

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.

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

As Engrossed: H3/9/07
A Bill

HOUSE BILL 2620

5 By: Representative Walters
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO TRANSFER THE REGULATION OF TITLE
10 INSURANCE TO THE STATE INSURANCE DEPARTMENT; TO
11 ENACT THE ARKANSAS TITLE INSURANCE ACT; AND FOR
12 OTHER PURPOSES.
13

14 **Subtitle**

15 TO TRANSFER THE REGULATION OF TITLE
16 INSURANCE TO THE STATE INSURANCE
17 DEPARTMENT AND TO ENACT THE ARKANSAS
18 TITLE INSURANCE ACT.
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 *SECTION 1. TEMPORARY LANGUAGE. DO NOT CODIFY. Effective*
24 *January 1, 2008, the Arkansas Title Insurance Agents' Licensing Board*
25 *established by the Arkansas Title Insurance Agents' Licensing Act, § 23-103-*
26 *101 et seq., is abolished and its powers and duties are transferred to the*
27 *State Insurance Department by a type 3 transfer under § 25-2-106.*
28

29 *SECTION 2. Arkansas Code § 23-62-108 is amended to read as follows:*
30 *23-62-108. Title insurance.*

31 *As used in the Arkansas Insurance Code, unless the context otherwise*
32 *requires, "title insurance" is insurance of owners of property or others*
33 *having an interest therein, or liens or encumbrances thereon, against loss by*
34 *encumbrance, ~~or a defective titles, or invalidity or invalid title,~~ ~~or~~*
35 *adverse claim to title, or closing protection.*
36



1 SECTION 3. Arkansas Code § 23-64-201 is amended to read as follows:
2 23-64-101. Scope of provisions.

3 This chapter shall apply with respect to any insurer, as to all
4 insurances other than wet marine, and foreign trade insurance, ~~and title~~
5 ~~insurance.~~

6
7 SECTION 4. Arkansas Code § 23-64-301(b)(1), concerning continuing
8 education requirements for insurance producers, is amended to add an
9 additional subdivision to read as follows:

10 (b)(1) Beginning July 1, 2003, during each annual period of the
11 duration of his or her license, any person licensed to act as an insurance
12 producer shall satisfactorily complete courses or programs of instruction
13 equivalent to:

14 (A) A minimum of eight (8) hours of related
15 instruction for a life license or an accident and health license, or both;
16 ~~or~~

17 (B) A minimum of eight (8) hours of instruction
18 for a property and casualty license; or

19 (C) A minimum of eight (8) hours of instruction
20 for a title insurance license.

21
22 SECTION 5. Arkansas Code § 23-67-203(7), concerning the regulation of
23 insurance rates, is amended to read as follows:

24 (7) Title insurance, except that the following provisions shall
25 apply to this line: §§ 23-67-202; 23-67-205; 23-67-208; 23-67-209; 23-67-
26 211(a), (b) and (e); 23-67-212; 23-67-213; 23-67-214; 23-67-215; 23-67-216;
27 23-67-217; 23-67-218; 23-67-220; and 23-67-222;

28
29 SECTION 6. Arkansas Code § 23-79-102(4) concerning the applicability
30 of certain insurance laws to title insurance, is amended to read as follows:

31 (4) ~~Title insurance, except as to the following provisions:~~

32 ~~(A) Section 23-79-109, filing, approval of forms;~~

33 ~~(B) Section 23-79-110, grounds for disapproval;~~

34 ~~(C) Section 23-79-113, charter, bylaw provisions;~~

35 ~~(D) Section 23-79-116, execution of policies;~~

36 ~~(E) Section 23-79-119, construction of policies; and~~

1 ~~(F) Sections 23-79-202, 23-79-205 and 23-79-208,~~
2 ~~suits against insurers, etc. that the following provisions shall apply to~~
3 ~~this line: §§ 23-79-101(1), 23-79-109, 23-79-110, 23-79-111, 23-79-113, 23-~~
4 ~~79-116, 23-79-118, 23-79-119, 23-79-202, and 23-79-205.~~

5
6 SECTION 7. Arkansas Code Title 23, Chapter 103 is amended to add an
7 additional subchapter to read as follows:

8 23-103-401. Title.

9 This subchapter shall be known and may be cited as the "Arkansas Title
10 Insurance Act".

11
12 23-103-402. Definitions.

13 As used in this subchapter:

14 (1) "Closing" means the process of executing documents in a
15 transaction involving either personal or real property, including the
16 transfer of title or creation of a lien on the title, or the collection and
17 disbursement of funds in connection therewith;

18 (2) "Closing agent" means a person that facilitates a closing
19 for a fee;

20 (3) "Depositor" means the person providing funds or documents
21 for delivery to a depository in connection with a transaction involving real
22 property;

23 (4) "Depository" means a title insurer, title insurance agent,
24 or qualified financial institution receiving a deposit of funds or documents;

25 (5) "Escrow" means the act or process of providing closing
26 services or services pursuant to an escrow agreement by a title insurer or a
27 title insurance agent;

28 (6) "Escrow account" means the demand deposit account maintained
29 by a title insurer or title insurance agent at a qualified financial
30 institution into which the insurer or agent deposits all funds collected from
31 any person that is or will be a party to a transaction involving real
32 property;

33 (7) "Indemnity agreement" means an agreement by which funds or
34 other property are received by the title insurer or the title insurance agent
35 as collateral to secure the obligation of a person to indemnify or protect a
36 title insurer in exchange for agreeing to provide coverage in a title

1 insurance policy;

2 (8) "Person" means any natural person, or any partnership,
3 association, cooperative, corporation, firm, trust, limited liability
4 company, or other legal entity;

5 (9) "Qualified financial institution" means a bank or savings and
6 loan association regulated, supervised, or examined by federal or state
7 authorities having regulatory authority over banks and trust companies;

8 (10) "Risks" means the danger or hazards of a loss by
9 encumbrance, a defective or invalid title, or adverse claim to title covered
10 under a title insurance policy;

11 (11)(A) "Title insurance agent" means a person that is
12 authorized on behalf of a title insurer to issue a title insurance report or
13 title insurance policy and is:

14 (i) A resident of the State of Arkansas licensed
15 under § 23-64-101 et seq.; or

16 (ii) A nonresident individual licensed under § 23-
17 64-101 et seq. and employed by a resident licensee.

