


13th Congress of the Republic)
of the Philippines)
First Regular Session)

'04 JUN 30 PM 10:03

RECEIVED BY: 

SENATE
S. No. 1140

Introduced by Senator Aquilino Q. Pimentel, Jr.

EXPLANATORY NOTE

One of the investigations conducted by the committee on Accountability of Public Officers and Investigations, otherwise known as the Blue Ribbon Committee was the modus operandi of syndicates specializing in fraudulent registration and titling of land.

At the end of the investigation, the Committee concluded that the whole system of the land registration and titling of land is institutionally and intrinsically flawed. The syndicates, in cahoots with some government agencies, engage in this revolting scheme. This could be traced, among other things, from the fact that the records' management of the Land Registration Authority is seriously defective in that some people there had allowed the switching or tampering of important land documents, including land titles.

This bill seeks to create a land title insurance system that will protect owners of real estate against defects in their land titles and help maintain the integrity of the Torrens Title system, which is the foundation of ownership to real property.

This piece of legislation seeks to create a land title insurance system that will protect owners of real estate against defects in their land titles and help maintain the integrity of the Torrens Title system, which stabilizes the ownership of real property. It is the aim of this bill to restore the faith and reliance of the people on the integrity of land titles.


It is hoped that the title insurance system would help crush a growing cancer that has infected our system of land registration bringing back the public's lost faith and confidence in the Torrens System.

Hence the passage of this bill is earnestly requested.


AQUILINO Q. PIMENTEL, JR.

13th Congress of the Republic)
of the Philippines)
First Regular Session)

'04 JUN 30 PM 11 '04

RECEIVED BY: 

SENATE

S. No. 1140

Introduced by Senator Aquilino Q. Pimentel, Jr.

**AN ACT
CREATING THE FIELD OF LAND TITLE INSURANCE
AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO.
612, OTHERWISE KNOWN AS THE INSURANCE CODE OF 1978,
AS AMENDED BY PRESIDENTIAL DECREES NOS. 1455 AND
1460 AND BATAS PAMBANSA BLG. 874**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Chapter II, on Classes of Insurance, of Presidential Decree No. 612, as amended, otherwise known as the Insurance Code of 1978, is hereby amended to include a distinct class of insurance to be known as Land Title Insurance, which shall read as follows:

TITLE VI

LAND TITLE INSURANCE

Sub-Title VI-A

DEFINITIONS OF TERMS

SECTION 184. a) LAND TITLE INSURANCE POLICY PROTECTS THE INSURED AGAINST TITLE DEFECTS, FORGERY, FALSIFICATION, DOUBLE TITLING AND SIMILAR UNLAWFUL ACTS THAT AFFECT TITLE TO, OR THE USE OF REAL PROPERTY.

b) A TITLE INSURER REFERS TO A COMPANY ORGANIZED AND AUTHORIZED TO DO THE BUSINESS UNDER THIS CODE FOR THE

PURPOSE OF ISSUING TITLE INSURANCE POLICIES.

- c) RELATED TITLE SERVICES MEANS SERVICES PROVIDED BY A TITLE INSURER OR THE TITLE INSURANCE AGENT INCLUDING, BUT NOT LIMITED TO, PREPARING OR OBTAINING TITLE INFORMATION, PREPARING DOCUMENTS NECESSARY TO CLOSE A TRANSACTION, CONDUCTING THE CLOSING OR HANDLING THE DISBURSEMENT OF FUNDS RELATED TO THE CLOSING OF A REAL ESTATE TRANSACTION IN WHICH A TITLE INSURANCE POLICY IS TO BE ISSUED.
- d) RISK PREMIUM REFERS TO THE CHARGE THAT IS MADE BY A TITLE INSURER FOR THE ASSUMPTION OF RISK UNDER A TITLE INSURANCE CONTRACT.

