

March 8, 1973

SENATOR HASEBROOCK: Mr. President, members of the Legislature, as a member of the Banking and Insurance Committee, we heard the testimony on this bill and I would be amiss if I didn't get up and say that I think it's a good bill. We supported the bill and we support Senator Fellman's motion to reconsider. I think we should do it. Thank you.

SPEAKER: The chair recognizes Senator Kelly.

SENATOR KELLY: Mr. President, members of the body, would Senator Fellman yield to a question?

SPEAKER: Will you yield, Senator Fellman? He does.

SENATOR KELLY: Senator Fellman, does this changing the operation of title insurance, does it change it to where they will be writing mortgage insurance and leasehold insurance, etc.

SENATOR FELLMAN: No. No. It has...this does nothing, in no way authorizes them to get into the mortgage business. All it authorizes them to do is issue a policy in an additional area. Have I answered your question?

SENATOR KELLY: In other words, they are not writing insurance to guarantee a mortgage then.

SENATOR FELLMAN: No.

SENATOR KELLY: They're just still on the title.

SENATOR FELLMAN: No. They are just still insuring the title.

SENATOR KELLY: What bothers me in there is that word "encumbrance" that I can't even spell let alone understand.

SENATOR FELLMAN: No. They are insuring that there are no encumbrances that are not reflected in their statement. It's exactly, to simplify it down, if I go to buy a house from you and I get a title opinion or a title insurance contract, it states that there are taxes due. or there is a mortgage, or there is a lien. Those are called encumbrances. Now, there policy issued under this law would merely state that these are the encumbrances and they insure that there are no encumbrances that aren't listed, and if something is found, then they are liable and that is when the insurance comes into play.

SENATOR KELLY: I thank you.

SPEAKER: The chair recognizes Senator Duis.

SENATOR DUIS: Mr. President, I, too, am a member of the Committee and I would like to support the motion to reconsider. I think we'll find that a number of the title insurance companies that object to this bill, their home offices aren't in Nebraska. That they probably have a foreign home office with branches set up here, and they probably have a reason behind this. I don't know, but I am as sure as I'm standing here had they been interested in the legislation that there is an association probably of these particular people who would notify them that the hearing had been...was to be held, so I think the fact that they had no notification is no excuse for their not having been at the public hearing. And Senator Kelly, if I might say, I have listened to your question with interest to Senator Fellman, and, of course, I don't know, maybe, this would help. If you take a mortgage on a property or about to take a mortgage on a property and you wish to have a title examination, of course, the same thing holds true there with title insurance as it does if you purchase a property because it would go right back to the old abstract theory that if you were going to take a mortgage, you would ask for