18 (B) "Title insurance agent" does not include:

19 (i) An individual employed by a licensee who
20 does not sell or negotiate title insurance but who performs marketing duties
21 directed to depository institutions or licensed real estate brokers and
22 agents on behalf and under the direction of a licensee; or

23 (ii) An individual employed by a resident
24 licensee who is a closing agent and does not solicit, sell, or negotiate
25 title insurance;

26 (12) "Title insurance business" means:

27 (A) Issuing or offering to issue as an insurer a title
28 insurance policy or closing protection;

29 (B) Transacting or proposing to transact by a title
30 insurer or a title insurance agent any of the following activities when
31 conducted or performed in contemplation of or in conjunction with the
32 issuance of a title insurance report or policy:

33 (i) Guaranteeing, warranting, or otherwise insuring
34 the status of title, liens, encumbrances or other matters of record;

35 (ii) Executing title insurance policies;

36 (iii) Effecting contracts of reinsurance;

1 (iv) Underwriting titles;
2 (v) Collecting, disbursing, or receiving title
3 insurance premiums; or
4 (vi) Recording closing documents; or
5 (C) Doing or proposing to do any business
6 substantially equivalent to the matters described in this subdivision (12) in
7 a manner designed to evade the provisions of this subchapter;

8 (13) "Title insurance policy" means a contract, including any
9 coverage, enhancements to coverage, or endorsements, insuring or indemnifying
10 owners of, or other persons lawfully interested in, personal or real property
11 against loss or damage arising from any of the following conditions existing
12 on, before, or subsequent to the policy date and not specifically excepted or
13 excluded:

14 (A) Defects in or liens or encumbrances on the insured
15 title;

16 (B) Unmarketability of the insured title;

17 (C) Invalidity or unenforceability of liens or
18 encumbrances on the insured title of the personal or real property;

19 (D) Title being vested otherwise than as stated in the
20 policy;

21 (E) Lack of a legal right of access to the land that is
22 part of the insured title in a policy relating to real property;

23 (F) Lack of priority of the lien of any insured mortgage
24 over any statutory lien for services, labor, or materials as specifically
25 described in the policy;

26 (G) Invalidity or unenforceability of any assignment of an
27 insured mortgage subject to certain conditions; or

28 (H) The priority of any lien or encumbrance over the lien
29 of an insured mortgage;

30 (14)(A) "Title insurance premium" means the funds paid to the
31 title insurer directly or through its title insurance agent as consideration
32 for:

33 (i) The amount of liability assumed by a title
34 insurer under a title insurance policy;

35 (ii) The title insurer's operating expenses; and

36 (iii) Any underwriting expense retained by the title

1 insurance agent.

2 (B) "Title insurance premium" does not include charges for
3 the performance of services related or incidental to title insurance or
4 closings that are disclosed to the person charged, including without
5 limitation:

6 (i) Title search, abstracting, or examination of
7 title;

8 (ii) Obtaining a title opinion;

9 (iii) Document preparation fees;

10 (iv) Escrow or closing fees;

11 (v) Notary fees;

12 (vi) Attorneys' fees;

13 (vii) Fees incurred to cure defects in title;

14 (viii) Tax report or tax certification fees;

15 (ix) Title report fees;

16 (x) Processing fees;

17 (xi) Courier fees; and

18 (xii) Fees incident to the issuance of a title
19 insurance report or policy;

20 (15)(A) "Title insurance rates" means the same as in § 23-67-
21 202(11).

22 (B) "Title insurance rates" does not include charges for
23 the performance of services related or incidental to title insurance or
24 closings that are disclosed to the person charged, including without
25 limitation:

26 (i) Title search, abstracting, or examination of
27 title;

28 (ii) Obtaining a title opinion;

29 (iii) Document preparation fees;

30 (iv) Escrow or closing fees;

31 (v) Notary fees;

32 (vi) Attorney's fees;

33 (vii) Fees incurred to cure defects in title;

34 (viii) Tax report or tax certification fees;

35 (ix) Title report fees;

36 (x) Processing fees;

1 (xi) Courier fees; and
2 (xii) Fees incident to the issuance of a title
3 insurance report or policy;

4 (16) "Title insurance report" means a preliminary report,
5 commitment, or binder issued before the issuance of a title insurance policy
6 containing the requirements, terms, conditions, exceptions, and any other
7 matters incorporated by reference under which a title insurer is willing to
8 issue a title insurance policy;

9 (17) "Title insurer" means a company authorized under the laws
10 of this state to transact title insurance business; and

11 (18) "Underwrite" means the acceptance or rejection of risk on
12 behalf of the title insurer.

13
14 23-103-403. Requirement for license.

15 (a) Other than a title insurer, only a person authorized as a title
16 insurance agent shall issue title insurance policies, reports, or otherwise
17 transact the business of title insurance.

18 (b) All title insurance policies and reports covering an insurable
19 interest in title to real property located in this state shall be signed by
20 an agent licensed in this state under this subchapter.

21
22 23-103-404. Authorized activities of title insurers.

23 Subject to the exceptions and restrictions contained in this
24 subchapter, a title insurer may:

25 (1) Transact only title insurance business;

26 (2) Reinsure title insurance policies; and

27 (3) Unless prohibited by the Insurance Commissioner, perform or
28 cause to be performed ancillary activities whether or not in contemplation of
29 or in conjunction with the issuance of a title insurance report or policy
30 including:

31 (A) Underwriting title to and furnishing related
32 information about personal property or real property; and

33 (B) Procuring and furnishing information about relevant
34 personal property.

35
36 23-103-405. Title insurers – Limitation of authority – Powers.

1 (a)(1) No insurer that transacts any class, type, or kind of insurance
2 other than title insurance shall be eligible for the issuance or renewal of a
3 license to transact title insurance business in this state.

4 (2) No title insurance shall be transacted, underwritten, or
5 issued by any insurer transacting or licensed to transact any other class,
6 type, or kind of business.

7 (b) No title insurer shall engage in the business of guaranteeing
8 payment of the principal or the interest on bonds or mortgages.

9 (c)(1) Notwithstanding subsection (a) of this section, a title insurer
10 shall give notice of availability of closing protection to all parties to a
11 transaction in which it is contemplated that title insurance may be issued.

12 (2) Upon written request by a party to a closing with a licensed
13 agent with which it has an agent contract, the insurer shall issue closing
14 protection to the requesting party.

15 (3) The settlement protection shall conform to the terms of
16 coverage and form of instrument as may be filed with the Insurance
17 Commissioner and shall indemnify a person solely against loss of closing
18 funds because of the following acts of a closing agent, title insurer's named
19 employee, or title insurance agent:

20 (A) Theft or misappropriation of closing funds; or

21 (B) Failure to comply with written instructions from the
22 proposed insured when agreed to by the closing agent, employee, or title
23 insurance agent as it relates to the status of the title to the interest in
24 land or to the validity, enforceability, and priority of the lien of a
25 mortgage or deed of trust on said interest in land.

26 (2) The form and amount charged by a title insurer for closing
27 protection coverage shall be filed with the Insurance Commissioner at least
28 twenty (20) days before the first use of closing protection coverage in the
29 market.

30 (3) Except as provided in this section, a title insurer shall
31 not provide any other coverage that purports to indemnify against improper
32 acts or omissions of a person with regard to escrow or closing services.

33
34 23-103-406. Title insurance agents – Examination of records.

35 The Insurance Commissioner or title insurer may during normal business
36 hours examine, audit, and inspect any and all books, records, files, and

1 escrow and operating accounts related to title insurance reports and policies
2 maintained by a title insurance agent, its successor in interest, transferee,
3 or receiver as provided under this subchapter.

4
5 23-103-407. Underwriting contracts.

6 (a)(1) No person acting in the capacity of a title insurance agent
7 shall place business with a title insurer, and no title insurer shall accept
8 business from a title insurance agent, unless a written contract exists
9 between the title insurer and title insurance agent.

10 (2) The written contract shall establish the responsibilities of
11 the title insurer and title insurance agent and specify the division of the
12 responsibilities if both share responsibility for a particular function.

