

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO.: 3465-02  
BILL NO.: SB 968  
SUBJECT: Insurance - Property; Insurance Department; Mortgages and Deeds; Licenses - Professional  
TYPE: Original  
DATE: March 6, 2000

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Insurance Dedicated	(\$94,979)	(\$78,686)	(\$81,566)
Examiners	(\$49,957)	(\$51,396)	(\$52,713)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(\$144,936)</b>	<b>(\$130,082)</b>	<b>(\$134,279)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Insurance (INS)** assume there would be new revenue for the Insurance Dedicated Fund. Revenue from a continuing education filing fee (3,000 title agents @ \$10 x 3,000 = \$30,000), a filing fee for title courses (\$50 x 100 = \$5,000), and a licensing fee for rating organizations (2 x \$1,500 = \$3,000) would total \$38,000 annually. Revenue would be lost to the Insurance Dedicated Fund of \$4,125 annually (330 agency license @ \$25 for a two year license). INS would need one Research Analyst, one Licensing Technician, half-time Actuary, and one Financial Analyst II. INS states that expense and equipment associated with the additional staff and \$18,750 ( 150 hours x \$125) for contracted programming to make modifications to the Oracle system due to the renewal process for title agents and continuing education requirements

<u>FISCAL IMPACT - State Government</u>	FY 2001 (6 Mo.)	FY 2002	FY 2003
<b>INSURANCE DEDICATED FUND</b>			
<u>Revenue - Department of Insurance</u>			
Filing and license fees	\$38,000	\$38,000	\$38,000
<u>Loss - Department of Insurance</u>			
License fees	(\$4,125)	(\$4,125)	(\$4,125)
<u>Costs - Department of Insurance</u>			
Personal service (2.5 FTE)	(\$61,735)	(\$75,964)	(\$77,863)
Fringe benefits	(\$18,983)	(\$23,359)	(\$23,943)
Expense and equipment	(\$48,136)	(\$13,238)	(\$13,635)
Total <u>Costs</u> - Department of Insurance	<u>(\$128,854)</u>	<u>(\$112,561)</u>	<u>(\$115,441)</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>(\$94,979)</u></b>	<b><u>(\$78,686)</u></b>	<b><u>(\$81,566)</u></b>

**EXAMINERS FUND**

<u>FISCAL IMPACT - State Government</u>	FY 2001 (6 Mo.)	FY 2002	FY 2003
<u>Cost - Department of Insurance</u>			
Personal service (1 FTE)	(\$28,135)	(\$34,620)	(\$35,486)
Fringe benefits	(\$8,652)	(\$10,646)	(\$10,914)
Expense and equipment	<u>(\$13,170)</u>	<u>(\$6,130)</u>	<u>(\$6,313)</u>
Total <u>Costs</u> - Department of Insurance	<u>(\$49,957)</u>	<u>(\$51,396)</u>	<u>(\$52,713)</u>
 <b>ESTIMATED NET EFFECT ON EXAMINERS FUND</b>	 <b><u>(\$49,957)</u></b>	 <b><u>(\$51,396)</u></b>	 <b><u>(\$52,713)</u></b>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2001 (6 Mo.)	 FY 2002	 FY 2003
	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>

FISCAL IMPACT - Small Business

Small businesses would expected to be fiscally impacted due to the new license and filing fees required by this proposal.

DESCRIPTION

This proposal would substantially revise the current "Missouri Title Insurance Act". This proposal would require a statement notifying the owner of exceptions when a title insurance commitment includes an offer to issue an owner's policy covering the resale of owner-occupied residential property. A lender's title insurance policy issued in conjunction with a mortgage loan would give notice to the purchaser that the lender's policy protects the lender and would not protect the purchaser and that the purchaser could be protected through the purchase of an owner's policy of title insurance. A title insurer would not allow its agents to sell title insurance policies unless there is a written contract between the agent and the insurer. Each title insurer would maintain a statement of the agent's financial condition of the previous calendar year on file. The title insurer would conduct a review of the agent's underwriting, claims and escrow practices. If an agent would not maintain a separate bank or trust account for each insurer that he or she represents, the title insurer would verify that the funds held on its behalf would be reasonably ascertainable from the books of account and records of the agent. If a title insurer would terminate a contract with an agent, it would provide notice of the termination to the

DESCRIPTION (continued)

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Director of the Department of Insurance. The title insurer would maintain records that its title insurance agents are licensed in the state of Missouri.