Sub-Title VI-B

THE TITLE POLICY

SECTION 185. A TITLE INSURER SHALL NOT ISSUE NOR AGREE TO ISSUE ANY FORM OF TITLE BINDER, TITLE INSURANCE COMMITMENT, PRELIMINARY REPORT, INSURANCE POLICY, OTHER CONTRACTS OF TITLE INSURANCE OR RELATED FORM UNTIL IT IS FILED WITH AND APPROVED BY THE INSURANCE COMMISSION.

SECTION 186. A TITLE INSURER SHALL NOT ISSUE ANY CONTRACT OF TITLE INSURANCE EITHER AS PRELIMINARY INSURER, CO-INSURER OR RE-INSURER UPON AN ESTATE, LIEN OR INTEREST IN PROPERTY UNLESS THE AMOUNT OF THE RISK ASSUMED IS REFLECTED ON THE FACE OF THE CONTRACT. A TITLE INSURER SHALL NOT ISSUE TWO OR MORE POLICIES UPON THE SAME ESTATES, LIEN OR INTEREST: *PROVIDED*, THAT NOTHING IN THIS SECTION SHALL PROHIBIT THE SIMULTANEOUS ISSUANCE OF POLICIES INSURING DIFFERENT ESTATES, LIENS OR INTERESTS IN THE SAME PROPERTY, IF EACH OF THE SIMULTANEOUS POLICIES EXCEPTS THE PARAMOUNT ESTATES, LIENS OR INTERESTS TO

WHICH THE INSURED ESTATE, LIEN OR INTERESTS IS SUBJECT, AND IF EACH OF THE SIMULTANEOUS POLICIES CONFORMS TO THIS SECTION. PROVIDED, FURTHER THAT NOTHING IN THIS SECTION PROHIBITS THE CEDING OF A PORTION OF THE TOTAL RISK TO AUTHORIZED INSURERS. INSURANCE CEDED, INCLUDING CO-INSURANCE EFFECTED, IS A RETENTION OF RISK BY THE INSURER ASSUMING THE CEDED RISK, AND NOT BY THE INSURER CEDING THE RISK.

Sub-Title VI-C

RISK PREMIUM

SECTION 187. THE INSURANCE COMMISSION SHALL ADOPT AND ISSUE GUIDELINES SPECIFYING THE RISK PREMIUM TO BE CHARGED BY INSURERS FOR THE RESPECTIVE TYPES OF TITLE INSURANCE CONTRACTS AND SERVICES INCIDENT THERETO. THE INSURANCE COMMISSION MAY ESTABLISH LIMITATIONS AS TO THE REASONABLE CHARGES MADE IN ADDITION TO THE RISK PREMIUM BASED UPON THE EXPENSES ASSOCIATED WITH THE SERVICES RENDERED AND OTHER RELEVANT FACTORS.

SECTION 188. IN ADOPTING PREMIUM RATES, THE INSURANCE COMMISSION MUST GIVE DUE CONSIDERATION TO THE FOLLOWING:

- A) THE INSURERS' LOSS EXPERIENCE AND PROSPECTIVE LOSS EXPERIENCE UNDER INSURED CLOSING SERVICE LETTERS, SEARCH AND EXAMINATION SERVICES, AND POLICY LIABILITIES.
- B) A REASONABLE MARGIN FOR UNDERWRITING PROFIT AND CONTINGENCIES, SUFFICIENT TO ALLOW INSURERS AND AGENTS TO EARN A RATE OF RETURN ON THEIR CAPITAL THAT WILL ATTRACT AND RETAIN ADEQUATE CAPITAL INVESTMENT IN THE TITLE INSURANCE BUSINESS.
- C) PAST EXPENSES AND PROSPECTIVE EXPENSES FOR

ADMINISTRATION AND HANDLING OF RISKS.