13 (3) The written contract shall also contain:

14 (A) The types of risks that may be undertaken;

15 (B) The maximum authority or limits of liability;

16 (C) The territorial limitations;

17 (D) All terms of compensation for the title insurance

18 agent;

19 (E) Policies and funds remittance;

20 (F) Termination provisions;

21 (G)(i) The date by which all funds and policies due under
22 the contract shall be accounted for to the title insurer.

23 (ii) The date shall be no later than sixty (60) days
24 after:

25 (a) Issuance of the policy;

26 (b) The satisfaction of all requirements and
27 condition of any report; or

28 (c) The time specified in the contract if
29 sooner than sixty (60) days; and

30 (H) The time in which the title insurance agent has to
31 report and forward to the title insurer all claims filed in writing with the
32 title insurance agent by policyholders or other claimants.

33 (b) The contract shall not be assigned in whole or in part by the
34 title insurance agent unless as part of a sale of a title insurance agency or
35 its assets and approved in writing by the title insurer.

36 (c)(1) The title insurer may terminate the contract upon written

1 notice to the title insurance agent under any of the following circumstances:

2 (A) Fraud, insolvency, appointment of a receiver or
3 conservator, bankruptcy, cancellation of the title insurance agent's license
4 or permit to do business, or the commencement of legal proceedings by the
5 state of the domicile of the title insurance agent, which if successful,
6 would lead to the cancellation of the title insurance agent's permit or
7 license to do business;

8 (B) Material breach of any provision of the contract
9 between the title insurer and the title insurance agent; or

10 (C) In accordance with any other termination
11 provision of the contract.

12 (2) Upon the effective date as set forth in the notice of
13 termination from a title insurer, unless otherwise agreed to in writing by
14 the title insurer, the title insurance agent shall immediately discontinue
15 all title insurance business on behalf of that title insurer.

16 (3) Nothing in this subsection shall relieve the title insurance
17 agent or the title insurer of any other contractual obligation.

18
19 23-103-408. Minimum search requirements.

20 (a) No title insurance report or policy shall be issued unless the
21 title insurer or title insurance agent has caused to be made a search of the
22 title from the evidence prepared from a title plant of the county where the
23 property is located or from the records of the clerk or the ex officio
24 recorder of land records of the county that maintains records relating to
25 real estate and any interest in the country.

26 (b) The search shall include a review of all matters affecting the
27 title to the property or interest to be insured for a continuous period of
28 not less than the immediately preceeding forty-five (45) years.

29 (c) No title insurance policy shall be issued until the title insurer
30 or title insurance agent has caused to be made a determination of
31 insurability of title in accordance with the title insurer's underwriting
32 practices.

33
34 23-103-409. Title insurance agent – Restrictions.

35 A title insurance agent shall not:

36 (1) Bind reinsurance on behalf of the title insurer;

1 (2) Permit any of its directors, officers, controlling
2 shareholders, or employees to serve on the title insurer's board of directors
3 if the title insurance agent wrote five percent (5%) or more of the direct
4 premiums of the title insurer written in the previous calendar year as shown
5 on the title insurer's most recent annual statement filed with the Insurance
6 Commissioner, unless the title insurer and the title insurance agent are
7 under common control or ownership;

8 (3) Jointly employ an individual who is employed with the title
9 insurer unless the title insurer and the title insurance agent are under
10 common control or ownership; or

11 (4) Issue a title insurance report or policy insuring the
12 interest of an insured in real property in this state unless the title
13 insurance agent is licensed under this subchapter and the title insurance
14 report or policy is signed by a title insurance agent licensed under this
15 subchapter.

16
17 23-103-410. Title insurance inventory maintenance.

18 The title insurer and the title insurance agent shall each maintain an
19 inventory of all numbered policy forms or policy numbers assigned to the
20 title insurance agent by the title insurer.

21
22 23-103-411. Title insurer – Audit.

23 (a)(1) At least one (1) time each year, a title insurer shall conduct
24 an on-site audit of the escrow and closing practices, escrow accounts,
25 security arrangements, files, underwriting and claims practices, and policy
26 inventory of the title insurance agencies that the title insurer has
27 authorized to issue title insurance reports or policies on its behalf.

28 (2) If the title insurance agent fails to maintain separate
29 escrow or trust accounts for each title insurer it represents, the title
30 insurer shall verify that the funds related to closings in which the title
31 insurer's policies are issued are reasonably ascertainable from the books of
32 account and records of the title insurance agent.

33 (b)(1) The Insurance Commissioner may promulgate rules setting forth
34 the standards of audit and the form of audit required.

35 (2) The commissioner may also require the title insurer to
36 provide a copy of its audit reports to the commissioner.

1 (3) Any audits shall remain confidential unless introduced as
2 evidence at a hearing or court proceeding involving the title insurance
3 agent.

4
5 23-103-412. Title insurer – Restrictions.

6 A title insurer shall not:

7 (1) Appoint any director, officer, controlling shareholder, or
8 employee of a title insurance agent to serve on the title insurer's board of
9 directors if the title insurance agent wrote five percent (5%) or more of the
10 direct premiums of the title insurer written during the previous calendar
11 year as shown on the title insurer's most recent annual statement on file
12 with the Insurance Commissioner, unless the title insurer and the title
13 insurance agent are under common control or ownership; or

14 (2) Jointly employ an individual who is employed with the title
15 insurance agent unless the title insurer and the title insurance agent are
16 under common control or ownership.

17
18 23-103-413. Policyholder rights and disclosure.

19 (a)(1) When a title insurance report includes an offer to issue an
20 owner's title insurance policy covering the resale of owner-occupied
21 residential property, the title insurance report shall be furnished to the
22 purchaser or mortgagor or to the representative of the purchaser-mortgagor as
23 soon as reasonably possible before closing.

24 (2) The title insurance report furnished to the purchaser-
25 mortgagor shall incorporate the following statement on the first page in bold
26 type:

27 "Please read the exceptions and the terms shown or referred to herein
28 carefully. The exceptions are meant to provide you with notice of matters
29 that are not covered under the terms of the title insurance policy and should
30 be carefully considered.

31 This report is a written representation as to the condition of title for
32 purposes of providing title insurance and lists all liens, defects, and
33 encumbrances affecting title to the land."

34 (b)(1) When no owner's title insurance policy has been requested, a
35 title insurer or a title insurance agent issuing a title insurance policy to
36 a lender in conjunction with a mortgage loan involving real property made

1 simultaneously with the purchase of all or part of the real property securing
2 the loan shall give written notice on a form prescribed or approved by the
3 Insurance Commissioner, to the purchaser-mortgagor at the closing.

4 (2) The notice required by subdivision (b)(1) of this section
5 shall explain:

6 (A) That a title insurance policy for the lender
7 involving real property is issued for the protection of the mortgage lender,
8 and that the policy does not provide title insurance protection to the
9 purchaser-mortgagor as the owner of the real property being purchased;

10 (B) The coverage that a title insurance policy relating to
11 real property insures and that risks exist for the purchaser-mortgagor of
12 real property that could be insured through the purchase of an owner's title
13 policy involving real property; and

14 (C) That the purchaser-mortgagor may obtain an owner's
15 title insurance policy at a specified premium.

16 (3) A copy of the notice signed by the purchaser-
17 mortgagor shall be retained in the closing file for at least five (5) years
18 after the effective date of the lender's title insurance policy.

