

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1042 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/29/07

A Bill

SENATE BILL 779

5 By: Senator T. Smith
6
7

For An Act To Be Entitled

9 AN ACT TO ABOLISH THE ABSTRACTERS' BOARD OF
10 EXAMINERS AND TRANSFER ITS POWERS AND DUTIES TO
11 *THE ARKANSAS ABSTRACTERS' BOARD; AND FOR OTHER*
12 *PURPOSES.*
13

Subtitle

14 *TO ABOLISH THE ABSTRACTERS' BOARD OF*
15 *EXAMINERS AND TRANSFER ITS POWERS AND*
16 *DUTIES TO THE ARKANSAS ABSTRACTERS'*
17 *BOARD.*
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. The Abstracters' Board of Examiners established by Arkansas
24 Code § 17-11-201 et seq. is abolished and its powers and duties are
25 transferred to the Arkansas Abstracters' Board by a type 2 transfer under §
26 25-2-105.

27 (b) For the purpose of this section, the Arkansas Abstracters' Board
28 shall be considered a principal department established by Acts 1971, No.38.
29

30 SECTION 2. *Arkansas Code §§ 17-11-201 - 17-11-204 are repealed.*

31 ~~17-11-201. Creation Members.~~

32 ~~(a) There is created the Abstracters' Board of Examiners.~~

33 ~~(b)(1) The board shall consist of three (3) members, appointed by the~~
34 ~~Governor, subject to confirmation by the Senate, for a term of six (6) years.~~

35 ~~(2) Two (2) members shall have been actively engaged in the~~



1 ~~making of abstracts of real estate titles in the state for a period of five~~
2 ~~(5) years prior to appointment.~~

3 ~~(3) One (1) member shall be knowledgeable of the abstract~~
4 ~~business.~~

5 ~~(c) Vacancies on the board caused by death, resignation, or otherwise~~
6 ~~shall be filled by appointment of the Governor, subject to confirmation by~~
7 ~~the Senate.~~

8 ~~(d) No member shall be appointed to succeed himself or herself, and no~~
9 ~~two (2) members shall be appointed from the same county.~~

10 ~~(e) Each member of the board may receive expense reimbursement in~~
11 ~~accordance with § 25-16-901 et seq.~~

12
13 ~~17-11-202. Organization and proceedings.~~

14 ~~(a) The Abstracters' Board of Examiners shall organize by the election~~
15 ~~of a chair and secretary treasurer. The chair and secretary treasurer of the~~
16 ~~board shall have the power to administer oaths.~~

17 ~~(b) The board shall have a seal and shall have power to compel the~~
18 ~~attendance of witnesses.~~

19
20 ~~17-11-203. Duties and powers.~~

21 ~~(a)(1) The Abstracters' Board of Examiners shall keep a register~~
22 ~~wherein there shall be entered the name of each applicant for registration~~
23 ~~and certification, with his or her place of business and such other~~
24 ~~information as may be deemed appropriate, including a notation of the action~~
25 ~~taken by the board thereon and the date upon which the certificate of~~
26 ~~registration and certificate of authority are issued.~~

27 ~~(2) The board shall maintain such other records, registers, and~~
28 ~~files as may be necessary for the proper administration of its duties under~~
29 ~~this chapter.~~

30 ~~(b) It may adopt rules and regulations as it shall deem necessary for~~
31 ~~the proper administration of its powers and duties and the carrying out of~~
32 ~~the purposes of this chapter.~~

33
34 ~~17-11-204. Disposition of funds—Abstracters' Examining Board Fund.~~

35 ~~(a) All fees and charges collected under this chapter shall be paid by~~
36 ~~the Abstracters' Board of Examiners within a period of thirty (30) days after~~

~~1 their receipt, together with a detailed statement thereof to the Treasurer of
2 State who shall place the fees and charges collected under this chapter to
3 the credit of the Abstractors' Examining Board Fund, which is hereby
4 expressly created.~~

~~5 (b)(1) All moneys so paid into the State Treasury and credited to the
6 fund, or so much thereof as may be needed, are appropriated to the use of the
7 board under its direction for the payment of all expenses and expenditures
8 incurred under the provisions of this chapter.~~

~~9 (2) The Auditor of State shall draw warrants against the fund,
10 upon request of the board, for such expenses and expenditures, and the
11 Treasurer of State shall pay the warrants out of the fund.~~

~~12 (3) No expenditures under this chapter shall be made except out
13 of moneys in the fund.~~

14
15 SECTION 3. Arkansas Code Title 17, Chapter 11 is amended to add an
16 additional subchapter to read as follows:

17 17-11-401. Creation - Members.

