COMMITTEE REPORT

May 24, 2012

**S. 1319**

Introduced by Senators L. Martin, Matthews, Hayes and Ford

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Read the first time April 24, 2012.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 1319) to amend Article 11, Chapter 75, Title 38 of the 1976 Code, by adding Section 38-75-1010, to provide that a title insurer may issue closing or settlement insurance, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

WILLIAM E. SANDIFER for Committee.

**A** **BILL**

TO AMEND ARTICLE 11, CHAPTER 75, TITLE 38 OF THE 1976 CODE, BY ADDING SECTION 38-75-1010, TO PROVIDE THAT A TITLE INSURER MAY ISSUE CLOSING OR SETTLEMENT INSURANCE, TO PROVIDE FOR LOSS AGAINST WHICH THIS INSURANCE MAY INDEMNIFY AN INSURED, AND TO PROVIDE THAT A PREMIUM CHARGED PURSUANT TO THIS SECTION MUST BE APPROVED BY THE DEPARTMENT AND MUST NOT BE SUBJECT TO ANY AGREEMENT REQUIRING A DIVISION OF FEES OR PREMIUMS COLLECTED ON BEHALF OF THE TITLE INSURER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 11, Chapter 75, Title 38 of the 1976 Code is amended by adding:

“Section 38‑75‑1010. (A) Notwithstanding Section 38‑5‑30, a title insurer may issue closing or settlement protection to a person who is a party to a transaction in which a title insurance policy will be issued, but may not provide any other coverage that purports to indemnify against improper acts or omissions of a person with regard to settlement or closing services.

(B) Closing or settlement protection may indemnify a person only against loss of closing or settlement funds because of one of the following acts of a settlement agent under the terms and conditions of the closing or settlement protection:

(1) theft or misappropriation of settlement funds in connection with a transaction in which a title insurance policy will be issued by or on behalf of the title insurer issuing the closing or settlement protection, but only to the extent that the theft relates to the status of the title to that interest in land or to the validity, enforceability, and priority of the lien of the mortgage on that interest in land; or

(2) failure to comply with the written closing instructions when agreed to by the settlement agent, title agent, or employee of the title insurer, but only to the extent that the failure to follow the instructions relates to the status of the title to that interest in land or the validity, enforceability, and priority of the lien of the mortgage on that interest in land.

(C) A premium charged by a title insurer for each party receiving closing or settlement protection must be submitted to and approved by the department in accordance with this article and must not be subject to any agreement requiring a division of fees or premiums collected on behalf of the title insurer.”

SECTION 2. This act takes effect upon approval by the Governor.

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