19 (c) No title insurance agent or any other person other than a licensed
20 Arkansas attorney may provide legal advice concerning the status of title to
21 the property described in the title commitment.

22
23 23-103-414. Record retention requirements.

24 (a) The title insurer and the title insurance agent shall maintain
25 sufficient records of their affairs, including evidence of underwriting
26 title, determination of insurability, and records of their escrow operations
27 and escrow accounts.

28 (b) The Insurance Commissioner may prescribe the specific records and
29 documents to be kept and the length of time for which the records shall be
30 maintained.

31
32 23-103-415. Rules promulgated by Insurance Commissioner.

33 The Insurance Commissioner shall issue rules in accordance with the
34 Arkansas Administrative Procedure Act, § 25-15-201 et seq., to implement this
35 subchapter.

36

1 23-103-416. Penalties – Liabilities.

2 (a) If the Insurance Commissioner determines that a title insurer,
3 title insurance agent, or any other person has violated this subchapter or
4 any rule or order promulgated under this subchapter, the commissioner may
5 order:

6 (1)(A) Payment of a monetary penalty not to exceed one thousand
7 dollars (\$1,000) for each act or violation and not to exceed an aggregate
8 penalty of ten thousand dollars (\$10,000) unless the title insurer, title
9 insurance agent, or other person knew or reasonably should have known that
10 the title insurer, title insurance agent, or other person was in violation of
11 this subchapter.

12 (B) If the title insurer, title insurance agent, or other
13 person knew or reasonably should have known that the title insurer, title
14 insurance agent, or other person was in violation of this subchapter, the
15 penalty shall not exceed five thousand dollars (\$5,000) for each act or
16 violation and not exceed an aggregate penalty of fifty thousand dollars
17 (\$50,000) in any six-month period; or

18 (2) Suspension or revocation of the title insurer's, title
19 insurance agent's, or other person's license, if the title insurer, title
20 insurance agent, or other person knew or reasonably should have known that
21 the title insurer, title insurance agent, or other person was in violation of
22 this subchapter.

23 (b) If an order of rehabilitation or liquidation of the title insurer
24 or of conservation of assets of the title insurer has been entered and the
25 receiver appointed under the order determines that the title insurance agent
26 or any other person has not complied with this subchapter or any rule or
27 order promulgated under this subchapter and the title insurer suffered any
28 resulting loss or damage, the receiver shall maintain a civil action for
29 recovery of damages or other appropriate sanctions for the benefit of the
30 title insurer and its policyholders and creditors.

31 (c) Nothing contained in this section shall affect the right of the
32 commissioner to impose any other penalties provided under § 23-64-101 et seq.

33
34 SECTION 8. Arkansas Code § 19-5-1224 is repealed.

35 ~~19-5-1224. Title Insurance Agents' Licensing Board Fund.~~

36 ~~(a) There is established on the books of the Treasurer of State, the~~

1 ~~Auditor of State, and the Chief Fiscal Officer of the State a fund to be~~
2 ~~known as the "Title Insurance Agents' Licensing Board Fund".~~

3 ~~(b)(1) The fund shall consist of the license and examination fees as~~
4 ~~set out in § 23-103-204.~~

5 ~~(2) The fund shall be used by the Arkansas Title~~
6 ~~Insurance Agents' Licensing Board for the payment of all expenses and~~
7 ~~expenditures incurred under § 23-103-201 et seq.~~

8
9 SECTION 9. Arkansas Code §§ 23-103-101 – 23-103-316 are repealed.
10 ~~23-103-101. Purpose.~~

11 ~~(a) This chapter shall be known and may be cited as the "Arkansas Title~~
12 ~~Insurance Agents' Licensing Act".~~

13 ~~(b) The purpose of this chapter is to provide the procedures for the~~
14 ~~licensing of title insurance agents.~~

15
16 ~~23-103-102. Definitions.~~

17 ~~As used in this chapter:~~

18 ~~(1) "Business entity" means a corporation, firm, association,~~
19 ~~partnership, joint venture, limited liability company, limited liability~~
20 ~~partnership, or other legal business entity;~~

21 ~~(2) "Commitment" means a contract or binder reporting the state~~
22 ~~of the title to the real property described and committing the title insurer~~
23 ~~to issue a contract of title insurance upon compliance with the requirements~~
24 ~~stated and subject to any exceptions set forth;~~

25 ~~(3) "Home state" means the District of Columbia and any state or~~
26 ~~territory of the United States in which a title insurance agent maintains a~~
27 ~~principal place of residence or principal place of business and is licensed~~
28 ~~to act as a title insurance agent;~~

29 ~~(4) "Inactive signing title insurance agent" means a person~~
30 ~~having a signing agent's license that has been placed in inactive status by~~
31 ~~the Arkansas Title Insurance Agents' Licensing Board;~~

32 ~~(5) "Issuing title insurance agent" means a person authorized to~~
33 ~~issue commitments and contracts of title insurance and to collect premiums in~~
34 ~~the name of a title insurer;~~

35 ~~(6) "Person" means any natural person, firm, corporation,~~
36 ~~partnership, association, limited liability company, limited liability~~

1 ~~partnership, or other business entity;~~

2 ~~(7) "Sell" means to exchange a contract of title insurance for~~
3 ~~valuable consideration on behalf of a title insurer;~~

4 ~~(8) "Signing title insurance agent" means a person authorized~~
5 ~~under this chapter to sign commitments and contracts of title insurance;~~

6 ~~(9) "Title insurance" means the insurance defined in § 23-62-108;~~

7 ~~(10) "Title insurance agent" means a person required to be~~
8 ~~licensed under the laws of the State of Arkansas to sell title insurance; and~~

9 ~~(11) "Title insurer" means a person authorized by the State of~~
10 ~~Arkansas to underwrite and effectuate a contract of title insurance.~~

11
12 ~~23-103-103. Penalties.~~

13 ~~(a)(1) Any person violating any of the provisions of this chapter shall~~
14 ~~be guilty of a violation and upon conviction shall be punished by a fine of~~
15 ~~not less than five hundred dollars (\$500) nor more than one thousand dollars~~
16 ~~(\$1,000) for each offense.~~

17 ~~(2) Each succeeding day on which this chapter is violated shall~~
18 ~~be a separate offense.~~

19 ~~(b) If any title insurance agent knowingly falsifies any public record~~
20 ~~or information required to be furnished, the title insurance agent shall be~~
21 ~~guilty of a Class D felony in addition to any civil liability.~~

22
23 ~~23-103-201. Creation — Members.~~

24 ~~(a) There is created the Arkansas Title Insurance Agents' Licensing~~
25 ~~Board.~~

26 ~~(b)(1) The board shall consist of five (5) members appointed by the~~
27 ~~Governor, who shall serve four year terms, subject to confirmation by the~~
28 ~~Senate.~~

29 ~~(2) Two (2) members shall have been actively engaged in the~~
30 ~~title insurance business in the state for a period of five (5) years prior to~~
31 ~~appointment and shall serve an initial term of four (4) years each.~~

32 ~~(3) One (1) member shall be knowledgeable of the title~~
33 ~~insurance business and shall serve an initial term of three (3) years.~~

34 ~~(4) Two (2) members shall be citizens of the State of~~
35 ~~Arkansas and shall serve an initial term of two (2) years each.~~

