

1-1 By: Eltife S.B. No. 572  
 1-2 (In the Senate - Filed February 13, 2015; February 23, 2015,  
 1-3 read first time and referred to Committee on Business and Commerce;  
 1-4 March 31, 2015, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 7, Nays 0; March 31, 2015,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Eltife	X			
1-9 Creighton			X	
1-10 Ellis			X	
1-11 Huffines	X			
1-12 Schwertner	X			
1-13 Seliger	X			
1-14 Taylor of Galveston	X			
1-15 Watson	X			
1-16 Whitmire	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 572 By: Eltife

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to certain title insurance policy liability and  
 1-22 reinsurance requirements.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 2551.301, Insurance Code, is amended to  
 1-25 read as follows:

1-26 Sec. 2551.301. MAXIMUM POLICY LIABILITY. (a) Except as  
 1-27 provided by Subsection (b), a title insurance company may ~~not~~  
 1-28 issue a title insurance policy on any real property located in this  
 1-29 state involving a potential policy liability of not more than 50  
 1-30 percent of the sum of the company's ~~capital stock and~~ surplus as  
 1-31 regards policyholders and the company's statutory premium reserves  
 1-32 as stated in the most recent annual statement of the company.

1-33 (b) A title insurance company may exceed the limit described  
 1-34 by Subsection (a) if the excess liability is reinsured in due course  
 1-35 in accordance with Section 2551.302, 2551.305, or 2551.3055 ~~an~~  
 1-36 ~~authorized title insurance company~~.

1-37 SECTION 2. Section 2551.302, Insurance Code, is amended to  
 1-38 read as follows:

1-39 Sec. 2551.302. REQUIREMENTS FOR REINSURING POLICIES. A  
 1-40 title insurance company may reinsure any of its policies and  
 1-41 contracts issued on real property located in this state or on  
 1-42 policies and contracts issued in this state under Chapter 2751, if:

1-43 (1) the reinsuring title insurance company is

1-44 authorized to engage in business in this state under this title; or

1-45 (2) the title insurance company acquires reinsurance  
 1-46 in accordance with Section 2551.305 or 2551.3055.

1-47 SECTION 3. Subchapter G, Chapter 2551, Insurance Code, is  
 1-48 amended by amending Section 2551.305 and adding Section 2551.3055  
 1-49 to read as follows:

1-50 Sec. 2551.305. ~~CERTAIN~~ REINSURANCE FROM NON-ADMITTED  
 1-51 TITLE INSURER ~~ALLOWED~~. ~~(a)~~ Notwithstanding any other  
 1-52 provision of this subchapter, a title insurance company may acquire  
 1-53 reinsurance on an individual policy or facultative basis from a  
 1-54 title insurance company not authorized to engage in the business of  
 1-55 title insurance in this state if ~~+~~

1-56 ~~(1)~~ the title insurance company from which the  
 1-57 reinsurance is acquired:

1-58 (1) ~~(A)~~ has a combined capital and surplus of at  
 1-59 least \$20 million as stated in the company's most recent annual  
 1-60 statement preceding the acceptance of reinsurance; and

2-1           (2) [~~B~~] is domiciled in another state and is  
 2-2 authorized to engage in the business of title insurance in one or  
 2-3 more states [~~, and~~

2-4           ~~[(2) the title insurance company acquiring~~  
 2-5 ~~reinsurance gives written notice to the department at least 30 days~~  
 2-6 ~~before acquiring the reinsurance, and the commissioner does not,~~  
 2-7 ~~before the expiration of the 30-day period and on the ground that~~  
 2-8 ~~the transaction may result in a hazardous financial condition,~~  
 2-9 ~~prohibit the title insurance company from obtaining reinsurance~~  
 2-10 ~~under this section.~~

2-11           ~~[(b) The notice required under Subsection (a)(2) must~~  
 2-12 ~~provide sufficient information to enable the commissioner to~~  
 2-13 ~~evaluate the proposed transaction, including a summary of the~~  
 2-14 ~~significant terms of the reinsurance, the financial impact of the~~  
 2-15 ~~transaction on the title insurance company acquiring reinsurance,~~  
 2-16 ~~and the specific identity and state of domicile of each title~~  
 2-17 ~~insurance company from which reinsurance is acquired.~~

2-18           ~~[(c) Notwithstanding any other provision of this~~  
 2-19 ~~subchapter, the department may, on application and hearing, permit~~  
 2-20 ~~a title insurance company to acquire reinsurance that does not~~  
 2-21 ~~comply with Subsection (a) on an individual policy or facultative~~  
 2-22 ~~basis from a title insurance company domiciled in another state and~~  
 2-23 ~~not authorized to engage in the business of title insurance in this~~  
 2-24 ~~state, if:~~