In order for a title insurer or title agent to operate as an escrow, security, settlement, or closing agent, it would deposit such related funds into a separate fiduciary trust account. Interest received on escrow, settlement, security deposit, or closing funds would be retained by the title insurer or agent as compensation for the administration of the account. A title insurer or agent would not receive any consideration for the referral of title insurance business. Another title insurer or title agent doing business in the same county may bring a cause of action against the title insurer who is referring business for consideration. No title insurer or agent would participate in any transaction in which it knows the other party would require that a party obtain a title insurance policy from a particular insurer or agent. No title insurer would charge rates except in accordance with the premium rate schedule and manual filed with the Director of Insurance. The Director would establish rules for the reporting of revenue and loss experience in order to establish rates and fees. The Director would have an audit conducted to verify the information. Information relating to the experience of a particular title agent would be kept confidential unless the Director finds it in the public interest to disclose the information. No title insurer or agent would knowingly withhold information from, or give false information to the Director regarding information which will affect the rates established by this proposal. Evidence of the examination of title and the determination of insurability would be preserved for a minimum of 15 years after the title insurance policy has been issued. Records relating to escrow and security deposits would be preserved for a minimum of five years after the account has been closed. If the Director of Insurance would determine that a title insurer or other person has violated this proposal, the Director would assess a monetary penalty and/or revoke or suspend the title insurer's license. The Director of Insurance or the Attorney General may bring an action to enjoin violations of the Real Estate Settlement Procedures Act. No person other than a domestic, foreign or non-U.S. title insurer licensed by the Director of Insurance would transact title insurance business in Missouri. Title insurers would have the power to transact title insurance business, reinsure title insurance policies, and perform ancillary activities related to the issuance of a title insurance policy. No insurer that transacts other types of businesses other title insurance would be eligible for the issuance or renewal of title insurance license. Title insurance would not be transacted, underwritten, or issued by any insurer transacting other types of business. A title insurer would not engage in the business of guaranteeing payment of principal or the interest of bonds or mortgages. A title insurer would issue closing or settlement protection to a proposed insured if requested. The settlement protection may indemnify a proposed insured against the loss of settlement funds. A title insurer would establish and maintain a minimum paid-in capital of not less than \$400,000 and a paid-in initial surplus of at least \$400,000 before becoming licensed in this state. The title insurer's net retained liability for a single risk would

DESCRIPTION (continued)

not exceed the aggregate of 50% of the surplus as it regards policyholders plus the statutory

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premium reserve less the company's investment in title plants. A single risk would be the insured amount of any title insurance policy. Where there are two or more policies which are issued simultaneously covering different estates in the same real property, a single risk would be the sum of the insured amounts of all the policies. In determining the financial condition of a title insurer, the general provisions of Sections 376.300 to 376.305 would apply except that an investment in title plants equal to an amount to the actual cost would be allowed as an admitted asset for title insurers. In determining the financial condition of a title insurer, the insurer would establish and maintain: 1) a known claim reserve to cover all unpaid losses for which the title insurer may be liable under the title insurance policies; 2) a statutory or unearned premium reserve for the protection of title insurance policy holders. The Missouri Uniform Insurers Liquidation Act would apply to all title insurers. Security and escrow funds held by title insurers would not become general assets and would be administered as secure claims. Title insurance policies would not be canceled during a period of liquidation unless good cause would be shown to the court. Premiums paid, due or to become due under a title insurance policy at the date of order of insolvency would be fully earned and it is the duty of title insurer or its agents to pay the premiums to the liquidator. A title insurer would only declare or distribute dividends to its shareholders with the approval of the Director of Insurance. Title insurance forms would be approved by the Director of Insurance before they are issued. A title insurer would satisfy its obligation to file premium rates, rating manuals, and forms by becoming a member of a rate service organization. That organization would make the title insurer's required filings. Title insurers would propose premium rates that are not excessive nor inadequate for the safety and soundness of the title insurer. If the Director finds that the premium rates filed by the title insurer are not unreasonably high or unfairly discriminatory, the Director would approve the rates. Before issuing an order of disapproval, the Director would hold a hearing to review the premium rates filed by the title insurer.

A corporation, an unincorporated association, partnership, or an individual may apply to the Director for a license as a rating organization for title insurance companies. The Director would issue the applicant a license authorizing it to act as a rating organization if the Director finds that the applicant is qualified. The licenses to act as a rating organization would be valid for 3 years. The fee for such a license would cost \$5,000. Every subscriber to a title insurance rating organization would adhere to the filings made on its behalf by such organization. Any subscriber to a title insurance rating organization may appeal to the Director from decisions of the rating organization. The premium income received by a title insurer would mean the amount of premium actually remitted to the insurer and would not include any amount of the premium retained by the title agent.

DESCRIPTION (continued)

Title insurance agents would be licensed. Employees of the title insurance agent would either be licensed themselves or be named on the title insurance agent's license if they engage in the

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functions of a title insurance agent. Title insurance agents would eliminate the word insurer or underwriter from their business name unless the word "agency" is part of the name. If the title insurance agent delegates a title search to a third party, the agent would obtain proof that the third party is qualified by the rules and regulations established by the Director of Insurance. Title insurance agents would take 8 hours of continuing courses of education related to insurance every two years. For good cause, an agent would be granted an extended period of time to complete the educational requirements. Those title agents who reside in a state with mandatory continuing education requirements would not have to comply with this portion of the act.

This proposal would become effective January 1, 2001.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

Department of Insurance



Jeanne Jarrett, CPA  
Director  
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