

1 HB129
2 172594-1
3 By Representative Hill (J)
4 RFD: Judiciary
5 First Read: 09-FEB-16

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8 SYNOPSIS: Under existing law, a licensed attorney who
9 serves as an agent for a title insurance company is
10 also required to be licensed by the State Insurance
11 Department.

12 This bill would exempt licensed attorneys
13 from licensure as title insurance agents.

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15 A BILL
16 TO BE ENTITLED
17 AN ACT

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19 To amend Section 27-25-3 of the Code of Alabama
20 1975, relating to the licensure of title insurance agents by
21 the State Insurance Department, to exempt licensed attorneys
22 from licensure.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 27-25-3 of the Code of Alabama
25 1975, is amended to read as follows:

26 "§27-25-3.

1 "For the purposes of this chapter, the following
2 terms shall have the following meanings:

3 "(1) ABSTRACT OF TITLE. A compilation or summary of
4 all instruments of public record of whatever kind or nature
5 which in any manner affect title to a specified parcel of real
6 property.

7 "(2) BUSINESS ENTITY. A domestic entity properly
8 formed and existing under Title 10A.

9 "(3) COMMISSIONER. The Commissioner of the Alabama
10 Department of Insurance.

11 "(4) INDIVIDUAL. A natural person.

12 "(5) NAIC. The National Association of Insurance
13 Commissioners, its subsidiaries and affiliates, and any
14 successor thereof.

15 "(6) OPINION OF TITLE. A written expression of the
16 status of title, including, but not limited to, the validity
17 or invalidity thereof, based upon an examination by an
18 attorney at law, who is licensed to practice law in this
19 state, of instruments of public record or an abstract thereof
20 affecting title to a specified parcel of real property to
21 ascertain the history and present condition of title to such
22 real property as to its ownership and status with respect to
23 liens, encumbrances, clouds, and defects.

24 "(7) PERSON. An individual or business entity.

25 "(8) PRELIMINARY REPORT, COMMITMENT, OR BINDER.
26 Reports furnished in connection with an application or request
27 for title insurance and are offers to issue a title insurance

1 policy subject to certain requirements and exceptions stated
2 in the report, commitment, or binder and such other matters as
3 are incorporated by reference therein.

4 "(9) PREMIUM. Fees charged for assuming liability
5 and risk under a title insurance policy. For the purposes of
6 this chapter, "premium" shall include any amount retained by
7 or paid to an agent under an agreement between the agent and
8 the title insurance company. For the purposes of this chapter,
9 "premium" shall not include expenses for the performance of
10 services such as abstracting, searching, and examining titles
11 or obtaining a title opinion; fees for document preparation;
12 fees for handling escrows, settlements, or closings; fees
13 incurred to cure defects in the title; and fees incident to
14 the issuance of a commitment to insure title or a title
15 insurance policy, including, but not limited to, the costs of
16 reinsurance.

17 "(10) TITLE AGENT or AGENT. a. Any person who is
18 authorized in writing by a title insurer to perform the
19 following:

20 "1. Solicit title insurance business.

21 "2. Collect premiums.

22 "3. Determine insurability in accordance with
23 underwriting rules, standards, and guidelines prescribed by
24 the title insurer.

25 "4. Issue title insurance commitments, policies, or
26 endorsements of the title insurer.

1 "b. The term "title agent" or "agent" does not
2 include the officers or employees of a title insurer.

3 "c. The term "title agent" or "agent" does not
4 include attorneys licensed by the Alabama State Bar. Licensed
5 attorneys shall be exempt from any licensure or regulation
6 pursuant to this chapter.

7 "(11) TITLE INSURANCE POLICY or POLICY. A contract
8 insuring or indemnifying against loss or damage arising from
9 any or all of the following existing on or before the date of
10 the policy:

11 "a. Defects in or liens or encumbrances on the
12 insured title.

13 "b. Unmarketability of the insured title.

14 "c. Invalidity or unenforceability of liens or
15 encumbrances on the property described in the policy.

16 "d. Lack of priority of liens or encumbrances.

17 "(12) TITLE INSURER or INSURER. A company organized
18 under the laws of this state or licensed in this state for the
19 purpose of transacting as insurer the business of title
20 insurance, as defined in Section 27-5-10, and any foreign or
21 alien title insurer licensed to be engaged in this state in
22 the business of title insurance, as defined in Section
23 27-5-10.

24 "(13) TITLE SEARCH or TITLE EXAMINATION. A search of
25 the records in the office of the judge of probate in the
26 county where the real property is situated through such period
27 of time as is acceptable to the title insurer. The search of

1 the public records relating to matters of title performed in
2 connection with the issuance of a preliminary report,
3 commitment, or binder shall be solely for the benefit of the
4 title insurance company requested to issue its policy or
5 policies of title insurance."

6 Section 2. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.