2-25           ~~[(1) the company has exhausted the opportunity to~~  
 2-26 ~~acquire reinsurance from all other authorized title insurance~~  
 2-27 ~~companies; and~~

2-28           ~~[(2) the title insurance company from which the~~  
 2-29 ~~reinsurance is acquired has a combined capital and surplus of at~~  
 2-30 ~~least \$2 million as stated in its annual statement preceding the~~  
 2-31 ~~acceptance of reinsurance.~~

2-32           ~~[(d) Notwithstanding any other provision of this~~  
 2-33 ~~subchapter, the department may, on application and hearing, permit~~  
 2-34 ~~a title insurance company, including an authorized reinsuring title~~  
 2-35 ~~insurance company, to retain an additional potential liability of~~  
 2-36 ~~not more than 40 percent of the company's capital stock and surplus~~  
 2-37 ~~as stated in the most recent annual statement of the company, if:~~

2-38           ~~[(1) the company has exhausted the opportunity to~~  
 2-39 ~~acquire reinsurance under Subsection (c); and~~

2-40           ~~[(2) the additional potential liability of the company~~  
 2-41 ~~is incurred only if the loss suffered by the insured under the~~  
 2-42 ~~policy exceeds the amount of insurance and reinsurance accepted by~~  
 2-43 ~~the company and its reinsuring title insurance companies under the~~  
 2-44 ~~other provisions of this subchapter].~~

2-45           Sec. 2551.3055. REINSURANCE FROM INSURER OTHER THAN TITLE  
 2-46 INSURER. ~~[(e)]~~ Notwithstanding any other provision of this  
 2-47 subchapter, a title insurance company may obtain reinsurance by a  
 2-48 reinsurance treaty or other reinsurance agreement from an assuming  
 2-49 insurer with a financial strength rating of B+ or better from the A.  
 2-50 M. Best Company, which reinsurance ~~[that]~~ meets the requirements of  
 2-51 Subchapter C, Chapter 493, if the title insurance company has  
 2-52 provided the department with notice ~~[an affidavit]~~ that:

2-53           (1) contains representations ~~[facts]~~ that  
 2-54 ~~[demonstrate]~~ the title insurance company was unable after diligent  
 2-55 effort to procure sufficient reinsurance from another title  
 2-56 insurance company; and

2-57           (2) summarizes ~~[states]~~ the terms of the reinsurance  
 2-58 treaty or other reinsurance agreement that the title insurance  
 2-59 company will obtain.

2-60           SECTION 4. Section 2703.001(c), Insurance Code, is amended  
 2-61 to read as follows:

2-62           (c) With respect to real property located in this state, a  
 2-63 corporation may not issue any kind of title insurance coverage, any  
 2-64 kind of guarantee, or reinsurance of a risk assumed under a title  
 2-65 insurance policy, except as provided by Section 2551.305 or  
 2-66 2551.3055 ~~[2551.305(a)]~~, unless the corporation is authorized to  
 2-67 engage in the business of title insurance under this title and  
 2-68 otherwise complies with this title. In engaging in the business of  
 2-69 title insurance with respect to real property located in this

3-1 state, the corporation shall comply with this title and rules  
3-2 described by Subsection (b), including when:

3-3 (1) issuing any kind of title insurance policy or an  
3-4 underwriting contract;

3-5 (2) reinsuring any portion of a risk assumed under a  
3-6 title insurance policy; and

3-7 (3) deleting a title insurance policy exclusion.

3-8 SECTION 5. (a) Section 2551.301, Insurance Code, as  
3-9 amended by this Act, applies only to a title insurance policy issued  
3-10 on or after the effective date of this Act. A title insurance  
3-11 policy issued before the effective date of this Act is governed by  
3-12 the law as it existed immediately before the effective date of this  
3-13 Act, and the former law is continued in effect for that purpose.

3-14 (b) Sections 2551.302 and 2551.305, Insurance Code, as  
3-15 amended by this Act, and Section 2551.3055, Insurance Code, as  
3-16 added by this Act, apply only to a reinsurance contract entered into  
3-17 by a title insurance company on or after the effective date of this  
3-18 Act. A reinsurance contract entered into by a title insurance  
3-19 company before the effective date of this Act is governed by the law  
3-20 as it existed immediately before the effective date of this Act, and  
3-21 the former law is continued in effect for that purpose.

3-22 SECTION 6. This Act takes effect September 1, 2015.

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