Legislative Analysis

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TITLE INSURANCE: CAP ON RISK

Senate Bill 825
Sponsor: Sen. Jason E. Allen
House Committee: Insurance
Senate Committee: Economic Development and Regulatory Reform

Complete to 11-30-10

A SUMMARY OF SENATE BILL 825 AS PASSED BY THE SENATE 11-9-10

The bill would amend the Insurance Code to create an exception for title insurance companies so as to allow them a higher limit on the permitted exposure to loss on any one risk or hazard.

The Insurance Code (MCL 500.640) says that an insurance company must not expose itself to any loss on any one risk or hazard in an amount exceeding 10 percent of its paid-up capital and surplus. However, this does not apply to that portion of a risk or hazard that has been reinsured.

<u>House Bill 825</u> would specify that a company transacting title insurance before the bill's effective date could not expose itself to any loss on any one risk or hazard in excess of 50 percent of paid-up capital and surplus. (The reinsurance exception would apply here as well.)

A title insurer that obtains a certificate of authority to transact title insurance on or after the bill's effective date would remain subject to the 10 percent limit unless it met all of the following conditions: (1) has a most recent A.M. Best financial rating of at least an A- or has a comparable rating as assigned by a nationally recognized statistical rating organization approved by the commissioner of the Office of Financial and Insurance Regulation; (2) has been licensed and operating in this or another state for at least five years and has reported a net income for at least three of the last five years; (3) has capital that exceeds two times the minimum paid-up capital and surplus requirements in Michigan.

Upon application by a title insurer, the commissioner of OFIR could waive the 10 percent limitation for a new title insurer for a particular risk or for good cause shown and so long as the net retained liability for that particular risk or hazard does not exceed 50 percent of the insurer's paid-up capital and surplus.

Generally speaking, the capital referred to in the bill is the sum received by an insurer at the sale of stock, and the surplus is the value of the insurer's admitted assets over the total value of its liabilities and minimum capital requirements. (From Barron's <u>Dictionary of Insurance Terms</u>.)

FISCAL IMPACT:

The bill would appear to have no fiscal impact on state or local government.

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