36 ~~(c) Vacancies on the board caused by death, resignation, or otherwise~~

1 ~~shall be filled by appointment of the Governor, subject to confirmation by~~
2 ~~the Senate.~~

3 ~~(d) Any member may be appointed to successive terms, but no two (2)~~
4 ~~members shall be appointed from the same county.~~

5 ~~(e) Each member shall serve without compensation but shall be~~
6 ~~reimbursed for travel and expenses in accordance with § 25-16-902.~~

7
8 ~~23-103-202. Organization and proceedings.~~

9 ~~(a)(1) The Arkansas Title Insurance Agents' Licensing Board shall~~
10 ~~organize by the election of a chair and a secretary-treasurer.~~

11 ~~(2) The chair and secretary-treasurer shall have the power to~~
12 ~~administer oaths.~~

13 ~~(b) The board shall have a seal and shall have the power to compel the~~
14 ~~attendance of witnesses by issuance of subpoena.~~

15
16 ~~23-103-203. Duties and powers.~~

17 ~~(a) The Arkansas Title Insurance Agents' Licensing Board shall keep a~~
18 ~~register of the names of each applicant for licensure, with the applicant's~~
19 ~~place of business and other information as may be deemed appropriate,~~
20 ~~including a notation of the action taken by the board and the date upon which~~
21 ~~any licenses are issued. In addition, the board shall maintain other records,~~
22 ~~registers, and files as may be necessary for the proper administration of its~~
23 ~~duties under this chapter.~~

24 ~~(b) The board may adopt rules and regulations as it shall deem~~
25 ~~necessary or desirable for the proper administration of its powers and duties~~
26 ~~and the carrying out of the purposes of this chapter.~~

27 ~~(c) The board may employ or contract with persons as it deems necessary~~
28 ~~and desirable to discharge its duties and powers.~~

29 ~~(d) In addition to its other powers, the board may institute suits and~~
30 ~~other legal proceedings in a court of competent jurisdiction in Pulaski~~
31 ~~County, Arkansas, as may be required for the enforcement of this chapter.~~

32
33 ~~23-103-204. License fees, disposition of funds, and Title Insurance~~
34 ~~Agents' Licensing Board Fund.~~

35 ~~(a) The Arkansas Title Insurance Agents' Licensing Board shall collect~~
36 ~~fees as follows:~~

1 ~~(1) For an issuing agent's license, the original license fee~~
2 ~~shall not exceed three hundred fifty dollars (\$350), and the renewal fee~~
3 ~~shall not exceed three hundred fifty dollars (\$350) annually;~~

4 ~~(2) For a signing agent's license, the original license fee~~
5 ~~shall not exceed twenty five dollars (\$25.00), and the renewal fee shall not~~
6 ~~exceed twenty five dollars (\$25.00) annually;~~

7 ~~(3) For an inactive status license fee, the original fee shall~~
8 ~~not exceed twenty five dollars (\$25.00), and the renewal fee shall not exceed~~
9 ~~twenty five dollars (\$25.00) annually; and~~

10 ~~(4) The board shall have the authority to set reasonable fees~~
11 ~~established by regulation promulgated in accordance with the Arkansas~~
12 ~~Administrative Procedure Act, § 25-15-201 et seq., for the performance of its~~
13 ~~administrative duties, including, but not limited to, the testing of~~
14 ~~applicants for licenses, transferring licenses, replacing license~~
15 ~~certificates, and responding to inquiries from regulatory agencies in other~~
16 ~~states.~~

17 ~~(b) All fees and charges collected under this chapter shall be paid by~~
18 ~~the board within a period of thirty (30) days after their receipt together~~
19 ~~with a detailed statement to the Treasurer of State, who shall place the sums~~
20 ~~remitted to the credit of the Title Insurance Agents' Licensing Board Fund~~
21 ~~which is created by this chapter.~~

22 ~~(c) All moneys paid into State Treasury and credited to the fund, or so~~
23 ~~much as may be needed, shall be used by the board for the payment of all~~
24 ~~expenses and expenditures incurred under this chapter.~~

25 ~~(d) Upon the request of the board, the Auditor of State shall draw~~
26 ~~warrants against the fund for expenses and expenditures, and the Treasurer of~~
27 ~~State shall pay the warrants out of the fund.~~

28
29 ~~23-103-301. License required.~~

30 ~~(a) On and after January 31, 2002, a person shall not sell or receive a~~
31 ~~premium for a commitment or a contract of title insurance pertaining to real~~
32 ~~property in this state unless the person is:~~

33 ~~(1) A title insurer; or~~

34 ~~(2) Licensed as an issuing title insurance agent under this~~
35 ~~chapter.~~

36 ~~(b) On and after January 31, 2002, no commitment or contract of title~~

1 ~~insurance pertaining to real property situated in the State of Arkansas shall~~
2 ~~be issued, sold, or exchanged unless the commitment and contract of title~~
3 ~~insurance is countersigned by a title insurance agent who is:~~

4 ~~(1) A resident of this state; and~~

5 ~~(2) Licensed under this chapter either as:~~

6 ~~(A) An issuing title insurance agent; or~~

7 ~~(B) A signing title insurance agent.~~

8 ~~(c) The name of the signing agent making the countersignature and the~~
9 ~~number of the license certificate shall be printed or legibly written by hand~~
10 ~~underneath the countersignature.~~

11
12 ~~23-103-302. Application of act and construction with other laws.~~

13 ~~Without any further qualification or examination, an attorney at law~~
14 ~~licensed to practice law by the State of Arkansas, upon written request to~~
15 ~~the Arkansas Title Insurance Agents' Licensing Board and payment of the~~
16 ~~original license fee, shall be immediately certified by the board as a~~
17 ~~licensed title insurance agent, and a license certificate shall be~~
18 ~~immediately issued to the attorney.~~

19
20 ~~23-103-303. License — Application.~~

21 ~~(a) Any person desiring to become a licensed title insurance agent~~
22 ~~shall make application to the Arkansas Title Insurance Agents' Licensing~~
23 ~~Board for license registration.~~

24 ~~(b) The application shall be in a form prepared by the board and shall~~
25 ~~contain information as may be necessary to assist the board in registration~~
26 ~~and to determine if the applicant is qualified to act as a title insurance~~
27 ~~agent.~~

28 ~~(c) Except as provided in subsection (c) of this section, each~~
29 ~~application shall be accompanied by the examination fee prescribed in § 23-~~
30 ~~103-204.~~

31 ~~(d) The board shall notify the applicant of the time and place of the~~
32 ~~next scheduled examination, and notice of the examination shall be given to~~
33 ~~the applicant by mail.~~

34 ~~(e) If the person seeking to become a licensed title insurance agent is~~
35 ~~a business entity, the application shall show the names of all members,~~
36 ~~partners, manager, venturers, officers, and directors of the business entity~~

1 ~~and shall designate each natural person who is to exercise the powers to be~~
2 ~~conferred by the license, and each natural person shall take the examination~~
3 ~~and pay the examination fee prescribed in § 23-103-204.~~

4
5 ~~23-103-304. License — Examination.~~

6 ~~The examination shall be in the form of written interrogatories as may~~
7 ~~be prescribed by the Arkansas Title Insurance Agents' Licensing Board from~~
8 ~~time to time to determine the proficiency of the applicant.~~

