

**Hall of the House of Representatives**  
85th General Assembly - Regular Session, 2005  
**Amendment Form**

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**Subtitle of House Bill No. 2678**

"AN ACT TO ESTABLISH THE ARKANSAS TITLE INSURANCE AND ESCROW AGENTS  
RECOVERY FUND; TO INCREASE THE SUPERVISORY AUTHORITY OF THE  
ARKANSAS TITLE INSURANCE AGENTS' LICENSING BOARD."

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**Amendment No. 1 to House Bill No. 2678.**

Amend House Bill No. 2678 as originally introduced:

Page 3, delete lines 3 through 7 and substitute the following:

"(A) Two dollars and fifty cents (\$2.50) as part of the  
seller's or owner's closing costs; and  
(B) Two dollars and fifty cents (\$2.50) as part of the  
buyer's closing costs, if applicable."

AND

Page 3, delete lines 10 through 12 and substitute the following:

"(d) The board may reduce one (1) or more of the fees required by this  
section if it determines that the full amount of the fees are not necessary  
to ensure the solvency of the fund under § 23-103-503."

AND

Page 5, delete lines 23 and 24 and substitute the following:

"(B) The interest rate shall not exceed the maximum legal  
rate."

AND

Page 6, delete lines 3 through 7 and substitute the following:

"(2)(A) "Closing" means the performance of services by a person  
subject to this chapter that benefit the parties to a real estate transaction  
involving the purchase, sale, lease, encumbrance, mortgage, or creation of a  
secured interest in or to real property for the purpose of completing the  
transaction.

(B) "Closing" includes the:

(i) Receipt and disbursement of money in connection  
with the real estate transaction; and



(ii) Engagement of a title insurance or escrow agent to perform services in contemplation of completing the real estate transaction.

(C) "Closing" does not include the performance of services for a person's own benefit to complete a purchase, sale, lease, encumbrance, mortgage, or the creation of a security interest in or to real property that the person owns or acquires as a result of a real estate transaction; "

AND

Page 6, delete line 14 and substitute the following:

"or property in escrow for the closing;

(5) "Escrow company" means a business that performs closings through one (1) or more escrow agents;"

AND

Page 6, line 15 delete "(5)" and substitute "(6)"

AND

Page 6, line 19 delete "(6)" and substitute "(7)"

AND

Page 6, line 22 delete "(7)" and substitute "(8)"

AND

Page 6, line 25 delete "(8)" and substitute "(9)"

AND

Page 6, line 27 delete "(9)" and substitute "(10)"

AND

Page 6, line 30 delete "(10)" and substitute "(11)"

AND

Page 7, line 3 delete "(11)" and substitute "(12)"

AND

Page 7, line 5 delete "(12)" and substitute "(13)"

AND

Page 7, line 8 delete "(13)" and substitute "(14)"

AND

Page 7, line 10 delete "(14)" and substitute "(15)"

AND

Page 7, delete line 11 and substitute the following:  
"licensed under the laws of the State of Arkansas to sell title insurance;  
~~and~~

(16) "Title insurance company" means a business that issues title insurance policies through one (1) or more title insurance agents; and"

AND

Page 7, line 12 delete "(15)" and substitute "(17)"

AND

Page 8, delete line 8 and substitute the following:

"(c) Nothing in this section prohibits or limits any:  
(1) Expense, item of"

AND

Page 8, delete line 14 and substitute the following:

"fee or a finder's fee; or

(2) Act or practice permitted by applicable federal law."

AND

Page 8, line 35 delete "(3)" and substitute "(3)(A)"

AND

Page 9, delete line 2 and substitute the following:

"insurance agent, or escrow agent.

(B) "Controlled business" does not include any business referred to a title insurer, title insurance agent, or escrow agent by:

(i) A federally insured bank;

(ii) An affiliate of a federally insured bank; or

(iii) A title insurance company if greater than fifty percent (50%) of the company is owned by a federally insured bank or an affiliate of a federally insured bank;"

AND

Page 9, line 3 delete "(4)" and substitute "(4)(A)"

AND

Page 9, delete line 5 and substitute the following:

"controlled business to a title insurance or escrow company or agent.