- D) LIABILITY FOR DEFALCATION. DEFALCATION IS THE CONVERSION OR MISAPPROPRIATION BY A LICENSED TITLE INSURANCE AGENT OF FUNDS HELD IN TRUST BY THE AGENT, FOR WHICH THE TITLE INSURER SHALL BE HELD LIABLE.
- E) OTHER RELEVANT FACTORS AS MAY BE APPLIED BY THE INSURANCE COMMISSION.

SECTION 189. RATES MAY BE GROUPED BY CLASSIFICATION OR SCHEDULE, AND MAY DIFFER AS TO THE CLASS OF RISK ASSUMED. RATES SHALL NOT BE EXCESSIVE, INADEQUATE OR UNFAIRLY DISCRIMINATORY.

SECTION 190. THE INSURANCE COMMISSION SHALL REVIEW THE RISK PREMIUM AND THE RELATED TITLE SERVICES RATES AS NEEDED, BUT NOT LESS FREQUENTLY THAN ONCE EVERY FIVE (5) YEARS, AND SHALL, BASED UPON THE REVIEW REQUIRED BY THIS SUBSECTION, REVISE THE RISK PREMIUM AND THE RELATED TITLE SERVICES RATE IF THE RESULTS OF THE REVIEW SO WARRANT.

SECTION 191. THE INSURANCE COMMISSION MAY REQUIRE INSURERS TO SUBMIT STATISTICAL INFORMATION, INCLUDING LOSS AND EXPENSE DATA, IT DEEMS NECESSARY TO ANALYZE THE SETTING OF RISK PREMIUM AND RELATED TITLE SERVICE RATES, RETENTION RATES AND THE CONDITION OF THE TITLE INSURANCE INDUSTRY.

SECTION 192. IN SETTING RISK PREMIUM AND RELATED TITLE SERVICE RATES, THE INSURANCE COMMISSION SHALL HOLD CONSULTATIONS AND PUBLIC HEARINGS, INVITING DULY LICENSED INSURERS, AGENTS, CONSUMER GROUPS AND OTHER INTERESTED OR INFORMED BODIES OR PERSONS TO GIVE THEIR OPINIONS AS TO WHAT CONSTITUTES A FAIR RATE TO CHARGE THE PUBLIC.

SECTION 193. IT SHALL BE UNLAWFUL FOR ANY INSURER, AGENT

OR PERSON TO QUOTE, CHARGE, ACCEPT, COLLECT OR RECEIVE A RISK PREMIUM FOR TITLE INSURANCE HIGHER THAN THE RISK PREMIUM ADOPTED AND AUTHORIZED BY THE INSURANCE COMMISSION.

SECTION 194. A TITLE INSURER MAY PETITION THE INSURANCE COMMISSION FOR AN ORDER AUTHORIZING AN INCREASE OF THE ADOPTED RISK PREMIUM. THE PETITION SHALL BE IN WRITING SWORN TO AND SHALL SET FORTH ALLEGATIONS OF FACT UPON WHICH THE PETITIONER WILL RELY, INCLUDING THE PETITIONER'S REASONS FOR REQUESTING THE INCREASE. AN AUTHORIZED TITLE INSURER OR AGENT MAY JOIN THE PETITION FOR LIKE AUTHORITY TO INCREASE OR MAY FILE A SEPARATE PETITION PRAYING FOR LIKE AUTHORITY. THE PUBLIC OR ANY AUTHORIZED TITLE INSURER OR AGENT MAY OPPOSE THE PETITION TO INCREASE THE ADOPTED RISK PREMIUM. THE INSURANCE COMMISSION SHALL CONDUCT PUBLIC HEARINGS IN ACCORDANCE WITH ITS INTERNAL RULES OF PROCEDURE TO DETERMINE THE MERITS OF EACH PETITION. IF, IN THE JUDGMENT OF INSURANCE COMMISSION, THE REQUESTED DEVIATION IS NOT JUSTIFIED, THE INSURANCE COMMISSION SHALL ISSUE AN ORDER DENYING THE PETITION, SETTING FORTH ITS REASON FOR SUCH DENIAL. AN ORDER GRANTING A PETITION CONSTITUTES AN AMENDMENT TO THE ADOPTED RISK PREMIUM OF THE INSURANCE COMMISSION.