9
10 ~~23-103-305. License — Issuance or reapplication.~~

11 ~~(a) If the person satisfactorily passes the examination and is found by~~
12 ~~the Arkansas Title Insurance Agents' Licensing Board to:~~

13 ~~(1) Be at least eighteen (18) years of age;~~

14 ~~(2) Be a resident of the State of Arkansas for at least six (6)~~
15 ~~months;~~

16 ~~(3) Have not committed any act that is a ground for denial,~~
17 ~~suspension, or revocation set forth in § 23-103-312;~~

18 ~~(4) Have paid the original license fee prescribed by § 23-103-~~
19 ~~204; and~~

20 ~~(5) Be qualified, the person shall be certified as a licensed~~
21 ~~title insurance agent, and the license certificate provided for shall be~~
22 ~~issued to the person. The privileges granted by the license certificate shall~~
23 ~~continue unless revoked or unless the certificate is surrendered to the~~
24 ~~board.~~

25 ~~(b) If the person seeking to become a licensed title insurance agent is~~
26 ~~a business entity and the board finds each natural person designated by the~~
27 ~~business entity to exercise the powers to be conferred by the license:~~

28 ~~(1) Is at least eighteen (18) years of age;~~

29 ~~(2) Is a resident of the State of Arkansas for at least six (6)~~
30 ~~months;~~

31 ~~(3) Has not committed any act that is a ground for denial,~~
32 ~~suspension, or revocation set forth in § 23-103-312;~~

33 ~~(4) Has paid the original license fee prescribed by § 23-103-204;~~
34 ~~and~~

35 ~~(5) Is determined by the board to be qualified, and the business~~
36 ~~entity has paid the original license fee prescribed by § 23-103-204, the~~

1 ~~business entity shall be certified as a licensed title insurance agent, and~~
2 ~~the license certificate provided for shall be issued to the person. The~~
3 ~~privileges granted by the license certificate shall continue unless revoked~~
4 ~~or unless the certificate is surrendered to the board.~~

5 ~~(c)(1) The license certificate shall be in a form prescribed by the~~
6 ~~board and shall attest that the person possesses the knowledge, skill,~~
7 ~~ability, and understanding to act as a title insurance agent and is~~
8 ~~designated a licensed title insurance agent.~~

9 ~~(2) The license certificate shall be prominently displayed in the~~
10 ~~office where the person is employed.~~

11 ~~(d) A person failing to satisfy the board that the applicant possesses~~
12 ~~the qualifications or proficiency to become a licensed title insurance agent~~
13 ~~may reapply for registration if the application is accompanied by the~~
14 ~~examination fee provided for in § 23-103-204, but no application shall be~~
15 ~~submitted sooner than five (5) months following the date on which the last~~
16 ~~previous examination was administered to the applicant.~~

17 ~~(e)(1) The license certificate shall indicate whether the license is~~
18 ~~issued as:~~

19 ~~(A) An issuing agent license;~~

20 ~~(B) A signing agent license; or~~

21 ~~(C) A license for an inactive licensee.~~

22 ~~(2) An issuing agent license shall be issued to an applicant if~~
23 ~~the applicant:~~

24 ~~(A) Provides evidence satisfactory to the board that the~~
25 ~~applicant:~~

26 ~~(i) May sell or receive premiums for commitments and~~
27 ~~contracts for title insurance issued by the applicant in the name of a title~~
28 ~~insurer; and~~

29 ~~(ii) Is an insured under an errors and omissions~~
30 ~~policy of insurance in an amount no less than two hundred fifty thousand~~
31 ~~dollars (\$250,000) or other evidence of financial responsibility satisfactory~~
32 ~~to the board; and~~

33 ~~(B) Satisfies the requirements for licensure under~~
34 ~~subsections (a) and (b) of this section.~~

35 ~~(3) A signing agent license shall be issued to an applicant if~~
36 ~~the applicant:~~

1 ~~(A) Provides evidence satisfactory to the board that upon~~
2 ~~licensure the applicant will be authorized by the issuing agent to~~
3 ~~countersign commitments and contracts of title insurance on behalf of the~~
4 ~~issuing agent; and~~

5 ~~(B) Satisfies the requirements for licensure under~~
6 ~~subsections (a) and (b) of this section.~~

7 ~~(4) An inactive signing agent's license shall be issued to all~~
8 ~~other applicants who otherwise would qualify for licensure under subsections~~
9 ~~(a) and (b) of this section.~~

10
11 ~~23-103-306. Nonresident licensing.~~

12 ~~Unless denied licensure for having committed any act that is a ground~~
13 ~~for denial, suspension, or revocation set forth in § 23-103-312, a~~
14 ~~nonresident person shall receive a nonresident title insurance agent license~~
15 ~~without complying with the examination requirement prescribed by § 23-103-304~~
16 ~~if:~~

17 ~~(1) The person is currently a licensed title insurance agent as a~~
18 ~~resident and in good standing in that person's home state;~~

19 ~~(2) The person has submitted the proper request for licensure as~~
20 ~~prescribed by the Arkansas Title Insurance Agents' Licensing Board, including~~
21 ~~proof of licensure in the home state, and has paid the original license fee~~
22 ~~prescribed by § 23-103-204; and~~

23 ~~(3) The person's home state awards nonresident title insurance~~
24 ~~agent licenses to residents of this state on the same basis.~~

25
26 ~~23-103-307. Abstractor's exemption from examination.~~

27 ~~(a) Every person to whom the State of Arkansas has issued, as of~~
28 ~~January 1, 2001, a certificate of registration as a registered abstractor or~~
29 ~~a certificate of authority to engage in the business of abstracting shall be~~
30 ~~exempt from the examination required in § 23-103-304, and the person,~~
31 ~~including each natural person designated by a business entity to exercise the~~
32 ~~powers to be conferred by the title insurance agent's license, who is an~~
33 ~~Arkansas registered abstractor on January 1, 2001, upon payment of the~~
34 ~~original license fee, shall be certified by the Arkansas Title Insurance~~
35 ~~Agents' Licensing Board as a licensed title insurance agent, and the license~~
36 ~~certificate shall be immediately issued to the person.~~

1 ~~(b) An Arkansas registered abstractor eligible for the exemption~~
2 ~~granted in this section shall become ineligible for the exemption after~~
3 ~~January 31, 2005.~~

4
5 ~~23-103-308. Temporary license.~~

6 ~~(a) The Arkansas Title Insurance Agents' Licensing Board may issue a~~
7 ~~temporary title insurance agent's license for a period not to exceed one~~
8 ~~hundred eighty (180) days without requiring an examination, if the board~~
9 ~~deems that the temporary license is necessary in the following cases:~~

10 ~~(1) To the surviving spouse or court-appointed personal~~
11 ~~representative of a licensed title insurance agent who dies or becomes~~
12 ~~mentally or physically disabled, to allow adequate time for the sale of the~~
13 ~~title insurance agent's business or for the recovery or return of the title~~
14 ~~insurance agent, or to provide for the training and licensing of new~~
15 ~~personnel to operate the title insurance agent's business; and~~

16 ~~(2) Any circumstance in which the board deems that the public~~
17 ~~interest will best be served by the issuance of the temporary license.~~