(B) "Controlling party" does not include:

(i) A federally insured bank;  
(ii) An affiliate of a federally insured bank; or  
(iii) A title insurance company if greater than  
fifty percent (50%) of the company is owned by a federally insured bank or an  
affiliate of a federally insured bank;"

AND

Page 10, line 5 delete "Fifty percent (50%)" and substitute "Twenty-five percent (25%)"

AND

Page 10, delete lines 9 through 12 and substitute the following:

"(2)(A) The prohibitions contained in this subsection (b):  
(i) Apply to a title insurer, title insurance  
company, or escrow company:  
(a) In existence on December 31, 2004,  
effective July 1, 2007; and  
(b) Established between January 1, 2005, and  
December 31, 2005, effective April 1, 2007; and  
(ii) May be waived by the Arkansas Title Insurance  
and Escrow Agents' Licensing Board for a newly established title insurer,  
title insurance company, or escrow company during its first year of business  
if:  
(a) The business submits a detailed business  
plan to the board that explains how the business intends to comply with this  
subsection (b) by the end of its first year of business; and  
(b) The board finds that the business will be  
in compliance with this subsection (b) by the end of its first year of  
business.  
(B) For purposes of this subdivision (b)(2):  
(i)(a) "Newly established" means the opening of a  
business on or after January 1, 2006, for the purpose of offering title or  
closing services to others for compensation.  
(b) A business is not "newly established" if  
the business resulted from a:  
(1) Change in name or form; or  
(2) Merger or acquisition until the  
resulting business has operated for at least one (1) year; and  
(ii) "First year of business" means the three  
hundred sixty-five (365) days immediately following the first closing by a  
newly established business.  
(C) The board shall adopt rules and regulations to  
implement this subdivision (b)(2)."

AND

Page 11, line 16 delete "Fifty percent (50%) or more" and substitute "At least the percentage stated in subdivision (b) of this section"

AND

Page 13, line 20 delete "shall charge" and substitute "shall not charge less than"

AND

Page 13, line 23 delete "Three" and substitute "Two hundred dollars (\$200) plus an additional three"

AND

Page 13, line 24 delete "coverage" and substitute "coverage in excess of thirty thousand dollars (\$30,000)"

AND

Page 13, line 26 delete "Two dollars and fifty cents (\$2.50)" and substitute "Two dollars (\$2.00)"

AND

Page 14, delete lines 4 through 6 and substitute the following:

"(d) The rates prescribed by this section do not apply to:  
(1) A loan or mortgagee's policy issued simultaneously with an owner's policy by the same title insurance agent and title insurer for both policies; or  
(2) An endorsement or enhanced coverage issued in connection with a contract or policy of title insurance."

AND

Page 24, line 18 delete "§ 23-103-409" and substitute "§ 23-103-318"

AND

Page 31, line 14 delete "and"

AND

Page 31, delete line 17 and substitute the following:

"Coast Guard and Reserves, during the entire period of active duty service; and

(5) Any person that is in compliance with the education requirements of the Real Estate License Law, § 17-42-101 et seq."

AND

Page 32, delete lines 1 through 3 and substitute the following:

"(12) months and that the maintenance of the accounts, records, and funds of the agent are satisfactory to the title insurer."

AND

Page 32, line 9 delete "less than" and substitute "less frequently than"

AND

Page 32, delete lines 18 through 21 and substitute the following:

"person:

- (1)(A) Is licensed as an escrow agent under this subchapter; and
- (B) Maintains a bona fide established place of business in

this state; or

- (2) Is licensed as a title insurance agent under this chapter."

AND

Page 32, delete line 27 and substitute the following:

"attorney.

(c) Without any further qualification or examination, a federally insured bank or its affiliate or title insurance company if greater than fifty percent (50%) of the company is owned by a federally insured bank or its affiliate, upon written request to the Arkansas Title Insurance and Escrow Agents' Licensing Board and payment of the license fee, shall be immediately certified by the board as a licensed escrow agent, and a license certificate shall be immediately issued to the bank, affiliate, or title insurance company."

AND

Page 32, delete line 30 and substitute the following:

"(a) Any person desiring to become a"

AND

Page 35, line 1 delete "(b)" and substitute "(b)(1)"

AND

Page 35, delete line 5 and substitute the following:

"certified as a licensed escrow agent.

(2) A licensed title insurance agent may designate and authorize one (1) or more issuing or signing agents to exercise the powers conferred by the license upon payment of a license fee of twenty-five dollars (\$25.00) to the board for each designee."

AND

Page 39, delete line 20 and substitute the following:

"of time is granted by the board.

23-103-410. Exemptions -- Use of Recovery Fund.

(a) Except for the optional licensing provision for attorneys contained in § 23-103-401, this subchapter does not apply to:

- (1) An attorney licensed to practice law by the State of

Arkansas; or

(2) A licensed principal real estate broker while closing a transaction in which the broker earns a commission for services as a broker.

(b) No claim against a person exempt from this subchapter under subsection (a) of this section shall be made against or paid from the Arkansas Title Insurance and Escrow Agents' Recovery Fund."

The Amendment was read \_\_\_\_\_  
By: Representative Cowling  
DLP/RCK - 03-28-2005 14:44  
DLP296 \_\_\_\_\_ Chief Clerk