SECTION 195. WHEN A TITLE INSURANCE BINDER OR A COMMITMENT TO INSURE A TITLE OR RISK IS ISSUED AT THE REQUEST OF THE INSURED OR THE INSURED'S REPRESENTATIVE OR AGENT, A PORTION OF THE RISK PREMIUM MUST BE CHARGED FOR THE BINDER OR COMMITMENT WHEN ISSUED. THE PORTION OF THE RISK PREMIUM CHARGED FOR THE BINDER OR COMMITMENT MUST BE CREDITED TO THE RISK PREMIUM DUE UPON ISSUANCE OF THE TITLE INSURANCE POLICY.

Sub-Title VI-D

THE TITLE INSURER

SECTION 196. THE INSURANCE COMMISSION SHALL ALLOW COMPANIES NOT OTHERWISE DISQUALIFIED BY LAW TO ENGAGE IN THE TITLE INSURANCE BUSINESS BY ISSUING THE APPROPRIATE LICENSE IN ACCORDANCE WITH ITS INTERNAL RULES OF PROCEDURE, PROVIDED THAT THE INSURANCE COMMISSION SHALL DETERMINE THE MINIMUM PAID-UP CAPITAL REQUIREMENT FOR COMPANIES THAT WILL BE ALLOWED TO ENGAGE IN THE TITLE INSURANCE BUSINESS.

SECTION 197. A FOREIGN INSURANCE OR REINSURANCE COMPANY OR INTERMEDIARY IS ALLOWED ONE ENTRY TO DO BUSINESS IN THE PHILIPPINES, UNDER ANY OF THE FOLLOWING MODES:

- A) OWNERSHIP OF THE VOTING STOCK OF AN EXISTING DOMESTIC INSURANCE OR REINSURANCE COMPANY OR INTERMEDIARY;
- B) INVESTMENT IN A NEW INSURANCE OR REINSURANCE COMPANY OR INTERMEDIARY INCORPORATED IN THE PHILIPPINES; OR THE
- C) EXCEPT FOR AN INTERMEDIARY, ESTABLISHMENT OF A BRANCH.

SECTION 198. TO QUALIFY AS A NEW COMPANY INCORPORATED IN THE PHILIPPINES OR AS A BRANCH UNDER ITEMS "B" AND "C" RESPECTIVELY IN THE NEXT PRECEDING SECTION, IN ADDITION TO THE REQUIREMENT STATED IN SECTION 197 ABOVE, THE FOREIGN APPLICANT MUST BE WIDELY OWNED AND PUBLICLY LISTED IN ITS COUNTRY OF ORIGIN, UNLESS IT IS MAJORITY-OWNED BY THE GOVERNMENT. THE TERM WIDELY-OWNED MEANS THAT NOT A SINGLE STOCKHOLDER OF THE APPLICANT OWNS MORE THAN TWENTY PERCENT (20%) OF ITS VOTING STOCK, WHILE "PUBLICLY LISTED" MEANS THAT ITS SHARES OF STOCK ARE LISTED IN THE STOCK EXCHANGES: IT IS

FURTHER REQUIRED THAT AT LEAST TWENTY PERCENT (20%) OF THE OUTSTANDING SHARES OF STOCK OF THE NEW INSURANCE OR REINSURANCE COMPANY OR INTERMEDIARY INCORPORATED IN THE PHILIPPINES UNDER ITEM "B" ABOVE IS HELD BY FILIPINOS. THE FOREIGN APPLICANT MUST LIKEWISE HAVE A SENIOR OFFICER WITH THE RANK OF VICE-PRESIDENT OR HIGHER IN TITLE OPERATIONS WITH TITLE UNDERWRITING EXPERTISE WHO IS A FILIPINO.