18 ~~(b) The board may revoke the temporary license at any time if the~~
19 ~~interest of the public is endangered.~~

20
21 ~~23-103-309. Unregistered employees, officers and assistants.~~

22 ~~Nothing in this chapter shall be construed to prohibit any person~~
23 ~~holding a valid license from having the directors, partners, or members and~~
24 ~~employing the officers, personnel, and clerical and stenographic assistants~~
25 ~~as may be necessary in the conduct of its business who are not licensed under~~
26 ~~this chapter.~~

27
28 ~~23-103-310. License — Expiration — Renewal.~~

29 ~~(a)(1) All licenses issued under this chapter shall expire on the same~~
30 ~~date.~~

31 ~~(2) Expiration dates of the licenses, either renewal or original,~~
32 ~~shall be January 31 following the year from the preceding expiration date.~~

33 ~~(b)(1) Current licenses shall be renewed as provided for in this~~
34 ~~section for a one year period upon payment of the renewal fee prescribed in~~
35 ~~§ 23-103-204.~~

36 ~~(2) If the license is held by a business entity, the renewal fee~~

1 ~~shall be paid for each natural person designated by the business entity to~~
2 ~~exercise the powers conferred by the license.~~

3 ~~(c)(1)(A) No more than sixty (60) days nor less than thirty (30) days~~
4 ~~prior to the expiration date of the license issued, the Arkansas Title~~
5 ~~Insurance Agents' Licensing Board shall cause a notice of expiration and~~
6 ~~application for renewal to be mailed to each of the holders of a license.~~

7 ~~(B) The notice and application shall be in a form~~
8 ~~prepared by the board.~~

9 ~~(2) Upon determination by the board of the applicant's compliance~~
10 ~~with this chapter, a renewal license shall be issued to the applicant.~~

11 ~~(d)(1)(A) If a holder of a license fails to apply for renewal and fails~~
12 ~~to pay the fee provided for renewal, the board shall cause to be mailed to~~
13 ~~the holder a notice that the license has expired and the person may no longer~~
14 ~~act as a title insurance agent.~~

15 ~~(B) The notice shall be mailed not more than thirty (30)~~
16 ~~days following the license expiration date.~~

17 ~~(C) The holder shall be granted an additional period of~~
18 ~~sixty (60) days from the date of mailing the notice within which to file an~~
19 ~~application for renewal.~~

20 ~~(2)(A) The name of any holder failing to renew the license shall~~
21 ~~be stricken from the records of the board.~~

22 ~~(B) The person shall no longer act as a title insurance~~
23 ~~agent until reinstated by the board.~~

24
25 ~~23-103-311. Access to public records.~~

26 ~~Licensed title insurance agents shall have access to the public records~~
27 ~~in any office of any city or county or of the state and shall be permitted to~~
28 ~~make memoranda, notations, or copies and to occupy reasonable space with~~
29 ~~equipment for that purpose, subject to the reasonable regulation of the~~
30 ~~eustodian of the public records and during the business hours of each office.~~

31
32 ~~23-103-312. Revocation of license — Grounds.~~

33 ~~The Arkansas Title Insurance Agents' Licensing Board is authorized,~~
34 ~~after a hearing, to cancel and revoke any license issued to any person~~
35 ~~under this chapter.~~

36 ~~(1) For a violation of any of the provisions of this chapter;~~

1 ~~(2) Upon a conviction of the holder of a license of a crime~~
2 ~~involving moral turpitude; or~~

3 ~~(3) If the board finds the holder of the license to be guilty of~~
4 ~~habitual carelessness or of fraudulent practices.~~

5
6 ~~23-103-313. Revocation of license — Procedure — Appeal.~~

7 ~~(a)(1) Upon a verified complaint's being filed with the Arkansas Title~~
8 ~~Insurance Agents' Licensing Board, or upon the board's own motion filing a~~
9 ~~complaint charging the person holding a title insurance agent's license or~~
10 ~~any natural person designated by a business entity holding a title insurance~~
11 ~~agent's license to exercise the power conferred by that license with:~~

12 ~~(A) A violation of any of the provisions of this chapter;~~

13 ~~(B) Conviction of a crime involving moral turpitude; or~~

14 ~~(C) Habitual carelessness or fraudulent~~

15 ~~practices, the board shall immediately notify the person in writing by~~
16 ~~registered mail, with return receipt, of the filing of the complaint and~~
17 ~~furnish that person with a copy of the complaint.~~

18 ~~(2) The board shall at the same time require the person to appear~~
19 ~~before it on a day fixed by the board, not less than twenty (20) days nor~~
20 ~~more than forty (40) days from the date of the service of the complaint on~~
21 ~~that person, and to show cause why the license should not be canceled and~~
22 ~~revoked.~~

23 ~~(3) Under the hand of its chair and the seal of the board, the~~
24 ~~board may subpoena witnesses and compel their attendance and may require the~~
25 ~~production of books, papers, and other documents.~~

26 ~~(4) The Chair of the Arkansas Title Insurance Agents' Licensing~~
27 ~~Board or the Secretary treasurer of the Arkansas Title Insurance Agents'~~
28 ~~Licensing Board may administer oaths or affirmations to witnesses appearing~~
29 ~~before the board.~~

30 ~~(5)(A) If any person refuses to obey any subpoena so issued or~~
31 ~~refuses to testify or to produce any books, papers, or other documents, the~~
32 ~~board may present its petition to any court of record, setting forth the~~
33 ~~facts.~~

34 ~~(B) In a proper case, the court shall issue its subpoena to~~
35 ~~the person requiring his or her attendance before the court and there to~~
36 ~~testify or produce the books, papers, and documents as may be deemed~~

1 ~~necessary and pertinent.~~

2 ~~(6) The person holding the license shall be entitled to counsel~~
3 ~~at any hearing before the board or any other hearing involving revocation of~~
4 ~~his or her license.~~

5 ~~(7) The board shall cause a transcript of any testimony taken to~~
6 ~~be made by a reporter or stenographer.~~

7 ~~(b)(1)(A) Either the respondent or the complainant may appeal from the~~
8 ~~decision of the board to the circuit court in the county of the respondent's~~
9 ~~place of business.~~

10 ~~(B) The appeal shall be taken within thirty (30) days after~~
11 ~~the decision of the board by causing a written notice of appeal to be served~~
12 ~~on the secretary treasurer and executing a bond to the State of Arkansas,~~
13 ~~with surety to be approved by the secretary treasurer, conditioned to pay all~~
14 ~~costs that may be adjudged against the appellant.~~

15 ~~(2) Upon an appeal's being taken, the secretary treasurer shall~~
16 ~~immediately make out a return of the proceedings in the matter before the~~
17 ~~board with its decision and file them together with the bond and all the~~
18 ~~papers pertaining thereto in his or her possession, including a certified~~
19 ~~record of testimony taken at the hearing, with the clerk of the court to~~
20 ~~which the appeal is taken.~~

21 ~~(3) The court shall hear the appeal as a trial de novo, and the~~
22 ~~costs of the appeal, including the furnishing of the testimony, shall be~~
23 ~~taxed as the court may direct.~~(4) ~~An appeal shall stay the cancellation of~~
24 ~~any license until the final decision is had on appeal.~~

