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Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**THIRTEENTH CONGRESS**  
First Regular Session

HOUSE BILL NO. 652



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INTRODUCED BY **HON EDUARDO C. ZIALCITA, Ph.D.**

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**EXPLANATORY NOTE**

The Philippine Titling System is patterned after the Torrens Titling System of Australia. The Torrens System is based upon the primary characteristic of indefeasibility of title on which there can be simple recording of all details of ownership and interest in land. Land ownership is evidenced by a simple document or folio kept by the Register of Deeds. This folio records the legal description of land such as details of the owner, and various transactions affecting the land, like mortgages, leases, easements, sales, among others.

However, the integrity of Torrens Titling System in the country came under serious attack by crime syndicates. Unscrupulous persons are able to fake or forge the Transfer Certificate of Title of various lands, and able to pass these fake titles as genuine to the unsuspecting public. Most affected by this scheme are financial institutions such as banks, which extend loan credit on the basis of mortgage to real property. Only after extending loans and credits to these unscrupulous individuals, would the bank realize that it is holding a worthless piece of paper as collateral. Individuals are not spared as well. There are instances when people pay for land, based on a title that are forged or falsified. Many of these cases involved huge tracks of land, and became sensational issues.

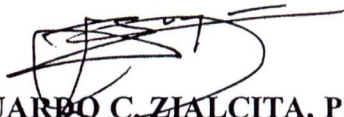
The solution to this problem is title insurance. Already an accepted practice for many years in the United States and in most industrialized countries, title insurance protects the person dealing with land titles from any losses, which he may incur should the title turn out to be fraudulent or fake. Title insurance gives confidence to financial institutions and individuals to proceed and deal with real property. Knowing that the title sold or mortgaged was fake, the financial institution or the individual will be reimbursed by the insurance company for any losses. There will no longer be any need for thorough, time consuming and expensive research on the origins of the title as the title insurance company will take the responsibility. A computerized data bank on all relevant information concerning a piece of property and the title it represents shall be kept and maintained by the title insurance company for use by the general public, without cost to the government.

Should the field of title insurance be created in this country, it will compel all who transact in real estate to declare the true value of their transactions. This is because the insurance company will pay only the value of the transactions declared in the appropriate document like the Deed of Absolute Sale or the Deed of The Real Estate Mortgage. It is

common knowledge that many, in order to evade proper payment of taxes, resort to under-declaration of the value of transaction. This will no longer be advantageous to the parties concerned, since if they under-declare the value of the transaction, they run the risk of being paid for lower than the actual value of their losses.

Title insurance is a new field in this country. There is a need for legislation to implement this provision and to encourage insurance companies to go into this venture. There is an urgency to implement title insurance system since title fraud became a very serious problem. In order to implement a system of title insurance, there is a need to amend the Insurance Code of 1978 or PD 612 as amended, by adding the necessary provisions creating the field of title insurance.

In view of the foregoing, early passage of this bill is earnestly requested.



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**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 NO.  
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.** There shall be added to Chapter II – Classes of Insurance of  
Presidential Decree No. 612, as amended, otherwise known as the Insurance Code of  
1978, the following provisions, to read as follows:

**Title VI**

**TITLE INSURANCE**

**Sub-title VI-A  
DEFINITION**

**Section 184.** Title to real estate are the Original Certificate of Title,  
Transfer Certificate of Title and the Condominium Certificate of Title under the Torrens  
System of land registration as enacted by Act 496, otherwise known as the Land  
Registration Act, as amended by Presidential Decree No. 1529, otherwise known as the  
Property Registration Decree, and Republic Act 4726 otherwise known as the  
Condominium Act.

**Section 185.** Title insurance policies insure title to real estate. The policy protects the insured against title defects, liens and encumbrances not specifically excepted from its coverage.

**Section 186.** A title insurer means any company organized and authorized to do the business under this Code for the purpose of issuing title insurance policies.

**Section 187.** Risk premium means 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 188.** A title insurer may not issue or agree to issue any form of title insurance binder, title insurance commitment, the insurance policy, other contracts of title insurance, or related form until it is filed and approved by the Insurance Commission.

**Section 189.** A title insurer may not issue any contract of title insurance, either as preliminary insurer or as a co-insurer or re-insurer, upon an estate, lien or interest in property, unless the contract shows on its face the amount of the risk assumed. A title insurer may not circumvent the limitations of this section by issuing 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 interest is subject, and if each of the simultaneous policies conforms to this section.

**Section 190.** The next preceding section likewise does not prohibit the ceding of portions of the total risk to authorized insurers. Insurance ceded, including co-insurance, 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 191.** The Insurance Commission shall adopt and issue guidelines specifying the risk premium to be charged by insurers for the respective type 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 192.** 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.

