

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 519

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO TITLE INSURANCE; AMENDING SECTION 41-1315A, IDAHO CODE, TO  
2 PROVIDE THAT TITLE INSURERS MAY PROVIDE A REIMBURSEMENT OR DISCOUNT  
3 OF ESCROW FEES OR TITLE INSURANCE PREMIUMS IN CERTAIN INSTANCES AND TO  
4 MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 41-2708, IDAHO CODE,  
5 TO PROVIDE THAT NOTHING SHALL PROHIBIT TITLE INSURERS FROM PROVIDING  
6 A CERTAIN REIMBURSEMENT OR DISCOUNT OF ESCROW FEES OR TITLE INSURANCE  
7 PREMIUMS, TO CLARIFY A PROVISION REGARDING PENALTIES AND TO MAKE TECH-  
8 NICAL CORRECTIONS.  
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 41-1315A, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 41-1315A. DISCOUNTS TO EMPLOYEES. No provision of title 41, Idaho  
14 Code, shall be deemed to prohibit allowance by an insurer, agent, or broker  
15 to the insurer's or licensee's bona fide full-time salaried employee of a  
16 discount from the premium otherwise payable for insurance on the employee's  
17 life or health or those of his dependents, or on the employee's property or  
18 risks other than property or risks used or involved in business operations  
19 of the employee other than as an employee of the insurer, agent, or broker.  
20 The amount of discount shall in no event exceed the amount of the agent's  
21 commission which that the employer insurer may otherwise pay, or the amount  
22 of commission to be received by the employer agent or broker, with respect  
23 to the insurance. Title insurers and title insurance agents may provide  
24 reimbursements or discounts of escrow fees or title insurance premiums in  
25 accordance with chapter 27, title 41, Idaho Code.

26 SECTION 2. That Section 41-2708, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 41-2708. DETERMINATION OF INSURABILITY -- PROHIBITED RISKS -- RE-  
29 BATES. (1) Insurability. No title insurance on real property in the state of  
30 Idaho shall be issued unless and until the title insurer or its agent:

31 (a) ~~e~~Owns or leases, separately or jointly with another, tract indexes  
32 and abstract records of the county in which the property is located; and

33 (b) ~~h~~Has caused to be made a search and examination of the title and a  
34 determination of insurability of title in accordance with sound title  
35 underwriting practices.

36 Evidence thereof for each policy shall be preserved and retained in the files  
37 of the title insurer or its agent. In lieu of retaining the original copy,  
38 the same may be reproduced by any photographic, photostatic, microfilm or  
39 microcard type of system or process which that actually reproduces or forms a  
40 durable medium for reproducing the original.

1           (2) Prohibited Risks. No title insurer doing business in this state  
2 shall guarantee the payment of deeds of trust or mortgages on real property.  
3 Nor shall any title insurer intentionally issue a title insurance policy  
4 without showing any outstanding enforceable recorded liens and encumbrances  
5 which are of record against the real property, except under circumstances  
6 the director of the department of insurance under his ~~rule-making~~ rulemaking  
7 powers may approve. Such guaranty of mortgage payments or intentional omis-  
8 sion of such outstanding liens and encumbrances in violation hereof shall,  
9 upon proof thereof to the satisfaction of the director of the department of  
10 insurance, subject the insurer to a fine not to exceed two thousand dollars  
11 (\$2,000) and to the revocation of, suspension of, or refusal to renew a  
12 certificate of authority.

13           (3) Rebates. Section 41-1314(1), Idaho Code, shall be applicable to  
14 any person or entity and all employees, officers, agents, attorneys and  
15 solicitors thereof engaging in the title insurance business, as to rebates  
16 and illegal inducements as in said section defined. The words "as induce-  
17 ment to such insurance" and "or in connection therewith" shall be construed  
18 to include but not be limited to underwriting premium, agent's commission,  
19 abstracting charges, title examination fees, closing charges, escrow fees,  
20 trustee fees, and foreclosure fees relating to deeds of trust. No insured  
21 in a policy nor any other person directly or indirectly connected with the  
22 transaction involving the issuance of a title insurance policy, includ-  
23 ing but not limited to mortgage brokers, real estate brokers and agents,  
24 builders or attorneys, nor any employee, agent or representative or solici-  
25 tor thereof, shall knowingly receive or accept, directly or indirectly,  
26 any such rebate or illegal inducement. No title insurance company or title  
27 insurance agent shall quote or make any charge for title insurance to any  
28 person less than the currently filed rate for such risk with the depart-  
29 ment of insurance. Nothing in this section or this title shall be deemed  
30 to prohibit a title insurer or title insurance agent from providing a reim-  
31 bursement or discount of the premium otherwise payable for a title insurance  
32 policy and for any escrow fees otherwise charged in a transaction handled  
33 by such title insurance company or title insurance agent involving a bona  
34 fide employee's residence. Each such person and entity giving or receiving  
35 a rebate, illegal inducement or a reduction in rate in violation of this sec-  
36 tion shall, in addition to the other penalties set forth in title 41, Idaho  
37 Code, for violation thereof, be liable for three (3) times the amount of such  
38 rebate, illegal inducement or reduced rate.

39           (4) Forwarding Fees. No person forwarding or directing title insur-  
40 ance business to a title insurer or title insurance agent in Idaho, nor such  
41 insurer or agent receiving such business, shall give or receive anything of  
42 value, or a portion of the premium, therefor.