

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: H3/29/07

# 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.*  
18  
19  
20

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 *Arkansas Code §§ 17-11-201 - 17-11-204 are repealed.*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~~  
36 ~~making of abstracts of real estate titles in the state for a period of five~~



1 ~~(5) years prior to appointment.~~

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

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

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

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

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

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

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

18  
19 ~~17-11-203. Duties and powers.~~

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

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

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

32  
33 ~~17-11-204. Disposition of funds—Abstracters' Examining Board Fund.~~

34 ~~(a) All fees and charges collected under this chapter shall be paid by~~  
35 ~~the Abstracters' Board of Examiners within a period of thirty (30) days after~~  
36 ~~their receipt, together with a detailed statement thereof to the Treasurer of~~

1 ~~State who shall place the fees and charges collected under this chapter to~~  
 2 ~~the credit of the Abstracters' Examining Board Fund, which is hereby~~  
 3 ~~expressly created.~~

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

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

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

13  
 14 SECTION 3. Arkansas Code Title 17, Chapter 11 is amended to add an  
 15 additional subchapter to read as follows:

16 17-11-401. Creation - Members.

17 (a) The Arkansas Abstracters' Board is created.

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

20 (2) Two (2) members shall:

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

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

25 (3) Two (2) members shall:

26 (A) Be citizens of this state; and

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

28 (4) One (1) member shall:

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

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

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

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

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

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

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

3  
4           17-11-402. Organization and proceedings.

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

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

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

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

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

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

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

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

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

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

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

27  
28           SECTION 4. Arkansas Code § 17-11-302(a), concerning application to  
29 become a registered abstractor, is amended to read as follows:

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

34  
35           SECTION 5. Arkansas Code § 17-11-303 is amended to read as follows:

36           17-11-303. Certificate of registration - Examination.

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

5  
6           *SECTION 6. Arkansas Code § 17-11-304(a), concerning registered*  
7 *abstracters, is amended to read as follows:*

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

15  
16           *SECTION 7. Arkansas Code § 17-11-305(a), concerning temporary*  
17 *certificates of registration, is amended to read as follows:*

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

25  
26           *SECTION 8. Arkansas Code § 17-11-320 is amended to read as follows:*

27           17-11-320. Certificate of authority required.

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

32  
33           *SECTION 9. Arkansas Code § 17-11-321(a), concerning a certificate of*  
34 *authority, is amended to read as follows:*

35           (a) Any person, firm, or corporation desiring to engage in the  
36 business of abstracting in this state shall make application to the

1 ~~Abstracters' Board of Examiners~~ Arkansas Abstracters' Board for a certificate  
2 of authority.

3  
4 SECTION 10. Arkansas Code § 17-11-322(b), concerning a certificate of  
5 authority, is amended to read as follows:

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

10  
11 SECTION 11. Arkansas Code § 17-11-324(a)(1)(A), concerning a bond, is  
12 amended to read as follows:

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

22  
23 SECTION 12. Arkansas Code § 17-11-340(a), concerning revocation of  
24 certificates, is amended to read as follows:

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

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

30 (2) Upon a conviction of the holder of such a certificate of a  
31 crime involving moral turpitude; or

32 (3) If the board finds the holder to be guilty of habitual  
33 carelessness or of fraudulent practices in the conduct of the business of  
34 abstracting.

35  
36 SECTION 13. Arkansas Code § 17-11-341(a)(1), concerning verified

1 complaints, is amended to read as follows:

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

15

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

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

23

24 /s/ T. Smith

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