

SESSION OF 2006

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2659

As Amended by House Committee on
Insurance

Brief*

HB 2659 would amend requirements for determination of the insurability of a title to property, by allowing that searches and examinations of titles be conducted for owner's policies of title insurance and loan policies of title insurance insuring purchase money mortgages by a title insurance agent or employee of a title insurance company licensed to do business in this state or an abstractor licensed to do business in this state. Searches and examinations are to be based upon a search of 25 years, or from the date of the previously issued title insurance policy, whichever period is less, of all applicable records of the county, state, and federal offices in which the real estate is located, specific to the marketability of title. The bill also would provide a definition of "sound underwriting practices" as underwriting practices promulgated by the underwriter which has an agency agreement with the licensed title insurance company or which comply with the seventh edition of the title standards promulgated by the Kansas Bar Association as copyrighted in 2005.

Background

HB 2659 was introduced by the House Committee on Insurance at the request of the Kansas Land Title Association whose representative indicated the bill would enable the Insurance Department to more effectively enforce the provisions of KSA 40-235(b) by providing more precise definitions of "reasonable search and examination" and "sound underwriting practices." Opponents to the bill at the House Committee hearing were the Heartland Community Bankers Association and the Kansas Bankers Association. Their representatives indicated concerns with the impact of the bill on second mortgages and the elimination of a title insurance program for home equity loans that protects banks against losses from undisclosed liens, fraud, forgery and unpaid taxes unknown to the lender that would

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

be caused by provisions of the bill.

The House Committee on Insurance amended the bill to clarify the search and examination time period for owner's policies of title insurance and loan policies of title insurance insuring purchase money mortgages. The amendment was suggested by representatives of the Heartland Community Bankers Association and the Kansas Bankers Association.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates that passage of the bill would have no fiscal effect on the operations of the Kansas Insurance Department and the Abstracters Board of Examiners.