18 (a) The Arkansas Abstractors' Board is created.

19 (b)(1) The board shall consist of five (5) members appointed by the
20 Governor, subject to confirmation by the Senate, for a term of six (6) years.

21 (2) Two (2) members shall:

22 (A) Be actively involved in the making of abstracts of
23 real estate titles in this state for a period of at least five (5) years
24 before appointment; and

25 (B) Serve an initial term of six (6) years;

26 (3) Two (2) members shall:

27 (A) Be citizens of this state; and

28 (B) Serve an initial term of four (4) years; and

29 (4) One (1) member shall:

30 (A) Be knowledgeable of the abstract business; and

31 (B) Serve an initial term of two (2) years.

32 (c) A vacancy on the board caused by death, resignation, or otherwise
33 shall be filled by appointment of the Governor, subject to confirmation by
34 the Senate.

35 (d)(1) A member may be appointed to successive terms.

36 (2) No two (2) members shall be appointed from the same county.

1 (e)(1) Each member shall serve without compensation.

2 (2) However, a member may be entitled to receive travel and
3 expense reimbursement in accordance with § 25-16-901 et seq.

4
5 17-11-402. Organization and proceedings.

6 (a) The Arkansas Abstracters' Board shall elect a chair and a
7 secretary-treasurer.

8 (b) The chair and secretary-treasurer of the board shall have the
9 power to administer oaths.

10 (c) The board shall have a seal and shall have the power to compel the
11 attendance of witnesses.

12
13 17-11-403. Duties and powers.

14 (a)(1) The Arkansas Abstracters' Board shall keep a register and shall
15 record the following information in the register:

16 (A) The name and the place of business of each applicant
17 for registration and certification;

18 (B) A notation of the action taken by the board on each
19 application for registration and each application for certification;

20 (C) The date upon which each certificate of registration
21 and each certificate of authority are issued; and

22 (D) Such other information as the board deems appropriate.

23 (2) The board shall maintain such other records, registers, and
24 files as may be necessary for the proper administration of its duties under
25 this subchapter.

26 (b) The board may adopt rules for the proper administration of its
27 powers and duties and the carrying out of the purposes of this subchapter.

28
29 SECTION 4. Arkansas Code § 17-11-302(a), concerning application to
30 become a registered abstracter, is amended to read as follows:

31 (a) Any person desiring to become a registered abstracter under this
32 chapter shall make application to the ~~Abstracters' Board of Examiners~~
33 Arkansas Title Insurance Agents' and Abstracters' Licensing Board for
34 registration.

35
36 SECTION 5. Arkansas Code § 17-11-303 is amended to read as follows:

1 17-11-303. Certificate of registration - Examination.

2 The examination required under this chapter shall be in ~~such~~ form of
3 written interrogatories as may be prescribed by the ~~Abstracters' Board of~~
4 ~~Examiners~~ Arkansas Abstracters' Board to determine the proficiency of the
5 applicant.

6
7 *SECTION 6. Arkansas Code § 17-11-304(a), concerning registered*
8 *abstracters, is amended to read as follows:*

9 (a) If the applicant satisfactorily passes ~~such~~ the examinations and
10 is of good moral character, the applicant shall be certified as a registered
11 abstracter, and the certificate ~~herein~~ provided for shall be issued to him or
12 her. The privileges granted by the certificate shall continue unless revoked,
13 as ~~hereinafter~~ provided in this chapter, or unless the certificate is
14 *otherwise surrendered to the ~~Abstractor's Board of Examiners~~ Arkansas*
15 *Abstracters' Board.*

16
17 *SECTION 7. Arkansas Code § 17-11-305(a), concerning temporary*
18 *certificates of registration, is amended to read as follows:*

19 (a) *The ~~Abstracters' Board of Examiners~~ Arkansas Abstracters' Board*
20 *upon application to it by any person succeeding to the ownership of any*
21 *abstract plant or business by any means other than by purchase, or any person*
22 *who by reason of the incapacity of any registered abstracter owner of any*
23 *abstract plant or business is required to assume the operation of the*
24 *abstract plant or business, may grant to the person without examination a*
25 *temporary certificate of registration.*

26
27 *SECTION 8. Arkansas Code § 17-11-320 is amended to read as follows:*

28 17-11-320. Certificate of authority required.