**Section 193.** Rates may be grouped by classification or schedule, and may differ as to the class of risk assumed. Rates may not be excessive, inadequate or unfairly discriminatory.

**Section 194.** The Insurance Commission shall review the risk premium and the related title services rate as needed, but not less frequently than once every three (3) years, and shall, based upon the review required by this subsection, revise the risk premium and the related title service rate if the results of the review so warrant.

**Section 195.** The Insurance Commission may require insurers to submit statistical information, including loss and expense data, as the Insurance Commission may determine to be necessary, to analyze the setting of risk premium and related title service rates, retention rates and the condition of the title insurance industry.

**Section 196.** In setting risk premium and related title service rates, the Insurance Commission shall hold consultations and public hearings, inviting duly licensed insurers, agents as well as consumer groups, to give their opinion as to what may constitute as fair rate to change the public.

**Section 197.** It shall be unlawful for any insurer, agent or person to quote, charge, accept, collect or receive risk premium for title insurance other than the risk premium adopted and authorized by the Insurance Commission.

**Section 198.** A title insurer may petition the Insurance Commission for an order authorizing a specific deviation from the adopted risk premium. The petition shall be in writing or sworn to and shall set forth allegations of fact upon which the petitioner will rely, including the petitioner's reasons for requesting the deviation. Any authorized title insurer or agent may join in the petition for requesting deviation. Any authorized title insurer or agent may join in the petition for like authority to deviate or may file a separate petition praying for like authority or opposing the deviation. 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 judgement of Insurance Commission the requested deviation is not justified, the Insurance Commission may enter an order denying

the petition, setting forth its reason for such denial. Otherwise, the Insurance Commission shall enter an order granting the petition, also setting forth its reason for granting the petition. An order granting a petition constitutes an amendment to the adopted risk premium of the Insurance Commission.

**Section 199.** 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 charge 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 200.** 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 201.** A foreign insurance or reinsurance company or intermediary is allowed 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 anew insurance or reinsurance company or intermediary incorporated in the Philippines;
- c). Establishment of a branch.

Provided, that entry under item "c" above is not available to an intermediary, provided further, that an applicant may avail itself of only one (1) mode of entry.

**Section 202.** To qualify as a new company incorporated in the Philippines or as a branch under item “b” and “c” of the next preceding section, in addition to the requirement stated in Section 200 above, the foreign applicant must be widely-owned and publicly listed in its country of origin, unless it is majority owned by the government of the country where the foreign applicant is based. 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 ten percent (10%) 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 or persons of Filipino descent. And it is a final requirement that the foreign applicant must have a senior officer rank of vice-president or higher in title operations with title underwriting expertise employed in said capacity for the last five (5) years who is Filipino or Filipino descent.

**Section 203.** The head office of a foreign insurance or reinsurance company shall guarantee prompt payment of all liabilities of its Philippine branch, and for this purpose, the Insurance Commission shall adopt measures to ensure compliance.

**Section 204.** Subject to existing laws, non-Filipino national 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 205.** In municipalities or cities wherein title insurance services are available, title insurance shall be mandatory for any transaction involving the sale, transfer, conveyance, assignment, lease, mortgage and any voluntary disposition of real property;

provided, that the Insurance Commission shall from time to time issue a memorandum circular indicating the areas, municipalities or cities where title insurance coverage shall be made mandatory as companies engaged in the title insurance business expand and make available their services to an ever widening portion of the general population; provided further, that nothing in this section shall preclude the right and sole prerogative of title insurance companies to refuse coverage should they determine that an existing title to a parcel of land is not insurable.

**Section 206.** A binder of title insurance or a commitment to ensure a title or risk imposes certain obligations and liabilities upon a title insurer and agents with consequent benefits for an insured.

**Section 207.** A title insurer may 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 insurability of the title, including endorsement coverage, in accordance with sound underwriting practices.

**Section 208.** 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 period of not less than seven (7) years after the title insurance binder, commitment, title insurance policy, or guarantee of title was issued. The title insurer or agent must produce the evidence required to be maintained by this section at its offices upon the demand of the Insurance Commission. Instead of retaining the original evidence, the title insurer or the title 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.

**Section 209.** The title insurer shall not be liable for any defects on the title caused by criminal or malicious acts of officials or employees of the government, or done with the connivance and participation of such officials or employees of the government.

**SECTION 2.** Section 184 and all succeeding sections of Presidential Decree 612 shall be renumbered, with the present Section 184 renumbered to Section 210, Section 185 renumbered to Section 211, and so on.

**SECTION 3. Repealing Clause.** All laws, executive orders, executive issuance or letters of instruction, or any part thereof, inconsistent with or contrary to the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

**SECTION 4. 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.

**SECTION 5. Effectivity Clause.** This Act shall take effect fifteen (15) days after its publication on the Official Gazette or in at least two (2) national newspaper of general circulation.

**APPROVED**