

HCS HB 1040 -- TITLES TO PROPERTY

SPONSOR: Jones

COMMITTEE ACTIONS: Voted "Do Pass with Amendments" by the Standing Committee on Property, Casualty, and Life Insurance by a vote of 8 to 1. Voted "Do Pass with HCS" by the Select Committee on Insurance by a vote of 10 to 0.

This bill changes the laws regarding titles to property and qualified spousal trusts.

TITLE INSURANCE

This bill provides that a title insurer, title agency, or title agent may perform escrow or closing services in residential real estate transactions by giving notice to affected persons that their interests are not protected by the title insurer, agency, or agent in situations where the title insurance policy is not being issued by the title insurer, agency, or agent performing the escrow or closing services. In situations where title insurers, agencies, and agents are exclusively performing escrow, settlement, or closing services, it is unlawful for the entities to do so unless they clearly disclose to the sellers, buyers, and lenders involved in the escrows, settlements, or closings that no title insurer is providing any protection for closing or settlement funds.

QUALIFIED SPOUSAL TRUSTS

The bill specifies that a qualified spousal trust can include without limitation a discretionary power to distribute trust property to a person in addition to a settlor. All property at any time held in a qualified spousal trust, without regard to how the property was titled prior to it being so held, must have the same immunity from the claims of a separate creditor of either settlor as if the property were held outside the trust by the settlors as tenants by the entirety, unless otherwise provided in writing by the settlor or settlors who transferred the property to the trust, and the property must be treated for that purpose, including without limitation, federal and state bankruptcy laws, as tenants by entirety property. Property held in a qualified spousal trust must cease to receive immunity from the claims of creditors upon dissolution of marriage of the settlors by the court.

The respective rights of settlors who are married to each other in any property for purposes of a dissolution of the settlors' marriage must not be affected or changed by reason the transfer of that property to, or its subsequent administration as an asset of, a qualified spousal trust during the marriage of the settlors

unless both settlors expressly agree otherwise in writing.

A transfer to a qualified spousal trust cannot avoid or defeat the Missouri Uniform Transfer Act, and any transfer of an asset to a trustee of a trust, to the trust itself, or to a share of the trust in a manner that is reasonably calculated to identify the trust or that share of the trust subjects that asset to the terms of the trust or that share.

PROPONENTS: Supporters say that the bill provides additional protections to consumers by giving notice to affected persons that their interests are not protected by the title insurer, agency, or agent in situations where the title insurance policy is not being issued by the title insurer, agency, or agent performing the escrow or closing services.

Testifying for the bill were Representative Jones; Riezman Berger, PC; David Townsend, Missouri Title Legislative Study Group, Inc.; and Missouri Bankers Association.

OPPONENTS: There was no opposition voiced to the committee.