29 No person, firm, or corporation shall engage in the business of
30 abstracting in this state until a certificate of authority has been issued to
31 *the person, firm, or corporation by the ~~Abstracters' Board of Examiners~~*
32 *Arkansas Abstracters' Board.*

33
34 *SECTION 9. Arkansas Code § 17-11-321(a), concerning a certificate of*
35 *authority, is amended to read as follows:*

36 (a) Any person, firm, or corporation desiring to engage in the

1 business of abstracting in this state shall make application to the
2 ~~Abstracters' Board of Examiners~~ Arkansas Abstracters' Board for a certificate
3 of authority.

4
5 SECTION 10. Arkansas Code § 17-11-322(b), concerning a certificate of
6 authority, is amended to read as follows:

7 (b) Current and subsisting certificates of authority shall be renewed
8 as provided for in this section for a one-year period upon payment of a
9 renewal fee in the sum to be set by the ~~Abstracters' Board of Examiners~~
10 Arkansas Abstracters' Board.

11
12 SECTION 11. Arkansas Code § 17-11-324(a)(1)(A), concerning a bond, is
13 amended to read as follows:

14 (a)(1)(A) Before the certificate of authority ~~shall be~~ is issued, the
15 applicant shall file with the ~~Abstracters' Board of Examiners~~ Arkansas
16 Abstracters' Board a bond approved by the board conditioned upon the payment
17 by the applicant of any and all damages that may be sustained by or may
18 accrue to any person, firm, or corporation for whom the applicant may
19 compile, make, or furnish abstracts of title by reason of or on account of
20 any error, deficiency, or mistake in any abstract or certificate, or any
21 continuation thereof, made or issued by the abstracter over its authorized
22 signature and seal.

23
24 SECTION 12. Arkansas Code § 17-11-340(a), concerning revocation of
25 certificates, is amended to read as follows:

26 (a) ~~The Abstracters' Board of Examiners~~ Arkansas Abstracters' Board is
27 authorized, after a hearing as provided in § 17-11-341, to cancel and revoke
28 any certificate of registration issued to any person under the provisions of
29 this chapter:

- 30 (1) For a violation of any of the provisions of this chapter;
31 (2) Upon a conviction of the holder of such a certificate of a
32 crime involving moral turpitude; or
33 (3) If the board finds the holder to be guilty of habitual
34 carelessness or of fraudulent practices in the conduct of the business of
35 abstracting.

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SECTION 13. Arkansas Code § 17-11-341(a)(1), concerning verified complaints, is amended to read as follows:

(a)(1) Upon a verified complaint being filed with the ~~Abstracters' Board of Examiners~~ Arkansas Abstracters' Board or upon the board's own motion filing a complaint charging the holder of a certificate of registration with a violation of any of the provisions of this chapter, or conviction of a crime involving moral turpitude, or with habitual carelessness or fraudulent practices in the conduct of the business of abstracting, or charging the holder of a certificate of authority with failure to furnish the bond or bonds, or other securities, required by § 17-11-324, or with failing to have employed a registered abstracter as provided in § 17-11-301, or with a violation of any of the provisions of this chapter, the board shall immediately notify in writing by registered mail, with return receipt, the holder of the certificate of the filing of the complaint and furnish the holder with a copy of the complaint.

SECTION 14. Arkansas Code § 17-11-342 is amended to read as follows:
17-11-342. Seal.

Any licensee under ~~the provisions of~~ this chapter shall provide a seal, which shall have stamped ~~thereon~~ on the license the name of the licensee, and shall deposit with the ~~Abstracters' Board of Examiners~~ Arkansas Abstracters' Board an impression of the seal and the names of all persons authorized to sign certificates to abstracts on behalf of the licensee.

/s/ T. Smith

APPROVED: 4/4/2007