25
26 ~~23-103-314. Commitment and policy as evidence.~~

27 ~~A photostat or verbatim copy of any commitment or contract of title~~
28 ~~insurance pertaining to real property situated in the State of Arkansas shall~~
29 ~~be admissible in evidence on behalf of any party litigant in any court in the~~
30 ~~State of Arkansas and shall be prima facie evidence of the facts therein~~
31 ~~recited and contained.~~

32
33 ~~23-103-315. Transfer and cancellation of license.~~

34 ~~(a)(1) An issuing agent may effect the transfer of a signing agent's~~
35 ~~license or an inactive signing agent's license to the issuing agent by~~
36 ~~furnishing evidence satisfactory to the Arkansas Title Insurance Agents'~~

1 ~~Licensing Board that the signing agent has:~~

2 ~~(A) Been authorized to countersign commitments and~~
3 ~~contracts of title insurance in the name of the issuing agent; and~~

4 ~~(B) Otherwise satisfied the requirements for licensure~~
5 ~~under this chapter.~~

6 ~~(2) The board shall then issue a replacement license certificate~~
7 ~~to the signing agent naming the issuing agent thereon.~~

8 ~~(b)(1) An issuing agent shall effect the cancellation of a signing~~
9 ~~agent's license that has been placed with the issuing agent by providing~~
10 ~~evidence satisfactory to the board that the signing agent licensee no longer~~
11 ~~may countersign commitments and contracts of title insurance on behalf of the~~
12 ~~issuing agent.~~

13 ~~(2) The board shall then cancel the license certificate issued to~~
14 ~~the signing agent licensee.~~

15 ~~(3) The signing agent's license shall be placed on~~
16 ~~inactive status.~~

17
18 ~~23-103-316. Continuing education — Requirements.~~

19 ~~(a) Beginning February 1, 2004, as a condition precedent to renewal or~~
20 ~~reactivation of licenses, licensees shall meet the following requirements:~~

21 ~~(1)(A) Before activation of a license on inactive status, the~~
22 ~~licensee shall satisfactorily complete four (4) classroom hours or equivalent~~
23 ~~continuing education units or equivalent correspondence work of continuing~~
24 ~~education for each year inactive, not to exceed twenty (20) classroom hours.~~

25 ~~(B) However, satisfying the requirements in subdivision~~
26 ~~(a)(1)(A) of this section will only satisfy the requirements for that~~
27 ~~particular license year and not for the following license year;~~

28 ~~(2)(A) Persons licensed as title insurance agents~~
29 ~~shall successfully complete four (4) classroom hours or equivalent continuing~~
30 ~~education units or equivalent correspondence work of continuing education~~
31 ~~annually.~~

32 ~~(B) At least one (1) hour or equivalent continuing~~
33 ~~education unit shall be in a specific topic or topics as identified by the~~
34 ~~Arkansas Title Insurance Agents' Licensing Board.~~

35 ~~(C) Persons satisfying the requirements in subdivision~~
36 ~~(a)(2)(A) of this section shall be deemed to have successfully completed the~~

1 ~~continuing education requirements for the licensing year following the year~~
2 ~~in which first licensed in Arkansas; and~~

3 ~~(3) A nonresident licensee may meet this state's continuing~~
4 ~~education requirements by taking courses that meet the continuing education~~
5 ~~requirements of his or her resident state for the licensing year in question~~
6 ~~if:~~

7 ~~(A) The course or courses consist of no fewer than four (4)~~
8 ~~classroom hours or equivalent continuing education units of title insurance-~~
9 ~~related subjects and otherwise comply with the minimum requirements of this~~
10 ~~chapter; and~~

11 ~~(B) Evidence of compliance satisfactory to the board is~~
12 ~~submitted in a form, manner, and content prescribed by the board.~~

13 ~~(b) Licensees on inactive status are not required to comply with this~~
14 ~~subchapter during their inactive status.~~

15 ~~(c) The board may waive all or part of the requirements of subsection~~
16 ~~(a) of this section for any licensee who submits satisfactory evidence of~~
17 ~~inability to meet the continuing education requirements due to health reasons~~
18 ~~or other hardship or extenuating circumstances beyond the licensee's control.~~

19 ~~(d) Licenses for persons who apply for renewal of their license and who~~
20 ~~do not provide to the board evidence of meeting the continuing education~~
21 ~~requirements but who have otherwise met all requirements for license renewal~~
22 ~~shall be placed on inactive status until the evidence is provided to the~~
23 ~~board.~~

24 ~~(e) If the licensee fails to complete the post-licensure education~~
25 ~~requirements within twelve (12) months after the date the license was issued,~~
26 ~~the board shall place the license on inactive status until the board receives~~
27 ~~documentation that the licensee has completed the post-licensure education~~
28 ~~requirements.~~

29 ~~(f) The board may prescribe forms and certificates to be utilized by~~
30 ~~continuing education providers and licensees in the administration and~~
31 ~~completion of continuing education courses.~~

32 ~~(g) The board may require continuing education providers to maintain~~
33 ~~course records and to make these records available to the board for audit and~~
34 ~~review.~~

35 ~~(h) The board may require licensees to maintain continuing education~~
36 ~~records and to provide the records to the board to ensure compliance with the~~

1 ~~continuing education requirements.~~

2 ~~(i) Renewal of a license issued to an attorney licensed in this state~~
3 ~~under § 23-103-302 is subject to § 23-103-310 except that the renewal shall~~
4 ~~not be subject to the continuing education requirements of this chapter.~~

5
6 SECTION 10. TEMPORARY LANGUAGE. DO NOT CODIFY.

7 (a) On January 1, 2008, all unexpended balances, assets, and
8 appropriations from the Title Insurance Agents' Licensing Board Fund under §
9 19-5-1224 being repealed by this act shall be transferred by the Chief Fiscal
10 Officer of the State to the State Insurance Department Trust Fund.

11 (b) The fund balances shall be used by the State Insurance Department
12 for the purposes for which the fund balances were collected.

13
14 SECTION 11. Effective Date. Except as provided in the Emergency
15 Clause of Section 13 of this act, this act takes effect January 1, 2008.

16
17 SECTION 12. TEMPORARY LANGUAGE. DO NOT CODIFY. License transition.
18 Every person who holds a license granted under § 23-103-101 -- § 23-
19 103-316 and who meets the definition of a title insurance agent under § 23-
20 103-402 shall be exempt from examination under § 23-64-202(a)(1) upon the
21 payment of the renewal license fee and shall be issued a title insurance
22 agent license if that person applies for a license on or before December 31,
23 2007.

24
25 SECTION 13. EMERGENCY CLAUSE. It is found and determined by the
26 General Assembly of the State of Arkansas that the holders of title agent
27 licenses are required to take certain actions to maintain their licenses in
28 good standing prior to the January 1, 2008, effective date of this act; and
29 that it is imperative for the effective regulation of title insurance agents
30 that additional time be allotted to comply with the transitional provisions
31 of the preceding section of this act. Therefore, an emergency is declared to
32 exist and the preceding section 12 of this act being immediately necessary
33 for the preservation of the public peace, health, and safety, the preceding
34 section 12 shall become effective on:

35 (1) The date of its approval by the Governor;

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

3 (3) If the bill is vetoed by the Governor and the veto is
4 overridden, the date the last house overrides the veto.

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/s/ Walters