

ASSEMBLY BILL NO. 437—COMMITTEE
ON COMMERCE AND LABOR

MARCH 25, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing title insurers.
(BDR 57-1173)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for a Term of Imprisonment in a County Jail
or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to title insurance; revising provisions authorizing
a title insurer to provide a closing letter to certain parties
to a real estate transaction for which the title insurer will
issue or has issued a policy of title insurance; providing a
penalty; and providing other matters properly relating
thereto.

Legislative Counsel's Digest:

1 Under existing law, the business of title insurance includes the provision to a
2 prospective purchaser of a policy of title insurance with a closing letter which
3 assures and assumes liability for the proper performance of any services required to
4 conduct a real estate closing performed by a title agent with which the insurer
5 maintains an underwriting agreement. (NRS 692A.022) **Section 1** of this bill
6 authorizes a title insurer to provide such a letter, newly referred to as a “closing
7 protection letter,” to any party to a real estate transaction, not just the party
8 purchasing the policy of title insurance. **Section 1** also authorizes the title insurer to
9 charge a fee that is not less than \$25 to each person or entity who is provided with
10 such a letter. **Section 1** restricts the acts or omissions by the person performing the
11 closing or settlement services for which the letter can provide indemnification to
12 only those acts or omissions that affect the status of the title or the validity,
13 enforceability and priority of the lien of the mortgage on the real estate that is the
14 subject of the transaction. **Section 1** also provides that a title insurer may not in any
15 other way provide to a party of a real estate transaction indemnification of the type
16 provided by a closing protection letter. **Sections 1 and 2** of this bill provide that a
17 closing protection letter may indemnify the party to whom it is issued against acts
18 or omissions by any person employed or approved by the title insurer to perform
19 the closing or settlement services, not just a title agent performing those services.



* A B 4 3 7 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 692A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A title insurer may provide a closing protection letter to any person who is a party to a real estate transaction in which a policy of title insurance has been or will be issued by or on behalf of the insurer.

2. A closing protection letter provided by a title insurer pursuant to this section may indemnify a person or entity to whom the letter is provided against a loss that is in connection with the transaction for which the letter was provided and which is due to any of the following acts or omissions by a closing or settlement service provider:

(a) Theft or misappropriation of any closing or settlement funds, to the extent that the theft or misappropriation affects the:

(1) Status of the title to the interest in land that is the subject of the transaction; or

(2) Validity, enforceability and priority of the lien of the mortgage on the interest in land that is the subject of the transaction.

(b) Failure to comply with any written closing or settlement instructions, to the extent that the failure affects the:

(1) Status of the title to the interest in land that is the subject of the transaction; or

(2) Validity, enforceability and priority of the lien of the mortgage on the interest in land that is the subject of the transaction.

3. A title insurer may charge a fee of not less than \$25 to each person or entity to which the insurer provides a closing protection letter pursuant to this section.

4. The fee charged pursuant to this section for a closing protection letter:

(a) Must not be included in any agreement requiring a division of fees or premiums collected by or on behalf of the title insurer who provided the letter; and

(b) Shall be deemed earned upon the closing of the transaction for which the letter was provided.

5. A title insurer may not provide or purport to provide indemnification to a person or entity against a loss in connection with acts or omissions by a closing or settlement service provider pursuant to subsection 2 by or through any other product or method than a closing protection letter provided pursuant to this section.



1 6. *As used in this section, "closing or settlement service*
2 *provider" means a person employed or approved by a title insurer*
3 *to perform the closing or settlement of a real estate transaction in*
4 *which a policy of title insurance has been issued by or on behalf of*
5 *the insurer and may include, without limitation, a title agent or an*
6 *escrow officer.*

7 **Sec. 2.** NRS 692A.022 is hereby amended to read as follows:

8 692A.022 "Business of title insurance" or "title insurance
9 business" includes:

10 1. The issuance of or proposal to issue any policy of title
11 insurance as an insurer, guarantor or indemnitor;

12 2. The solicitation, negotiation or execution of a policy of title
13 insurance, or the performance of any related services arising out of
14 the execution of a policy of title insurance, excluding reinsurance;

15 3. The performance by a title insurer, a title agent or an escrow
16 agency owned, in whole or in part, by a title insurer or title agent, of
17 any service in conjunction with the issuance or contemplated
18 issuance of a policy of title insurance, including, but not limited to,
19 the handling of any escrow, settlement or closing in connection
20 therewith, or doing or proposing to do any business which is in
21 substance the equivalent of the services described in this subsection;
22 and

23 4. The act of a title insurer whereby the title insurer provides a
24 ~~{prospective purchaser of a policy of title insurance with a}~~ closing
25 ~~protection~~ letter ~~{which assures and assumes liability for the proper~~
26 ~~performance of any services required to conduct a real estate closing~~
27 ~~performed by a title agent with which the insurer maintains an~~
28 ~~underwriting agreement.}~~ *pursuant to section 1 of this act.*

29 **Sec. 3.** NRS 692A.120 is hereby amended to read as follows:

30 692A.120 1. Each title insurer shall file with the
31 Commissioner all rate schedules, schedules of charges and all forms,
32 including:

33 (a) Preliminary reports of title.

34 (b) Binders for insurance and commitments to insure.

35 (c) Letters of indemnity.

36 (d) Policies of insurance or guaranty.

37 (e) Terms and conditions of insurance coverage or guarantee
38 which relate to title to any interest in property.

39 2. A title insurer need not file:

40 (a) Reinsurance contracts and agreements.

41 (b) Closing *protection* letters.

42 (c) Specific defects in title which may be ascertained from an
43 examination of the risk and excepted in reports, binders,
44 commitments or policies, or any affirmative assurances of the title



insurer with respect to those defects, whether given by endorsement or otherwise.

(d) Specific exceptions from coverage by reason of limitations upon the examination of the risk imposed by the applicant for insurance or through failure of the applicant to provide data requisite to a judgment of insurability.

3. Unless the Commissioner disapproves a form or schedule within 30 days after it is filed in the Office of the Commissioner, the form or schedule is approved.

4. No form or schedule may be used until it is approved by the Commissioner.

5. No title insurer or title agent may make or impose any charge for premium, escrow, settlement or closing services when performed in connection with the issue of a title insurance policy except in accordance with the schedule of charges filed with the Commissioner as required by this section.

6. A title insurer or title agent shall not charge a fee for any statement or tax return regarding payments of interest which federal law requires the insurer or agent to furnish and file.

7. As used in this section, "closing protection letter" means a letter issued as described in section 1 of this act.