SECTION 199. THE HEAD OFFICE OF A FOREIGN INSURANCE OR REINSURANCE COMPANY SHALL GUARANTEE PROMPT PAYMENT OF ALL LIABILITIES OF ITS PHILIPPINE BRANCH.

SECTION 200. SUBJECT TO EXISTING LAWS, NON-FILIPINO NATIONALS MAY BECOME MEMBERS OF THE BOARD OF DIRECTORS OF AN INSURANCE OR REINSURANCE COMPANY TO THE EXTENT OF THE FOREIGN PARTICIPATION IN THE EQUITY OF SUCH COMPANY. EXPATRIATES WILL ALSO BE ALLOWED TO OCCUPY MANAGERIAL POSITIONS SUBJECT TO EXISTING LAWS, RULES AND REGULATIONS.

Sub-Title VI-E

COVERAGE

SECTION 201. A TITLE INSURER SHALL NOT ISSUE A TITLE INSURANCE BINDER, COMMITMENT, ENDORSEMENT, TITLE INSURANCE POLICY, OR GUARANTEE OF TITLE UNTIL THE TITLE INSURER HAS CAUSED TO BE CONDUCTED A REASONABLE SEARCH AND EXAMINATION OF THE TITLE AND OF SUCH OTHER INFORMATION AS MAY BE NECESSARY, AND HAS CAUSED TO BE MADE A DETERMINATION OF THE INSURABILITY OF THE TITLE, INCLUDING ENDORSEMENT COVERAGES, IN ACCORDANCE WITH SOUND UNDERWRITING PRACTICES.

SECTION 202. THE TITLE INSURER SHALL CAUSE THE EVIDENCE OF THE REASONABLE SEARCH AND EXAMINATION OF THE TITLE TO BE

PRESERVED AND RETAINED IN ITS FILES OR IN THE FILES OF ITS TITLE INSURANCE AGENT FOR A PERIOD OF NOT LESS THAN TEN (10) YEARS AFTER THE TITLE INSURANCE BINDER, COMMITMENT, TITLE INSURANCE POLICY, OR GUARANTEE OF TITLE WAS ISSUED. THE TITLE INSURER MUST FURNISH THE INSURANCE COMMISSION AND THE LAND REGISTRATION AUTHORITY WITH A COPY OF THE RESULTS OF ITS SEARCH AND EXAMINATION AND MUST PRODUCE THE EVIDENCE REQUIRED TO BE MAINTAINED BY THIS SECTION AT ITS OFFICES UPON THE DEMAND BY GOVERNMENT AGENCIES. INSTEAD OF RETAINING THE ORIGINAL EVIDENCE, THE TITLE INSURER OR THE INSURANCE AGENT MAY, IN THE REGULAR COURSE OF BUSINESS, ESTABLISH A SYSTEM UNDER WHICH ALL OR PART OF THE EVIDENCE IS RECORDED, COPIED OR REPRODUCED BY ANY PHOTOGRAPHIC, PHOTOSTATIC MICROFILM MICROCARD MINIATURE PHOTOGRAPHIC, OR OTHER PROCESS WHICH ACCURATELY REPRODUCES OR FORMS A DURABLE MEDIUM FOR REPRODUCING THE ORIGINAL.

SEC. 2. Section 184 and all succeeding Sections of Presidential Decree No. 612 shall be renumbered accordingly.

SEC. 3. *Implementing Rules and Regulations.* - Within three (3) months from the passage of this Act, the Insurance Commission shall draw and adopt the required rules and regulations to govern Land Title Insurance.

SEC. 4. *Repealing Clause.* - All laws, executive orders, executive issuances or letters of instruction, or any part thereof, inconsistent with or contrary to the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 5. *Separability Clause.* - If, for any reason, any section or provision of

this Act shall be declared unconstitutional or invalid, the other parts thereof not affected thereby shall remain valid.

SEC. 6. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,