFFICER. (a) Authorizes an escrow officer to be employed and appointed by more than one title insurance agent or direct operation.

(b) Requires the title insurance agent or direct operation to appoint the escrow officer and file the escrow officer's appointment with TDI on the electronic or nonelectronic form provided by TDI before an escrow officer may act in that capacity for a title insurance agent or direct operation.

(c) Requires that the appointment form:

(1) be accompanied by a nonrefundable appointment fee;

(2) certify that:

(A) the escrow officer is a bona fide employee of the title insurance agent or direct operation making the appointment; and

(B) the title insurance agent or direct operation has an office in this state;

(3) be signed and sworn to by the title insurance agent or direct operation and by the escrow officer; and

(4) acknowledge that the escrow officer is covered by a surety bond or deposit required under Subchapter C.

(d) Provides that the appointment of the escrow officer expires on the revocation, termination, or nonrenewal of the escrow officer's license or termination of the escrow officer's employment with the title insurance agent or direct operation that made the appointment.

(e) Authorizes the escrow officer, unless otherwise notified by TDI, to act as an escrow officer for the appointing title insurance agent or direct operation after:

(1) the second business day after the date the appointment is submitted to TDI electronically; or

(2) the eighth business day after the date the appointment is submitted to TDI on a nonelectronic form.

SECTION 9. Amends Section 2652.153, Insurance Code, as follows:

Sec. 2652.153. NOTICE OF TERMINATION. Requires a title insurance agent or direct operation that terminates the employment of a licensed escrow officer to immediately notify TDI in writing of the termination and request cancellation of the appointment under Section 2652.1511, rather than cancellation of the license. Makes no further change to this section.

SECTION 10. Amends Section 2652.203, Insurance Code, by amending Subsections (a) and (d) and adding Subsection (e), as follows:

(a) Requires TDI to notify a license holder of a disciplinary action or enforcement action against the license holder not later than the 30th business day after the date TDI assigns a file number to the action, except that this subsection does not apply to a file or action about which TDI, rather than the deputy commissioner of the title division of TDI, makes a good faith determination that there is a credible suspicion that there are ongoing or continuing acts of fraud by a person who is the subject of the action.

(d) Authorizes TDI to provide information about an enforcement action, including a copy of a notice issued under this section, to each title insurance agent or direct operation with which an escrow officer has, or proposes to obtain, an appointment under Section 2652.1511, rather than obtain employment.

(e) Requires TDI, except as prohibited by Chapter 552 (Public Information), Government Code, or any other law, on the date an enforcement action against an escrow officer becomes final, to provide information about the action, including a copy of a commissioner's order or TDI warning issued under this section, to each title insurance agent or direct operation for which the escrow officer holds appointment under Section 2652.1511.

SECTION 11. Repealers: Sections 2652.057(b) (relating to an escrow officer forfeiting his or her license) and 2652.152 (Renewal), Insurance Code.

SECTION 12. Provides that the changes in law made by this Act apply only to the issuance or renewal of the license of an escrow officer on or after January 1, 2016. Makes application of this Act prospective.

SECTION 13. Effective date: September 1, 2015.